

HB

375

File 1

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
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April 21, 1998

Honorable Gene Therriault, Co-Chairman
House Finance Committee
State Capitol Room 511
Juneau, AK 99801-1182

Dear Representative Therriault,

The Department of Health and Social Services respectfully requests a hearing in the House Finance Committee on House Bill 375 "An Act relating to children in need of aid matters.....; and providing for an effective date" pending referral from the House Judiciary Committee.

This bill was introduced by the Rules Committee at the request of the Governor. Revised fiscal notes were provided to the House Health, Education and Social Services Committee last month and will be included in the committee file. The Committee reported-out a Committee Substitute with a new title on April 2, 1998 with all five members present recommending "do pass."

The bill has been heard in House Judiciary once and is scheduled for another hearing on Thursday, April 23rd. It is my belief that the Chairman intends to complete mark-up of the bill and move a Judiciary Committee Substitute from Committee at that time.

Your favorable consideration of this request will be most appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

cc: Rep. Mark Hanley, Co-Chairman, House Finance Committee
Rep. Joe Greer, Chairman, House Judiciary Committee
Rep. Fred Dyson
Russ Webb, Deputy Commissioner
Pat Pourchot, Office of the Governor

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
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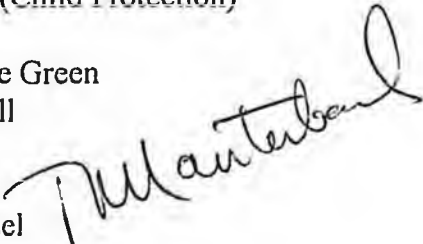
MEMORANDUM

April 25, 1998

SUBJECT: CSHB 375(JUD) (Child Protection)

TO: Representative Joe Green
Attn: Kevin Jardell

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is CSHB 375(JUD).

Comments:

(1) The amendment made by the Judiciary committee to AS 11.41.460 causes the bill to violate the single-subject requirement of the state constitution. The amendment does not relate to children, which appears to be the subject that encompasses the rest of the bill. Only the amendments to AS 11.41.460 that insert "in the second degree" can be retained without violating the single-subject requirement.

(2) I have not included the amendment requested for AS 47.10.011(4) (to add "as defined in AS 47.17.290") because "mental injury" is already defined that way for all of AS 47.10 by virtue of the definition for "mental injury" in AS 47.10.990.

(3) If you want uniformity in the use of "child" and "minor" in AS 47.10, I recommend that the Department of Law be requested to provide a list of sections where "minor" should be changed to "child" in the portions of AS 47.10 (and other statutes outside of AS 47.10?) that are not amended in HB 375. A revisor's instruction like in the original version of HB 375, which used the phrase "where appropriate," would not be sufficient.

(4) I recommend further review of sec. 82, relating to applicability. As sec. 82 currently reads, the Act will apply to all "new cases" filed with the court. That may be appropriate for the parts of the bill that relate to CINA proceedings. However, is it appropriate for the parts of the bill that relate to criminal offenses, disclosure of information about CINA kids, sentencing enhancements, foster care licensing, etc.? Again, the Department of Law may be an appropriate source for dealing with this matter.

(5) Section 81 should be expanded to refer to specific court rules and specific sections of the bill.

Representative Joe Green

April 25, 1998

Page 2

(6) The reference to AS 47.14.100(i) that was added to AS 47.10.011(a) is very unclear since AS 47.14.100(i) places a restriction on DHSS and AS 47.10.011(a) relates to the court.

(7) In the last sentence of AS 47.10.080(s), added by sec. 44, "should" ought to be changed to "shall" if you want to insure that this is a requirement.

(8) In AS 11.51.110(a)(2), added by sec. 10 it would be clearer if "present to care for the child" was moved to the end of the sentence.

(9) In AS 47.14.100(i), should "one parent" be "the child's parent"?

Your staff has requested that I draft an amendment for use in the Finance committee to deal with paragraph (5) of this memorandum. Please let me know if I can be of other assistance.

TML:glc
98-241.glc

Enclosure

= strike

Djser

1

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 375(HES)

1 Page 21, line 31, following "child":
2 Insert ", including the right to direct the child's medical care and the right to exercise
3 reasonable corporal discipline"

4 Page 22, lines 9 - 23:
5 Delete all material and insert:
6 "(2) it is the policy of the state to strengthen families and to protect children
7 from child abuse and neglect; the state recognizes that, in some cases, protection of
8 a child may require removal of the child from the child's home; however,

9 (A) except in those cases involving serious risk to a child's health or
10 safety, the Department of Health and Social Services should provide time-
11 limited family support services to the child and the child's family in order to
12 offer parents the opportunity to remedy parental conduct or conditions in the
13 home that placed the child at risk of harm so that a child may return home
14 safely and permanently; and

15 (B) the state also recognizes that when a child is removed from the
16 home, visitation between the child and the child's parents or guardian and
17 {immediate}family members reduces the trauma for the child and enhances the
18 likelihood that the child will be able to return home; therefore, whenever a
19 child is removed from the parental home, the Department of Health and Social
20 Services should encourage frequent, regular, and reasonable visitation of the
21 child with the child's parent or guardian and {immediate}family members;"

22 Page 23, line 10:
23 Delete "immediate and regular"

Handwritten notes:
✓
This is
delete

1 Insert "reasonable"

2 Page 23, line 11:

3 Delete "extended"

4 Insert "immediate"

5 Page 23, lines 18 - 20:

6 Delete all material.

7 Renumber the following paragraph accordingly.

8 Page 25, line 9, following "injury": *as defined in 47.17.290*

9 Insert ", as evidenced by an observable and substantial impairment in the child's
10 ability to function"

11 Page 25, line 29, following "child": *or placed the child at substantial*
risk to of ~~physical~~ mental injury
12 Insert ", as evidenced by an observable and substantial impairment in the child's
13 ability to function, or have resulted in exposure of the child to domestic violence as defined
14 in AS 18.66.990(3)(a)"

15 Page 26, lines 8 - 10:

16 Delete "has caused substantial physical harm to the child or creates a risk of
17 substantial physical harm to the child"

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

19 Page 26, line 13, following "Abandonment.":

20 Insert "(a)"

21 Page 26, lines 16 - 17:

22 Delete "and the failure is accompanied by intention on the part of the parent or
23 guardian to permit the failure to continue for an indefinite period"

1 Page 27, following line 3:

2 Insert a new subsection to read:

3 "(b) For purposes of (a) of this section, a parent or guardian who is a victim
4 of domestic violence, or who has a child in the parent's or guardian's care who is the
5 victim of domestic violence, is considered to have justifiable cause to take an action
6 or to fail to take an action that would otherwise be considered to be abandonment of
7 a child under (a) of this section if the action or failure to act is necessary to protect
8 the parent or guardian, or a child in the care of the parent or guardian, from further
9 acts of domestic violence. However, a parent or guardian who initially had justifiable
10 cause to act or fail to act as described in this subsection may be considered to have
11 abandoned the child without justifiable cause for purposes of (a) of this section if the
12 parent or guardian does not take reasonable steps to reunify with or provide care for
13 the abandoned child after becoming secure from further acts of domestic violence or
14 after providing that another child in the care of the parent or guardian is secure from
15 further acts of domestic violence."

16 Page 30, line 7, following "hearing":

17 Insert "When determining whether to grant a continuance for good cause, the
18 court shall take into consideration the age of the child and the potential adverse effect
19 that the delay may have on the child."

20 Page 30, lines 24 - 25:

21 Delete "the child's health care providers."

These copied better than I
thought they would, so here
are your originals. I guess
it's the fax machine and
scanners that don't do well
with non-yellow highlighters.
2??'s attached.

Temi x6658

DRAFT

REPRESENTATIVE BERKOWITZ said he had refused.

MS. WIBKER said she doesn't know what happens with the licensing filer who has access to it; she suggested someone else from the department would have to answer those questions.

CHAIRMAN GREEN said they may want to do that in debate. He thanked Ms. Wibker.

REPRESENTATIVE JAMES also thanked Ms. Wibker for her time.

REPRESENTATIVE ROKEBERG requested that they reconvene at the call of the chair, suggesting the floor session may not last that long.

Number 0861

CHAIRMAN GREEN agreed, then recessed the meeting at 3:36 p.m.

TAPE 98-65
Number 0001

CHAIRMAN GREEN reconvened the House Judiciary Standing Committee meeting at 7:07 p.m. Present at that time were Representatives Green, Bunde, Porter and James. Representatives Rokeberg and Berkowitz arrived at 7:09 p.m. and 7:11 p.m., respectively. Representative Croft was excused.

[TAPE 98-65 is blank, but handwritten log notes were taken. A copy of the log notes may be obtained by contacting the House Records Office at 130 Seward Street, Suite 211, Juneau, Alaska, 99801-1182, (907) 465-2214, or after adjournment of the second session of the Twentieth Alaska State Legislature, in the Legislative Reference Library.]

During this 90-minute portion of the meeting, the following persons besides committee members spoke:

SUSAN G. WIBKER, Assistant Attorney General, Human Services Section, Civil Division (Anchorage), Department of Law, testified about the amendments and answered questions.

REPRESENTATIVE FRED DYSON explained proposed amendments.

LISA TORKELOSON, Legislative Assistant to Representative Fred Dyson, Alaska State Legislature, explained proposed amendments.

KEVIN JARDELL, Legislative Administrative Assistant to Representative Joe Green, Alaska State Legislature, as committee

aide, provided definitions and answered questions.

RUSSELL WEBB, Deputy Commission, Office of the Commissioner, Department of Health and Social Services, answered questions regarding proposed amendments.

DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System, discussed amendments proposed by the court system.

During this 90-minute portion of the meeting, the following action was taken:

The first amendment, H.1 [0-GH2009\H.1, Lauterbach, 4/17/98] was amended in three sections and adopted as Amendments 1, 2 and 3. [The line numbers at the left correspond with the beginnings of key points in amendment H.1, although the lines do not fall identically here.]

AMENDMENT 1. Page 1, lines 1 through 21, of amendment H.1 originally read:

1 Page 21, line 31, following "child":

Insert ", including the right to direct the child's medical care and the right to exercise reasonable corporal discipline"

4 Page 22, lines 9 - 23:

Delete all material and insert:

"(2) it is the policy of the state to strengthen families and to protect children from child abuse and neglect; the state recognizes that, in some cases, protection of a child may require removal of the child from the child's home; however,

9 (A) except in those cases involving serious risk to a child's health or safety, the Department of Health and Social Services should provide time-limited family support services to the child and the child's family in order to offer parents the opportunity to remedy parental conduct or conditions in the home that placed the child at risk of harm so that a child may return home safely and permanently; and

15 (B) the state also recognizes that when a child is removed from the home, visitation between the child and the child's parents or guardian and immediate family members reduces the trauma for the child and enhances the likelihood that the child will be able to return home; therefore, whenever a child is removed from the parental

home, the Department of Health and Social Services should encourage frequent, regular, and reasonable visitation of the child with the child's parent or guardian and immediate family members;"

The above was amended to strike the word "immediate" before "family members" on lines 17 and 21 of H.1, subsection (2)(B); the committee aide indicated there had been discussion that it should be similarly stricken throughout.

The foregoing was then adopted as Amendment 1.

AMENDMENT 2. Page 1, line 22, through page 2, line 4, of amendment H.1 originally read:

22 Page 23, line 10:
Delete "immediate and regular"
Insert "reasonable"

2 Page 23, line 11:
Delete "extended"
Insert "immediate"

This was deleted, then replaced by "Amendment to Amendment #1", which originally read:

Page 23, line 10-11
Delete (E)
Replace with "frequent, regular, and reasonable visitation with the parent or guardian and immediate family members should be encouraged; and [no end quotation marks provided]"

The above replacement was amended by deleting the word "immediate". It was then adopted as Amendment 2.

AMENDMENT 3. Page 2, line 5, through page 3, line 21, of amendment H.1 originally read:

[Page 2]

5 Page 23, lines 18 - 20:
Delete all material.

7 Renumber the following paragraph accordingly.

8 Page 25, line 9, following "injury":
Insert ", as evidenced by an observable and substantial impairment in the child's ability to function"

- 11 Page 25, line 29, following "child":
Insert ", as evidenced by an observable and substantial impairment in the child's ability to function, or have resulted in exposure of the child to domestic violence as defined in AS 18.66.990"
- 15 Page 26, lines 8 - 10:
Delete "has caused substantial physical harm to the child or creates a risk of substantial physical harm to the child"
Insert "places the child at substantial risk of physical harm or mental injury"
- 19 Page 26, line 13, following "Abandonment.":
Insert "(a)"
- 21 Page 26, lines 16 - 17:
Delete "and the failure is accompanied by intention on the part of the parent or guardian to permit the failure to continue for an indefinite period"

[Page 3]

- 1 Page 27, following line 3:
Insert a new subsection to read:
"(b) For purposes of (a) of this section, a parent or guardian who is a victim of domestic violence, or who has a child in the parent's or guardian's care who is the victim of domestic violence, is considered to have justifiable cause to take an action or to fail to take an action that would otherwise be considered to be abandonment of a child under (a) of this section if the action or failure to act is necessary to protect the parent or guardian, or a child in the care of the parent or guardian, from further acts of domestic violence. However, a parent or guardian who initially had justifiable cause to act or fail to act as described in this subsection may be considered to have abandoned the child without justifiable cause for purposes of (a) of this section if the parent or guardian does not take reasonable steps to reunify with or provide care for the abandoned child after becoming secure from further acts of domestic violence or after providing that another child in the care of the parent or guardian is secure from further acts of domestic violence."
- 16 Page 30, line 7, following "hearing.":
Insert "When determining whether to grant a continuance for good cause, the court shall take into consideration the"

age of the child and the potential adverse effect that the delay may have on the child."

20 Page 30, lines 24 - 25:

Delete "the child's health care providers."

The above from H.1 was amended as follows:

On page 2, beginning on line 9, the phrase "as evidenced by an observable and substantial impairment in the child's ability to function" was deleted. It was replaced with the phrase, "as defined in AS 47.17.290".

On page 2, line 14, subsection "(3)(a)" was added following "AS 18.66.990". However, lines 12 through 14 were then deleted entirely and replaced with the insertion of the phrase, "or placed the child at substantial risk of mental injury"

The foregoing was then adopted as Amendment 3.

AMENDMENT 4. There was a motion to adopt Amendment 4 [0-GH2009\H.2, Lauterbach, 4/16/98] for discussion purposes. Five pages long, it is not provided here but is contained in packets. The first page and a half was proposed by the Alaska Court System and offered by Representative Dyson, and Doug Wooliver addressed the committee about it. The third tape begins approximately nine or ten minutes after Amendment 4 was first brought up.

TAPE 98-66, SIDE A
Number 0001

MS. WIBKER

Kevin -

Thank -

Nancy
Please check this
out when you
get time.

CS FOR HOUSE BILL NO. 375(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children-in-need-of-aid matters and proceedings; relating to
2 child abuse and neglect; relating to murder of children, kidnapping, the crime of
3 indecent exposure, and the crime of endangering the welfare of a child; relating
4 to sentencing for certain crimes involving a child; relating to the state medical
5 examiner and reviews of child fatalities; relating to teacher certification and
6 convictions of crimes involving child victims; relating to access, confidentiality, and
7 release of certain information concerning the care of children, child abuse and
8 neglect, and child fatalities; authorizing the Department of Health and Social
9 Services to enter into an interstate compact concerning adoption and medical
10 assistance for certain children with special needs; relating to the review of cases
11 involving certain children who are in the custody of the state; authorizing the
12 establishment of multidisciplinary child protection teams and relating to their

1 duties; relating to persons required to report suspected child abuse or neglect;
 2 relating to foster care placement and foster care licensing; relating to access to
 3 certain criminal justice information and licensure of certain child care facilities;
 4 relating to determinations of child custody and visitation in situations involving
 5 domestic violence; amending Rule 218, Alaska Rules of Appellate Procedure;
 6 amending the Alaska Child in Need of Aid Rules; and providing for an effective
 7 date."

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

9 * Section 1. INTENT AND PURPOSE OF ACT. (a) The intent of this Act is to protect
 10 children from abuse and neglect without prohibiting the use of reasonable methods of parental
 11 discipline or prescribing a particular method of parenting.

12 (b) The purpose of this Act is to

13 (1) provide the legal mechanisms by which the state can use its resources to
 14 implement the findings in this section for the best interest of children in this state; and

15 (2) override the court decisions in the following cases:

16 (A) Matter of J.L.F., 912 P.2d 1255 (Alaska 1996), In Re S.A., 912
 17 P.2d 1235 (Alaska 1996), and F.T. v. State, 862 P.2d 857 (Alaska 1993), concerning
 18 the standards to adjudicate a child in need of aid when a parent or caregiver is willing,
 19 but unable, to provide essential care for a child;

20 (B) A.M. v. State, 891 P.2d 815 (Alaska 1995), and Nada A. v. State,
 21 660 P.2d 436 (Alaska App. 1983), concerning the standards to terminate parental rights
 22 when a parent is incarcerated;

23 (C) R.J.M. v. State, 946 P.2d 855 (Alaska 1997), concerning the type
 24 of neglect necessary to adjudicate a child in need of aid under AS 47.10.

25 * Sec. 2. AS 10.06.961(a) is amended to read:

26 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the
 27 property of the child [MINOR] under AS 47.10.010 [AS 47.10.010(c)], when a child
 28 [MINOR] who is in the custody of this state under AS 47.10 or a minor who is in the

1 custody of this state under AS 47.12 or of another state under a provision similar to
 2 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions
 3 resulting from the ownership of stock or a membership in a corporation organized
 4 under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement
 5 Act), the corporation paying the dividends or making the other distributions shall retain
 6 the dividends and other distributions in an interest bearing account for the benefit of
 7 the child or minor during the state custody.

8 * Sec. 3. AS 11.41.100(a) is amended to read:

9 (a) A person commits the crime of murder in the first degree if

10 (1) with intent to cause the death of another person, the person

11 (A) causes the death of any person; or

12 (B) compels or induces any person to commit suicide through
 13 duress or deception; or

14 (2) the person knowingly engages in conduct directed toward [,
 15 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE
 16 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR
 17 TORTURE OF] a child under the age of 16, and [ONE OF THE ACTS OF ASSAULT
 18 OR TORTURE RESULTS IN THE DEATH OF THE CHILD; FOR PURPOSES OF
 19 THIS PARAGRAPH, A PERSON "ENGAGES IN A PATTERN OR PRACTICE OF
 20 ASSAULT OR TORTURE" IF] the person with criminal negligence causes
 21 [INFLICTS] serious physical injury to the child by at least two separate acts, and one
 22 of the acts results in the death of the child; or

23 (3) the person with criminal negligence causes the death of a child
 24 under the age of 16 during the course of committing or attempting to commit
 25 sexual assault in the first degree, sexual abuse of a minor in the first degree, or
 26 kidnapping.

27 * Sec. 4. AS 11.41.110(a) is amended to read:

28 (a) A person commits the crime of murder in the second degree if

29 (1) with intent to cause serious physical injury to another person or
 30 knowing that the conduct is substantially certain to cause death or serious physical
 31 injury to another person, the person causes the death of any person;

1 (C) inflict physical injury upon or sexually assault the restrained
2 person or place the restrained person or a third person in apprehension that any
3 person will be subjected to serious physical injury or sexual assault;

4 (D) interfere with the performance of a governmental or
5 political function;

6 (E) facilitate the commission of a felony or flight after
7 commission of a felony; [OR]

8 (F) commit an offense in violation of AS 11.41.434 -
9 11.41.438 upon the restrained person or place the restrained person or a
10 third person in apprehension that a person will be subject to an offense in
11 violation of AS 11.41.434 - 11.41.438; or

12 (2) the person restrains another

13 (A) by secreting and holding the restrained person in a place
14 where the restrained person is not likely to be found; or

15 (B) under circumstances which expose the restrained person to
16 a substantial risk of serious physical injury.

17 * Sec. 6. AS 11.41.300(d) is amended to read:

18 (d) In a prosecution for kidnapping, it is an affirmative defense which reduces
19 the crime to a class A felony that the defendant voluntarily caused the release of the
20 victim alive in a safe place before arrest, or within 24 hours after arrest, without
21 having caused serious physical injury to the victim and without having engaged in
22 conduct described in AS 11.41.410(a), [OR] 11.41.420, 11.41.434, or 11.41.436.

23 * Sec. 7. AS 11.41 is amended by adding a new section to read:

24 **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender
25 commits the crime of indecent exposure in the first degree if

26 (1) the offender violates AS 11.41.460(a);

27 (2) while committing the act constituting the offense, the offender
28 knowingly masturbates; and

29 (3) the offense occurs within the observation of a person under 16 years
30 of age.

31 (b) Indecent exposure in the first degree is a class C felony.

1 * Sec. 8. AS 11.41.460 is amended to read:

2 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender
3 commits the crime of indecent exposure in the second degree if the offender
4 intentionally exposes the offender's genitals in the presence of [TO] another person
5 with reckless disregard for the offensive, insulting, or frightening effect the act may
6 have [ON THAT PERSON].

7 (b) Indecent exposure in the second degree before a person under 16 years
8 of age is a class A misdemeanor. Indecent exposure in the second degree before a
9 person 16 years of age or older is a class B misdemeanor.

10 * Sec. 9. AS 11.51.100 is repealed and reenacted to read:

11 **Sec. 11.51.100. Endangering the welfare of a child in the first degree.** (a)
12 A person commits the crime of endangering the welfare of a child in the first degree
13 if, being a parent, guardian, or other person legally charged with the care of a child
14 under 16 years of age, the person

15 (1) intentionally deserts the child in a place under circumstances
16 creating a substantial risk of physical injury to the child;

17 (2) leaves the child with another person who is not a parent, guardian,
18 or lawful custodian of the child knowing that the person

19 (A) is registered or required to register as a sex offender under
20 AS 12.63 or a law or ordinance in another jurisdiction with similar
21 requirements;

22 (B) has been charged by complaint, information, or indictment
23 with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another
24 jurisdiction with similar elements; or

25 (C) has been charged by complaint, information, or indictment
26 with an attempt, solicitation, or conspiracy to commit a crime described in (B)
27 of this paragraph; or

28 (3) leaves the child with another person knowing that the person has
29 previously physically mistreated or had sexual contact with any child, and the other
30 person causes physical injury or engages in sexual contact with the child.

31 (b) In this section, "physically mistreated" means

1 (1) having committed an act punishable under AS 11.41.100 -
2 11.41.250; or

3 (2) having applied force to a child that, under the circumstances in
4 which it was applied, or considering the age or physical condition of the child,
5 constitutes a gross deviation from the standard of conduct that a reasonable person
6 would observe in the situation because of the substantial and unjustifiable risk of

7 (A) death;

8 (B) serious or protracted disfigurement;

9 (C) protracted impairment of health;

10 (D) loss or impairment of the function of a body member or
11 organ;

12 (E) substantial skin bruising, burning, or other skin injury;

13 (F) internal bleeding or subdural hematoma;

14 (G) bone fracture; or

15 (H) prolonged or extreme pain, swelling, or injury to soft tissue

16 c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of
17 this section is a class C felony.

18 (d) Endangering the welfare of a child in the first degree under (a)(3) of this
19 section is a

20 (1) class B felony if the child dies;

21 (2) class C felony if the child suffers sexual contact, sexual penetration,
22 or serious physical injury; or

23 (3) class A misdemeanor if the child suffers physical injury.

24 * Sec. 10. AS 11.51 is amended by adding a new section to read:

25 **Sec. 11.51.110. Endangering the welfare of a child in the second degree.**

26 (a) A person commits the crime of endangering the welfare of a child in the second
27 degree if the person, while caring for a child under 10 years of age,

28 (1) causes or allows the child to enter or remain in a dwelling or vehicle
29 in which a controlled substance is stored in violation of AS 11.71; or

30 (2) is impaired by a controlled substance, whether or not prescribed for
31 the person under AS 17.30, and there is no third person present to care for the child

1 who is at least 12 years of age and not impaired by an intoxicant.

2 (b) In this section,

3 (1) "impaired" means that a person is unconscious or a person is
4 physically or mentally affected so that the person does not have the ability to care for
5 the basic safety or personal needs of a child with the caution characteristic of a sober
6 person of ordinary prudence;

7 (2) "intoxicant" has the meaning given in AS 47.10.990.

8 (c) Endangering the welfare of a child in the second degree is a violation.

9 * Sec. 11. AS 12.55.025(i) is amended to read:

10 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k)(2) [12.55.125(k)],
11 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard
12 of proof applies to sentencing proceedings.

13 * Sec. 12. AS 12.55.125(c) is amended to read:

14 (c) A defendant convicted of a class A felony may be sentenced to a definite
15 term of imprisonment of not more than 20 years [,] and shall be sentenced to the
16 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
17 12.55.175:

18 (1) if the offense is a first felony conviction and does not involve
19 circumstances described in (2) of this subsection, five years;

20 (2) if the offense is a first felony conviction

21 (A) [,] other than for manslaughter [,] and the defendant
22 possessed a firearm, used a dangerous instrument, or caused serious physical
23 injury during the commission of the offense, or knowingly directed the conduct
24 constituting the offense at a uniformed or otherwise clearly identified peace
25 officer, fire fighter, correctional employee, emergency medical technician,
26 paramedic, ambulance attendant, or other emergency responder who was
27 engaged in the performance of official duties at the time of the offense, seven
28 years;

29 (B) for manslaughter and the conduct resulting in the
30 conviction was knowingly directed toward a child under the age of 16,
31 seven years;

1 (3) if the offense is a second felony conviction, 10 years;

2 (4) if the offense is a third felony conviction and the defendant is not
3 subject to sentencing under (l) of this section, 15 years.

4 * Sec. 13. AS 12.55.125(k) is amended to read:

5 (k) A first felony offender convicted of an offense for which a presumptive
6 term of imprisonment is not specified under this section

7 (1) may be sentenced to a term of unsuspended imprisonment that
8 exceeds the presumptive term of a second or third felony offender convicted of the
9 same crime if the offender is convicted of criminally negligent homicide and the
10 victim is a child under the age of 16;

11 (2) except as provided in (1) of this subsection, may not be sentenced
12 to a term of unsuspended imprisonment that exceeds the presumptive term for a second
13 felony offender convicted of the same crime unless the court finds by clear and
14 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that
15 circumstances exist that would warrant a referral to the three-judge panel under
16 AS 12.55.165.

17 * Sec. 14. AS 12.55.155(c)(23) is amended to read:

18 (23) the defendant is convicted of an offense specified in AS 11.71 and

19 (A) the offense involved the delivery of a controlled substance
20 under circumstances manifesting an intent to distribute the substance as part of
21 a commercial enterprise; or

22 (B) at the time of the conduct resulting in the conviction, the
23 defendant was caring for or assisting in the care of a child under 10 years
24 of age;

25 * Sec. 15. AS 12.55.155(e) is amended to read:

26 (e) If a factor in aggravation is a necessary element of the present offense, or
27 requires the imposition of a presumptive term under AS 12.55.125(c)(2)(A)
28 [AS 12.55.125(c)(2)], that factor may not be used to aggravate the presumptive term.
29 If a factor in mitigation is raised at trial as a defense reducing the offense charged to
30 a lesser included offense, that factor may not be used to mitigate the presumptive term.

31 * Sec. 16. AS 12.65.005(a) is amended to read:

1 (a) Unless the person has reasonable grounds to believe that notice has already
 2 been given, a person who attends a death or has knowledge of a death, in addition to
 3 notifying a peace officer, shall immediately notify the state medical examiner when the
 4 death appears to have

5 (1) been caused by unknown or criminal means, during the commission
 6 of a crime, or by suicide, accident, or poisoning;

7 (2) occurred under suspicious or unusual circumstances or occurred
 8 suddenly when the decedent was in apparent good health;

9 (3) been unattended by a practicing physician or occurred less than 24
 10 hours after the deceased was admitted to a medical facility;

11 (4) been associated with a diagnostic or therapeutic procedure;

12 (5) resulted from a disease that constitutes a threat to public health;

13 (6) been caused by a disease, injury, or toxic agent resulting from
 14 employment;

15 (7) occurred in a jail or corrections facility owned or operated by the
 16 state or a political subdivision of the state or in a facility for the placement of persons
 17 in the custody or under the supervision of the state;

18 (8) occurred in a foster home;

19 (9) occurred in a mental institution or mental health treatment facility;

20 [OR]

21 (10) occurred while the deceased was in the custody of, or was being
 22 taken into the custody of, the state or a political subdivision of the state or a public
 23 officer or agent of the state or a political subdivision of the state; or

24 (11) been of a child under 18 years of age or under the legal custody
 25 of the Department of Health and Social Services, subject to the jurisdiction of
 26 AS 47.10 or AS 47.12, unless the

27 (A) child's death resulted from a natural disease process and
 28 was medically expected; and

29 (B) the child was under supervised medical care during the
 30 24 hours before the death.

31 * Sec. 17. AS 12.65.015 is amended by adding a new subsection to read:

1 (e) The state medical examiner shall facilitate the formation of local, regional,
 2 or district child fatality review teams to assist local, regional, and district medical
 3 examiners in determining the cause and manner of deaths of children under 18 years
 4 of age. If a team is formed under this subsection, the team shall have the same access
 5 to information, confidentiality requirements, and immunity as provided to the state child
 6 fatality review team under AS 12.65.140. A meeting of a team formed under this
 7 subsection is closed to the public and not subject to the provisions of AS 44.62.310 and
 8 44.62.312. A review by a local, regional, or district child fatality review team does not
 9 relieve the state child fatality review team under AS 12.65.120 of the responsibility for
 10 reviewing a death under AS 12.65.130. A person on a local, regional, or district child
 11 fatality review team is not eligible to receive compensation from the state for service
 12 on the team, but is eligible for travel expenses and per diem from the Department of
 13 Health and Social Services under AS 39.20.180. A person on a team formed under this
 14 subsection serves at the pleasure of the state medical examiner.

15 * Sec. 18. AS 12.65 is amended by adding new sections to read:

16 **Sec. 12.65.120. State child fatality review team.** (a) The state child fatality
 17 review team is established in the Department of Health and Social Services to assist the
 18 state medical examiner. The team is composed of

19 (1) the following persons, or that person's designee:

20 (A) the state medical examiner;

21 (B) a state prosecutor with experience in homicide prosecutions,
 22 appointed by the attorney general;

23 (C) an investigator with the state troopers who has experience
 24 in conducting investigations of homicide, child abuse, or child neglect,
 25 appointed by the commissioner of public safety;

26 (D) a social worker with the Department of Health and Social
 27 Services who has experience in conducting investigations of child abuse and
 28 neglect, appointed by the commissioner of health and social services;

29 (2) the following persons, or that person's designee, appointed by the
 30 commissioner of health and social services:

31 (A) a physician licensed under AS 08.64 who

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(i) specializes in neonatology or perinatology; or

(ii) is certified by the American Board of Pediatrics;

(B) a municipal law enforcement officer with experience in conducting investigations of homicide, child abuse, or child neglect;

(C) other persons whose experience and expertise would, as determined by the commissioner of health and social services, contribute to the effectiveness of the team.

(b) A team member is not eligible to receive compensation from the state for service on the team. A member appointed under (a)(2) of this section

(1) is eligible for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180; and

(2) serves at the pleasure of the commissioner of health and social services.

(c) In addition to the persons specified in (a) of this section, the team may invite a person to participate as a member of the team if the person has expertise that would be helpful to the team in a review of a specific death. A person participating under this subsection is eligible only for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180.

(d) The state medical examiner serves as chair of the team.

Sec. 12.65.130. State child fatality review team duties. (a) The state child fatality review team shall

(1) assist the state medical examiner in determining the cause and manner of the deaths in this state of children under 18 years of age;

(2) unless the child's death is currently being investigated by a law enforcement agency, review a report of a death of a child within 48 hours of the report being received by the medical examiner if

(A) the death is of a child under 10 years of age;

(B) the deceased child, a sibling, or a member of the deceased child's household

(i) is in the legal or physical custody of the state under AS 47 or under similar custody of another state or political subdivision

1 of a state; or

2 (ii) has been the subject of a report of harm under
3 AS 47.17 or a child abuse or neglect investigation by the Department of
4 Health and Social Services or by a similar child protective service in this
5 or another state;

6 (C) a protective order under AS 18.66.100 or 18.66.110 has been
7 in effect during the previous year in which the petitioner or respondent was a
8 member of the deceased child's immediate family or household; or

9 (D) the child's death occurred in a mental health institution,
10 mental health treatment facility, foster home, or other residential or child care
11 facility, including a day care facility;

12 (3) review records concerning

13 (A) abuse or neglect of the deceased child or another child in the
14 deceased child's household;

15 (B) the criminal history or juvenile delinquency of a person who
16 may have caused the death of the child and of persons in the deceased child's
17 household; and

18 (C) a history of domestic violence involving a person who may
19 have caused the death of the child or involving persons in the deceased child's
20 household, including records in the central registry of protective orders under
21 AS 18.65.540;

22 (4) if insufficient information exists to adequately determine the cause
23 and manner of death, recommend to the state medical examiner that additional
24 information be obtained under AS 12.65.020; and

25 (5) if a local, regional, or district child fatality review team has not been
26 appointed under AS 12.65.015 or is not available, be available to provide
27 recommendations, suggestions, and advice to state or municipal law enforcement or
28 social service agencies in the investigation of deaths of children.

29 (b) The state child fatality review team may

30 (1) collect data and analyze and interpret information regarding deaths
31 of children in this state;

- 1 (2) develop state and local data bases on deaths of children in this state;
 2 (3) develop a model protocol for the investigation of deaths of children;
 3 and
 4 (4) periodically issue reports to the public containing statistical data and
 5 other information that does not violate federal or state law concerning confidentiality
 6 of the children and their families involved in the reviews; these reports may include
 7 (A) identification of trends, patterns, and risk factors in deaths
 8 of the children;
 9 (B) analyses of the incidence and causes of deaths of children
 10 in this state;
 11 (C) recommendations for improving the coordination of
 12 government services and investigations; and
 13 (D) recommendations for prevention of future deaths of children.

14 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

15 (a) The state child fatality review team and its members shall have access to all
 16 information and records to which the state medical examiner has access under this
 17 chapter. The state child fatality review team and its members shall maintain the
 18 confidentiality of information and records concerning deaths under review, except when
 19 disclosures may be necessary to enable the team to carry out its duties under this
 20 chapter. However, the team and its members may not disclose a record that is
 21 confidential under federal or state law.

22 (b) Except for public reports issued by the team, records, and other information
 23 collected by the team or a member of the team related to duties under this chapter are
 24 confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

25 (c) Meetings of the state child fatality review team are closed to the public and
 26 are not subject to the provisions of AS 44.62.310 and 44.62.312.

27 (d) The determinations, conclusions, and recommendations of the state child
 28 fatality review team, or its members, are not admissible in a civil or criminal
 29 proceeding. Members may not be compelled to disclose their determinations,
 30 conclusions, recommendations, discussions, or thought processes through discovery or
 31 testimony in any civil or criminal proceeding. Records and information collected by

1 the state child fatality review team are not subject to discovery or subpoena in
2 connection with a civil or criminal proceeding.

3 (e) Notwithstanding (d) of this section, the state medical examiner may testify
4 in a civil or criminal proceeding even though the death was reviewed by the state child
5 fatality review team under AS 12.65.130 and information received from the review
6 formed a basis of the state medical examiner's testimony.

7 (f) A person who is a member or an employee of, or who furnishes services to
8 or advises, the state child fatality review team is not liable for damages or other relief
9 in an action brought by reason of the performance of a duty, a function, or an activity
10 of the review team.

11 * Sec. 19. AS 14.20.020(f) is amended to read:

12 (f) The [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
13 THE] department may not issue a teacher certificate to a person who has been
14 convicted of a crime involving a minor under AS 11.41.434 - 11.41.440, 11.41.455,
15 11.41.458, or 11.41.460, or under a law in another jurisdiction with elements
16 substantially similar to an offense described in AS 11.41.434 - 11.41.440, 11.41.455,
17 11.41.458, or 11.41.460, or that is an attempt, solicitation, or conspiracy to commit
18 a crime described in this subsection or a law or ordinance in another jurisdiction
19 with similar elements. [WHEN FIVE YEARS HAVE ELAPSED AFTER A PERSON
20 HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR A CONVICTION OF
21 A CRIME LISTED IN THIS SUBSECTION, THE PERSON MAY PETITION THE
22 DEPARTMENT TO ISSUE THE CERTIFICATE IN SPITE OF THE CONVICTION
23 IF THE PERSON OTHERWISE SATISFIES THE REQUIREMENTS FOR THE
24 CERTIFICATE. WHEN DECIDING WHETHER TO GRANT OR DENY THE
25 PETITION, THE DEPARTMENT SHALL CONSIDER THE NATURE OF THE
26 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
27 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE
28 DEPARTMENT DETERMINES ARE SIGNIFICANT.]

29 * Sec. 20. AS 14.20.030(b) is amended to read:

30 (b) Upon receipt of a judgment of conviction, the department [THE
31 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES

1 COMMISSION] shall permanently revoke, effective immediately, [FOR LIFE] the
 2 certificate of a person who has been convicted of a crime involving a minor under
 3 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or under a law in
 4 another jurisdiction with elements substantially similar to an offense described in
 5 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or that is an attempt,
 6 solicitation, or conspiracy to commit a crime described in this subsection or a law
 7 or ordinance in another jurisdiction with similar elements. If the judgment of
 8 conviction is reversed on appeal and the person is otherwise eligible for licensure,
 9 the department shall reinstate the license. [WHEN FIVE YEARS HAVE ELAPSED
 10 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR
 11 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR
 12 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE
 13 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE
 14 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
 15 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE COMMISSION
 16 DETERMINES ARE SIGNIFICANT.]

17 * Sec. 21. AS 22.15.100 is amended to read:

18 **Sec. 22.15.100. Functions and powers of district judge and magistrate.**

19 Each district judge and magistrate has the power

20 (1) to issue writs of habeas corpus for the purpose of inquiring into the
 21 cause of restraint of liberty, returnable before a judge of the superior court, and the
 22 same proceedings shall be had on the writ as if it had been granted by the superior
 23 court judge under the laws of the state in such cases;

24 (2) of a notary public;

25 (3) to solemnize marriages;

26 (4) to issue warrants of arrest, summons, and search warrants according
 27 to manner and procedure prescribed by law and the supreme court;

28 (5) to act as an examining judge or magistrate in preliminary
 29 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
 30 release of defendants under bail;

31 (6) to act as a referee in matters and actions referred to the judge or

1 magistrate by the superior court, with all powers conferred upon referees by laws;

2 (7) of the superior court in all respects including but not limited to
3 contempts, attendance of witnesses, and bench warrants;

4 (8) to order the temporary detention of a minor, or take other action
5 authorized by law or rules of procedure, in cases arising under AS 47.10 [AS 47.10.010
6 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous
7 or injurious to the welfare of the minor or others that requires immediate action; the
8 action may be continued in effect until reviewed by the superior court in accordance
9 with rules of procedure governing these cases;

10 (9) to issue a protective order in cases involving domestic violence as
11 provided in AS 18.66.100 - 18.66.180;

12 (10) to review an administrative revocation of a person's driver's license
13 or nonresident privilege to drive, and an administrative refusal to issue an original
14 license, when designated as a hearing officer by the commissioner of administration and
15 with the consent of the administrative director of the state court system;

16 (11) to establish the fact of death or inquire into the death of a person
17 in the manner prescribed under AS 09.55.020 - 09.55.069.

18 * Sec. 22. AS 25.20.061 is amended to read:

19 Sec. 25.20.061. Presumptions [VISITATION] in proceedings involving
20 domestic violence. (a) If the court finds in a proceeding involving child custody
21 that domestic violence has occurred, rebuttable presumptions arise that it is

22 (1) detrimental to the child and not in the best interest of the child
23 to be placed in sole custody, joint legal custody, or joint physical custody with the
24 perpetrator of the domestic violence; and

25 (2) in the best interest of the child to reside with the parent who is
26 not a perpetrator of domestic violence in a location of that parent's choice, inside
27 or outside the state.

28 (b) In addition to the rebuttable presumptions that a court must consider
29 under (a) of this section, if the court finds that domestic violence has occurred, the
30 court shall consider the following factors in making an award of child custody:

31 (1) the safety and well-being of the child or of the parent who is the

1 victim of domestic violence;

2 (2) the perpetrator's history of causing physical harm, bodily injury,
 3 or assault, or of causing reasonable fear of physical harm, bodily injury, or assault
 4 to another person.

5 (c) If a parent is absent or relocates because of an act of domestic violence
 6 by the other parent, the court may not consider the absence or relocation as a
 7 factor against that parent in determining custody.

8 (d) The court may award [IF] visitation [IS AWARDED] to a parent who has
 9 committed a crime involving domestic violence, against the other parent or a child of
 10 the two parents, only if the court finds the safety of the child and the other parent
 11 can be protected.

12 (e) If visitation is awarded under (d) of this section [WITHIN THE FIVE
 13 YEARS PRECEDING THE AWARD OF VISITATION], the court may set conditions
 14 for the visitation, including the following:

15 (1) the transfer of the child for visitation must occur in a protected
 16 setting;

17 (2) visitation shall be supervised by another person or agency and under
 18 specified conditions as ordered by the court;

19 (3) the perpetrator shall attend and complete, to the satisfaction of the
 20 court, a program for the rehabilitation of perpetrators of domestic violence that meets
 21 the standards set by the Department of Corrections under AS 44.28.020(b), or other
 22 counseling; the perpetrator shall be required to pay the costs of the program or other
 23 counseling;

24 (4) the perpetrator shall abstain from possession or consumption of
 25 alcohol or controlled substances during the visitation and for 24 hours before visitation;

26 (5) the perpetrator shall pay costs of supervised visitation as set by the
 27 court;

28 (6) the prohibition of overnight visitation;

29 (7) the perpetrator shall post a bond to the court for the return and
 30 safety of the child; and

31 (8) any other condition necessary for the safety of the child, the other

1 parent, or other household member.

2 * Sec. 23. AS 25.20.070 is amended to read:

3 Sec. 25.20.070. **Temporary custody of the child.** Unless it is shown to be
4 detrimental to the welfare of the child or the court determines that domestic violence
5 has occurred, the child shall have, to the greatest degree practical, equal access to both
6 parents during the time that the court considers an award of custody under
7 AS 25.20.060 - 25.20.130.

8 * Sec. 24. AS 25.20.090 is amended to read:

9 Sec. 25.20.090. **Factors for consideration in awarding shared child custody.**

10 In determining whether to award shared custody of a child the court shall consider

11 (1) presumptions under AS 25.20.061;

12 (2) the child's preference if the child is of sufficient age and capacity
13 to form a preference;

14 (3) [(2)] the needs of the child;

15 (4) [(3)] the stability of the home environment likely to be offered by
16 each parent;

17 (5) [(4)] the education of the child;

18 (6) [(5)] the advantages of keeping the child in the community where
19 the child presently resides;

20 (7) [(6)] the optimal time for the child to spend with each parent
21 considering

22 (A) the actual time spent with each parent;

23 (B) the proximity of each parent to the other and to the school
24 in which the child is enrolled;

25 (C) the feasibility of travel between the parents;

26 (D) special needs unique to the child that may be better met by
27 one parent than the other;

28 (E) which parent is more likely to encourage frequent and
29 continuing contact with the other parent;

30 (8) [(7)] any findings and recommendations of a neutral mediator;

31 (9) [(8)] any evidence of domestic violence, child abuse, or child neglect

1 in the proposed custodial household or a history of violence between the parents;

2 (10) [(9)] evidence that substance abuse by either parent or other
3 members of the household directly affects the emotional or physical well-being of the
4 child;

5 (11) [(10)] other factors the court considers pertinent.

6 * Sec. 25. AS 25.23.180(c) is amended to read:

7 (c) The relationship of parent and child may be terminated by a court order
8 issued in connection with a proceeding under this chapter or a proceeding under
9 AS 47.10 on the grounds [:]

10 (1) [ON THE GROUNDS] specified in AS 47.10.080(o) or 47.10.088
11 [AS 47.10.080(c)(3)];

12 (2) [ON THE GROUNDS] that a parent who does not have custody is
13 unreasonably withholding consent to adoption, contrary to the best interest of the minor
14 child; or

15 (3) [ON GROUNDS] that the parent committed an act constituting
16 sexual assault or sexual abuse of a minor under the laws of this state or a comparable
17 offense under the laws of the state where the act occurred that resulted in conception
18 of the child and that termination of the parental rights of the biological parent is in the
19 best interests of the child.

20 * Sec. 26. AS 25.24.150(c) is amended to read:

21 (c) The court shall determine custody in accordance with the best interests of
22 the child under AS 25.20.060 - 25.20.130. In determining the best interests of the child
23 the court shall consider

24 (1) presumptions under AS 25.20.061:

25 (2) the physical, emotional, mental, religious, and social needs of the
26 child;

27 (3) [(2)] the capability and desire of each parent to meet these needs;

28 (4) [(3)] the child's preference if the child is of sufficient age and
29 capacity to form a preference;

30 (5) [(4)] the love and affection existing between the child and each
31 parent;

1 (6) [(5)] the length of time the child has lived in a stable, satisfactory
2 environment and the desirability of maintaining continuity;

3 (7) [(6)] the desire and ability of each parent to allow an open and
4 loving frequent relationship between the child and the other parent;

5 (8) [(7)] any evidence of domestic violence, child abuse, or child neglect
6 in the proposed custodial household or a history of violence between the parents;

7 (9) [(8)] evidence that substance abuse by either parent or other
8 members of the household directly affects the emotional or physical well-being of the
9 child;

10 (10) [(9)] other factors that the court considers pertinent.

11 * Sec. 27. AS 43.23.065(b) is amended to read:

12 (b) An exemption is not available under this section for permanent fund
13 dividends taken to satisfy

14 (1) child support obligations required by court order or decision of the
15 child support enforcement agency under AS 25.27.140 - 25.27.220;

16 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,
17 or AS 47.12.120(b)(4);

18 (3) claims on defaulted scholarship loans under AS 43.23.067;

19 (4) court ordered fines;

20 (5) writs of execution under AS 09.35 of a judgment that is entered

21 (A) against a minor in a civil action to recover damages and
22 court costs;

23 (B) under AS 34.50.020 against the parent, parents, or legal
24 guardian of an unemancipated minor;

25 (6) a debt owed by an eligible individual to an agency of the state,
26 unless the debt is contested and an appeal is pending, or the time limit for filing an
27 appeal has not expired;

28 (7) a debt owed to a person for a program for the rehabilitation of
29 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
30 AS 25.20.061(e)(3) [AS 25.20.061(3)], or AS 33.16.150(f)(2).

31 * Sec. 28. AS 47.05 is amended by adding a new section to read:

1 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
2 that

3 (1) parents have the following rights and responsibilities relating to the
4 care and control of their child while the child is a minor:

5 (A) the responsibility to provide the child with food, clothing,
6 shelter, education, and medical care;

7 (B) the right and responsibility to protect, nurture, train, and
8 discipline the child, including the right to direct the child's medical care and the
9 right to exercise reasonable corporal discipline;

10 (C) the right to determine where and with whom the child shall
11 live;

12 (D) the rights and responsibility to make decisions of legal or
13 financial significance concerning the child;

14 (E) the right to obtain representation for the child in legal
15 actions; and

16 (F) the responsibility to provide special safeguards and care,
17 including appropriate protection for the child;

18 (2) it is the policy of the state to strengthen families and to protect
19 children from child abuse and neglect; the state recognizes that, in some cases,
20 protection of a child may require removal of the child from the child's home; however,

21 (A) except in those cases involving serious risk to a child's
22 health or safety, the Department of Health and Social Services should provide
23 time-limited family support services to the child and the child's family in order
24 to offer parents the opportunity to remedy parental conduct or conditions in the
25 home that placed the child at risk of harm so that a child may return home
26 safely and permanently; and

27 (B) the state also recognizes that when a child is removed from
28 the home, visitation between the child and the child's parents or guardian and
29 family members reduces the trauma for the child and enhances the likelihood
30 that the child will be able to return home; therefore, whenever a child is
31 removed from the parental home, the Department of Health and Social Services

1 should encourage frequent, regular, and reasonable visitation of the child with
2 the child's parent or guardian and family members;

3 (3) it is the policy of the state to recognize that, when a child is a ward
4 of the state the child is entitled to reasonable safety, adequate care, and adequate
5 treatment and that the Department of Health and Social Services as legal custodian and
6 the child's guardian ad litem as guardian of the child's best interests and their agents
7 and assignees, each should make reasonable efforts to ensure that the child is provided
8 with reasonable safety, adequate care, and adequate treatment for the duration of time
9 that the child is a ward of the state;

10 (4) it is in the best interests of a child who has been removed from the
11 child's own home for the state to apply the following principles in resolving the
12 situation:

13 (A) the child should be placed in a safe, secure, and stable
14 environment;

15 (B) the child should not be moved unnecessarily;

16 (C) a planning process should be followed to lead to permanent
17 placement of the child;

18 (D) every effort should be made to encourage psychological
19 attachment between the adult caregiver and the child;

20 (E) frequent, regular, and reasonable visitation with the parent
21 or guardian and family members should be encouraged; and

22 (F) parents and guardians must actively participate in family
23 support services so as to facilitate the child's being able to remain in the home;
24 when children are removed from the home, the parents and guardians must
25 actively participate in family support services to make return of their children
26 to the home possible;

27 (5) numerous studies establish that

28 (A) children undergo a critical attachment process before the
29 time they reach six years of age;

30 (B) a child who has not attached with an adult caregiver during
31 this critical stage will suffer significant emotional damage that frequently leads

1 to chronic psychological problems and antisocial behavior when the child
2 reaches adolescence and adulthood; and

3 (C) it is important to provide for an expedited placement
4 procedure to ensure that all children, especially those under the age of six years,
5 who have been removed from their homes are placed in permanent homes
6 expeditiously.

7 * Sec. 29. AS 47.05 is amended by adding a new section to read:

8 **Sec. 47.05.090. Authorization of the Interstate Compact on Adoption and**
9 **Medical Assistance.** (a) The Department of Health and Social Services may, on
10 behalf of the state, enter into the Interstate Compact on Adoption and Medical
11 Assistance and supplementary agreements with agencies of other states for the provision
12 of adoption and medical assistance under AS 47.07 and other provisions of this title for
13 eligible children with special needs.

14 (b) In this section, "state" includes a state, territory, possession, or
15 commonwealth of the United States.

16 * Sec. 30. AS 47.10 is amended by adding a new section to read:

17 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be liberally
18 construed to the end that a child coming within the jurisdiction of the court under this
19 chapter may receive the care, guidance, treatment, and control that will promote the
20 child's welfare.

21 * Sec. 31. AS 47.10.010 is repealed and reenacted to read:

22 **Sec. 47.10.010. Jurisdiction.** (a) Proceedings relating to a child under 18
23 years of age residing or found in the state are governed by this chapter when the child
24 is alleged to be or may be determined by the court to be a child in need of aid under
25 AS 47.10.011.

26 (b) In a controversy concerning custody of a child under this chapter, the court
27 may appoint a guardian of the person and property of a child, may appoint an attorney
28 to represent the legal interests of the child, and may order support from either or both
29 parents. Custody of a child may be given to the department and payment of support
30 money to the department may be ordered by a court.

31 * Sec. 32. AS 47.10 is amended by adding new sections to read:

1 **Sec. 47.10.011. Children in need of aid.** Subject to AS 47.10.019 and
2 AS 47.14.100(i), the court may find a child to be a child in need of aid if it finds by
3 a preponderance of the evidence that the child has been subjected to any of the
4 following:

5 (1) a parent or guardian has abandoned the child as described in
6 AS 47.10.013, and the other parent is absent or has committed conduct or created
7 conditions that cause the child to be a child in need of aid under this chapter;

8 (2) a parent, guardian, or custodian is incarcerated, the other parent is
9 absent or has committed conduct or created conditions that cause the child to be a child
10 in need of aid under this chapter, and the incarcerated parent has not made satisfactory
11 arrangements for the child;

12 (3) a custodian with whom the child has been left is unwilling or unable
13 to provide care, supervision, or support for the child, and the whereabouts of the parent
14 or guardian is unknown;

15 (4) the child is in need of medical treatment to cure, alleviate, or
16 prevent substantial physical harm or is in need of treatment for mental injury, and the
17 child's parent, guardian, or custodian has knowingly failed to provide the treatment;

18 (5) the child is habitually absent from home or refuses to accept
19 available care and the child's conduct threatens the child's physical or emotional health
20 or safety;

21 (6) the child has suffered substantial physical harm, or there is a
22 substantial risk that the child will suffer substantial physical harm, as a result of
23 conduct by or conditions created by the child's parent, guardian, or custodian or by the
24 failure of the parent, guardian or custodian to supervise the child adequately;

25 (7) the child has suffered sexual abuse, or there is a substantial risk that
26 the child will suffer sexual abuse, as a result of conduct by or conditions created by the
27 child's parent, guardian, or custodian or by the failure of the parent, guardian, or
28 custodian to adequately supervise the child; if a parent, guardian, or custodian has
29 actual notice that a person has been convicted of a sex offense against a minor within
30 the past 15 years, is registered or required to register as a sex offender under AS 12.63,
31 or is under investigation for a sex offense against a minor, and the parent, guardian, or

1 custodian subsequently allows a child to be left with that person, this conduct
2 constitutes prima facie evidence that the child is at substantial risk of being sexually
3 abused;

4 (8) conduct by or conditions created by the parent, guardian, or
5 custodian have resulted in mental injury to the child or placed the child at substantial
6 risk of mental injury;

7 (9) conduct by or conditions created by the parent, guardian, or
8 custodian have subjected the child or another child in the same household to neglect;

9 (10) the parent, guardian, or custodian's ability to parent has been
10 substantially impaired by the addictive or habitual use of an intoxicant, and the
11 addictive or habitual use of the intoxicant has resulted in a substantial risk of harm to
12 the child; if a court has previously found that a child is a child in need of aid under this
13 paragraph, the resumption of use of an intoxicant by a parent, guardian, or custodian
14 within one year after rehabilitation is prima facie evidence that the ability to parent is
15 substantially impaired and the addictive or habitual use of the intoxicant has resulted
16 in a substantial risk of harm to the child as described in this paragraph;

17 (11) the parent, guardian, or custodian has a mental illness, serious
18 emotional disturbance, or mental deficiency of a nature and duration that places the
19 child at substantial risk of physical harm or mental injury;

20 (12) the child has committed an illegal act as a result of pressure,
21 guidance, or approval from the child's parent, guardian, or custodian.

22 **Sec. 47.10.013. Abandonment.** (a) For purposes of this chapter, the court
23 may find abandonment of a child if a parent or guardian has shown a conscious
24 disregard of parental responsibilities toward the child by faili., to provide reasonable
25 support, maintain regular contact, or provide normal supervision. Abandonment of a
26 child also includes instances when the parent or guardian, without justifiable cause,

27 (1) left the child with another person without provision for the child's
28 support and without meaningful communication with the child for a period of three
29 months;

30 (2) has made only minimal efforts to support and communicate with the
31 child;

1 (3) failed for a period of at least six months to maintain regular
2 visitation with the child;

3 (4) failed to participate in a suitable plan or program designed to reunite
4 the parent or guardian with the child;

5 (5) left the child without affording means of identifying the child and
6 the child's parent or guardian;

7 (6) was absent from the home for a period of time that created a
8 substantial risk of serious harm to a child left in the home;

9 (7) failed to respond to notice of child protective proceedings; or

10 (8) was unwilling to provide care, support, or supervision for the child.

11 (b) For purposes of (a) of this section, a parent or guardian who is a victim of
12 domestic violence, or who has a child in the parent's or guardian's care who is the
13 victim of domestic violence, is considered to have justifiable cause to take an action
14 or to fail to take an action that would otherwise be considered to be abandonment of
15 a child under (a) of this section if the action or failure to act is necessary to protect the
16 parent or guardian, or a child in the care of the parent or guardian, from further acts
17 of domestic violence. However, a parent or guardian who initially had justifiable cause
18 to act or fail to act as described in this subsection may be considered to have
19 abandoned the child without justifiable cause for purposes of (a) of this section if the
20 parent or guardian does not take reasonable steps to reunify with or provide care for
21 the abandoned child after becoming secure from further acts of domestic violence or
22 after providing that another child in the care of the parent or guardian is secure from
23 further acts of domestic violence.

24 **Sec. 47.10.014. Neglect.** For purposes of this chapter, the court may find
25 neglect of a child if the parent, guardian, or custodian fails to provide the child with
26 adequate food, clothing, shelter, education, medical attention, or other care and control
27 necessary for the child's physical and mental health and development, though
28 financially able to do so or offered financial or other reasonable means to do so.

29 **Sec. 47.10.015. Physical harm.** For the purposes of this chapter, the court may
30 find physical harm to a child or substantial risk of physical harm to a child if

31 (1) the child was the victim of an act described in AS 11.41.100 -

1 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm
 2 occurred as a result of conduct by or conditions created by a parent, guardian, or
 3 custodian; or

4 (2) a negligent act or omission by a parent, guardian, or custodian
 5 creates a substantial risk of injury to the child.

6 **Sec. 47.10.019. Limitations on determinations.** Notwithstanding other
 7 provisions of this chapter, the court may not find a minor to be a child in need of aid
 8 under this chapter solely on the basis that the child's family is poor, lacks adequate
 9 housing, or exhibits a lifestyle that is different from the generally accepted lifestyle
 10 standard of the community where the family lives. However, this section may not be
 11 construed to prevent a court from finding that a child is in need of aid if the child has
 12 been subjected to conduct or conditions described in AS 47.10.011 - 47.10.015.

13 * **Sec. 33.** AS 47.10.020(a) is amended to read:

14 (a) Whenever circumstances subject a child [MINOR] to the jurisdiction of the
 15 court under AS 47.10.005 - 47.10.142 [AS 47.10.010 - 47.10.142], the court shall
 16 appoint a competent person or agency to make a preliminary inquiry and report for the
 17 information of the court to determine whether the best interests of the child [MINOR]
 18 require that further action be taken. If [; IF], under this subsection, the court appoints
 19 a person or agency to make a preliminary inquiry and to report to it, then, upon the
 20 receipt of the report, the court may

21 (1) close [INFORMALLY ADJUST] the matter without a court hearing;

22 (2) determine whether the best interests of the child require that
 23 further action be taken; [,] or

24 (3) [IT MAY] authorize the person or agency having knowledge of the
 25 facts of the case to file with the court a petition setting out the facts[; IF THE COURT
 26 INFORMALLY ADJUSTS THE MATTER, THE MINOR MAY NOT BE DETAINED
 27 OR TAKEN INTO THE CUSTODY OF THE COURT AS A CONDITION OF THE
 28 ADJUSTMENT, AND THE MATTER SHALL BE CLOSED BY THE COURT UPON
 29 ADJUSTMENT].

30 * **Sec. 34.** AS 47.10.020(b) is amended to read:

31 (b) The petition and all subsequent pleadings shall be styled as follows: "In the

1 matter of, a child [MINOR] under 18 years of age."
 2 The petition may be executed upon the petitioner's information and belief [,] and must
 3 be verified. It must include the following information:

4 (1) the name, address, and occupation of the petitioner, together with
 5 the petitioner's relationship to the child [MINOR], and the petitioner's interest in the
 6 matter:

7 (2) the name, age, and address of the child [MINOR];

8 (3) a brief statement of the facts that bring the child [MINOR] within
 9 this chapter;

10 (4) the names and addresses of the child's [MINOR'S] parents;

11 (5) the tribal affiliation, if known, of the child;

12 (6) the name and address of the child's [MINOR'S] guardian [,] or of
 13 the person having control or custody of the child [MINOR].

14 * Sec. 35. AS 47.10.030(b) is amended to read:

15 (b) In all cases under this chapter, the child [MINOR], each parent, the tribe,
 16 foster parent or other out-of-home care provider, [OF THE MINOR AND THE]
 17 guardian, and guardian ad litem of the child [MINOR] shall be given notice adequate
 18 to give actual notice of the proceedings and the possibility of termination of parental
 19 rights and responsibilities, taking into account education and language differences that
 20 are known or reasonably ascertainable by the petitioner or the department. The notice
 21 of the hearing must contain all names by which the child [MINOR] has been identified.
 22 Notice shall be given in the manner appropriate under rules of civil procedure for the
 23 service of process in a civil action under Alaska law or in any manner the court by
 24 order directs. Proof of the giving of the notice shall be filed with the court before the
 25 petition is heard. The court may also subpoena the parent of the child [MINOR], or
 26 any other person whose testimony may be necessary at the hearing. A subpoena or
 27 other process may be served by a person authorized by law to make the service, and,
 28 where personal service cannot be made, the court may direct that service of process be
 29 in a manner appropriate under rules of civil procedure for the service of process in a
 30 civil action under Alaska law or in any manner the court directs.

31 * Sec. 36. AS 47.10.050(a) is amended to read:

1 (a) Whenever in the course of proceedings instituted under this chapter it
 2 appears to the court that the welfare of a child [MINOR] will be promoted by the
 3 appointment of an attorney to represent the child [MINOR OR AN ATTORNEY OR
 4 OTHER PERSON TO SERVE AS GUARDIAN AD LITEM], the court may make the
 5 appointment. If it appears to the court that the welfare of a child in the proceeding
 6 will be promoted by the appointment of a guardian ad litem, the court shall make
 7 the appointment. Appointment of a guardian ad litem or attorney shall be made under
 8 the terms of AS 25.24.310.

9 * Sec. 37. AS 47.10.070(a) is amended to read:

10 (a) The court may conduct the hearing on the petition in an informal manner
 11 [IN THE COURTROOM OR IN CHAMBERS]. The court shall give notice of the
 12 hearing to the department, and it may send a representative to the hearing. The court
 13 shall also transmit a copy of the petition to the department. The department shall
 14 send notice of the hearing to the persons for whom notice is required under
 15 AS 47.10.030(b). The department and the persons to whom the department must
 16 send notice of the hearing are entitled to [REPRESENTATIVE OF THE
 17 DEPARTMENT MAY ALSO] be heard at the hearing. However, the court may limit
 18 the presence of the foster parent or other out-of-home care provider to the time
 19 during which the person's testimony is being given if it is (1) in the best interest
 20 of the child; or (2) necessary to protect the privacy interests of the parties and will
 21 not be detrimental to the child. The public shall be excluded from the hearing, but
 22 the court, in its discretion, may permit individuals to attend a hearing if their attendance
 23 is compatible with the best interests of the child [MINOR].

24 * Sec. 38. AS 47.10.080(a) is amended to read:

25 (a) An adjudication hearing shall be completed within 120 days after a
 26 finding of probable cause is entered unless the court finds good cause to continue
 27 the hearing. When determining whether to grant a continuance for good cause,
 28 the court shall take into consideration the age of the child and the potential
 29 adverse effect that the delay may have on the child. The court, at the conclusion of
 30 the hearing, [OR THEREAFTER] as the circumstances of the case may require, shall
 31 find and enter a judgment that the child [MINOR] is or is not a child in need of aid.

1 * Sec. 39. AS 47.10.080(c) is amended to read:

2 (c) If the court finds that the child [MINOR] is a child in need of aid, the
3 court [IT] shall

4 (1) order the child [MINOR] committed to the department for placement
5 in an appropriate setting for a period of time not to exceed two years or in any event
6 past the date the child [MINOR] becomes 19 years of age, except that the department
7 or the child's guardian ad litem may petition for and the court may grant in a hearing
8 (A) one-year [TWO-YEAR] extensions of commitment that do not extend beyond the
9 child's [MINOR'S] 19th birthday if the extension is in the best interests of the child
10 [MINOR]; and (B) an additional one-year period of state custody [SUPERVISION]
11 past age 19 if the continued state custody [SUPERVISION] is in the best interests of
12 the person and the person consents to it; [THE DEPARTMENT MAY TRANSFER
13 THE MINOR, IN THE MINOR'S BEST INTERESTS, FROM ONE PLACEMENT
14 SETTING TO ANOTHER, AND THE MINOR, THE MINOR'S PARENTS OR
15 GUARDIAN, AND THE MINOR'S ATTORNEY ARE ENTITLED TO
16 REASONABLE NOTICE OF THE TRANSFER;]

17 (2) order the child [MINOR] released to a parent, relative, or
18 guardian of the child [THE MINOR'S PARENT'S, GUARDIAN,] or to another
19 [SOME OTHER] suitable person, and, in appropriate cases, order the parent, relative
20 [PARENTS], guardian, or other person to provide medical or other care and treatment;
21 if the court releases the child [MINOR], it shall direct the department to supervise the
22 care and treatment given to the child [MINOR], but the court may dispense with the
23 department's supervision if the court finds that the adult to whom the child [MINOR]
24 is released will adequately care for the child [MINOR] without supervision; the
25 department's supervision may not exceed two years or in any event extend past the date
26 the child [MINOR] reaches age 19, except that the department or the child's guardian
27 ad litem may petition for and the court may grant in a hearing

28 (A) one-year [TWO-YEAR] extensions of supervision that do
29 not extend beyond the child's [MINOR'S] 19th birthday if the extensions are
30 [EXTENSION] is in the best interests of the child [MINOR]; and

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person
2 consents to it; or

3 (3) by order, under the grounds specified in (o) of this section or
4 AS 47.10.088. the termination of [UPON A SHOWING IN THE ADJUDICATION
5 BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A CHILD IN NEED
6 OF AID UNDER AS 47.10.010(a) AS A RESULT OF PARENTAL CONDUCT AND
7 UPON A SHOWING IN THE DISPOSITION BY CLEAR AND CONVINCING
8 EVIDENCE THAT THE PARENTAL CONDUCT IS LIKELY TO CONTINUE TO
9 EXIST IF THERE IS NO TERMINATION OF PARENTAL RIGHTS, TERMINATE]
10 parental rights and responsibilities of one or both parents [,] and commit the child to
11 the custody of the department [OR TO A LEGALLY APPOINTED GUARDIAN OF
12 THE PERSON OF THE CHILD], and the department [OR GUARDIAN] shall report
13 quarterly [ANNUALLY] to the court on efforts being made to find a permanent
14 placement for the child.

15 * Sec. 40. AS 47.10.080(f) is amended to read:

16 (f) A child [MINOR] found to be a child in need of aid is a ward of the state
17 while committed to the department or the department has the power to supervise the
18 child's [MINOR'S] actions. For an order made under (c)(1) of this section, the
19 [THE] court shall hold a permanency hearing as required by (l) of this section and
20 at least annually thereafter during the continuation of foster care [REVIEW AN
21 ORDER MADE UNDER (c)(1) OR (2) OF THIS SECTION ANNUALLY, AND MAY
22 REVIEW THE ORDER MORE FREQUENTLY] to determine if continued placement
23 [OR SUPERVISION], as it is being provided, is in the best interest of the child
24 [MINOR. IF ANNUAL REVIEW UNDER THIS SUBSECTION WOULD ARISE
25 WITHIN 90 DAYS OF THE HEARING REQUIRED UNDER (l) OF THIS SECTION,
26 THE COURT MAY POSTPONE REVIEW UNDER THIS SUBSECTION UNTIL THE
27 TIME SET FOR THE HEARING]. The department, the child, and [MINOR,] the
28 child's [MINOR'S] parents, guardian, and guardian ad litem [OR CUSTODIAN] are
29 entitled, when good cause is shown, to a permanency hearing [REVIEW] on
30 application. If the application is granted, the court shall afford these persons
31 [PARTIES] and their counsel reasonable advance notice [IN ADVANCE OF THE

1 REVIEW] and hold a permanency hearing where these persons [PARTIES] and their
 2 counsel shall be afforded an opportunity to be heard. The persons entitled to notice
 3 under AS 47.10.030(b) are entitled to notice of a permanency hearing under this
 4 subsection and are also entitled to be heard at the hearing. The child [MINOR]
 5 shall be afforded the opportunity to be present and to be heard at the permanency
 6 hearing. After the permanency hearing, the court shall make the written findings
 7 that are required under (l) of this section. The court shall review an order made
 8 under (c)(2) of this section at least annually to determine if continued supervision,
 9 as it is being provided, is in the best interest of the child; this review is not
 10 considered to be a permanency hearing and is not governed by the provisions of
 11 this subsection that relate to permanency hearings [REVIEW].

12 * Sec. 41. AS 47.10.080(i) is amended to read:

13 (i) A child or [MINOR,] the child's [MINOR'S] parents, [OR] guardian, or
 14 guardian ad litem. or attorney, acting on the child's [MINOR'S] behalf, or the
 15 department may appeal a judgment or order, or the stay, modification, setting aside,
 16 revocation, or enlargement of a judgment or order issued by the court under this
 17 chapter. Absent extraordinary circumstances, a decision on the appeal shall be
 18 issued no later than 90 days after the latest of the following:

19 (1) the date oral argument, if any, is heard on the appeal; or

20 (2) 45 days after the last date oral argument could have been timely
 21 requested if oral argument was not requested.

22 * Sec. 42. AS 47.10.080(l) is repealed and reenacted to read:

23 (l) Within 12 months after the date a child enters foster care as calculated under
 24 AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
 25 permanent plan developed in the hearing are governed by the following provisions:

26 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
 27 this section are also entitled to be heard at the hearing held under this subsection;

28 (2) when establishing the permanent plan for the child, the court shall
 29 make appropriate written findings, including findings related to whether

30 (A) and when the child should be returned to the parent or
 31 guardian;

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(B) the child should be placed for adoption or legal guardianship and whether a petition for termination of parental rights should be filed by the department; and

(C) the child should be placed in another planned, permanent living arrangement and what steps are necessary to achieve the new arrangement;

(3) if the court is unable to make a finding required under (2) of this subsection, the court shall hold another hearing within a reasonable period time;

(4) in addition to the findings required by (2) of this subsection, the court shall also make appropriate written findings related to

(A) whether the department has made the reasonable efforts required under AS 47.10.086 to offer appropriate family support services to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter;

(B) whether the parent or guardian has made substantial progress to remedy the parent's or guardian's conduct or conditions in the home that made the child a child in need of aid under this chapter; and

(C) if the permanent plan is for the child to remain in out-of-home-care, whether the child's out-of-home placement continues to be appropriate and in the best interests of the child;

(5) the court shall hold a hearing to review the permanent plan at least annually until successful implementation of the plan; if the plan approved by the court changes after the hearing, the department shall promptly apply to the court for another permanency hearing, and the court shall conduct the hearing within 30 days after application by the department.

* Sec. 43. AS 47.10.080(o) is amended to read:

(o) For purposes of terminating a parent's parental rights under the standards in (c)(3) of this section, the court may determine that incarceration of the parent is sufficient grounds for determining that a child [MINOR] is a child in need of aid under AS 47.10.011 [AS 47.10.010(a)(1)] as a result of parental conduct and that the parental rights of the incarcerated parent should be terminated [CONDUCT IS LIKELY TO

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1 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

2 (1) the period of incarceration that the parent is scheduled to serve
3 during the child's minority is significant considering the child's age and the child's need
4 for an adult's care and supervision; [AND]

5 (2) there is not another parent willing and able to care for the child;
6 and

7 (3) the incarcerated parent has failed to make adequate provisions for
8 care of the child during the period of incarceration that will be during the child's
9 minority.

10 * Sec. 44. AS 47.10.080 is amended by adding new subsections to read:

11 (p) If a child is removed from the parental home, the department shall provide
12 reasonable visitation between the child and the child's parents, guardian, and family.
13 The court may require the department to file a visitation plan with the court. The
14 department may deny visitation to the parents, guardian, or family members if there is
15 clear and convincing evidence that visits are not in the child's best interests. A parent
16 or guardian who is denied visitation may request a review hearing.

17 (q) If the court orders a child committed to the department under (c) of this
18 section and the department places the child in licensed foster care, the department shall

19 (1) provide the foster parent with a copy of

20 (A) appropriate information held by the department regarding the
21 child to the extent required by AS 47.12.310(b)(8);

22 (B) all initial, updated, and revised case service plans for the
23 child, court orders relating to the child, and the child's medical, mental, and
24 education reports prepared by or for the department, including reports compiled
25 before the child was placed with the foster parent; and

26 (C) supplements to the plans, orders, and reports described in (B)
27 of this paragraph;

28 (2) require the foster parent to

29 (A) maintain and update records regarding medical, mental,
30 educational, and behavioral services provided to the child;

31 (B) provide all records described in (A) of this paragraph to the

1 department when the child leaves the foster home placement; and

2 (C) maintain the confidentiality of records regarding a child
3 placed in the foster home except when disclosure of the records is allowed
4 under regulations of the department or when disclosure is reasonably necessary
5 to ensure continuation of care for the child through appropriate medical, mental,
6 educational, and behavioral services.

7 (r) If the court orders a child committed to the department under (c) of this
8 section for placement in licensed foster care or for placement with a relative of the
9 child, the court shall order the child's parent or guardian to provide the department with

10 (1) the names, addresses, and telephone numbers of all of the child's
11 medical providers; and

12 (2) a signed release for each medical provider identified in (1) of this
13 subsection authorizing the provider to disclose the child's medical records to the
14 department.

15 (s) The department may transfer a child, in the child's best interests, from one
16 placement setting to another, and the child, the child's parents or guardian, the child's
17 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
18 attorney, and the child's tribe are entitled to advance notice of a nonemergency transfer.
19 A party opposed to the proposed transfer may request a hearing and must prove by
20 clear and convincing evidence that the transfer would be contrary to the best interests
21 of the child for the court to deny the transfer. A foster parent or out-of-home caregiver
22 who requests a change in placement of the child should provide the department with
23 reasonable advance notice of the requested change.

24 * Sec. 45. AS 47.10.082 is amended to read:

25 **Sec. 47.10.082. Best interests of child and other considerations.** In making
26 its dispositional order under AS 47.10.080(c), the court shall [CONSIDER]

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

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

30 (3) keep the health and safety of the child as the court's paramount
31 concern [AS 47.10.010 - 47.10.142].

1 * **Sec. 46.** AS 47.10.084(a) is amended to read:

2 (a) When a child is committed under AS 47.10.080(c)(1) to the department,
 3 released under AS 47.10.080(c)(2) to the child's parents, guardian, or other suitable
 4 person, or committed to the department or to a legally appointed guardian of the person
 5 of the child under AS 47.10.080(c)(3), a relationship of legal custody exists. This
 6 relationship imposes on the department and its authorized agents or the parents,
 7 guardian, or other suitable person the responsibility of physical care and control of the
 8 child, the determination of where and with whom the child shall live, the right and duty
 9 to protect, nurture, train, and discipline the child, [AND] the duty of providing the
 10 child with food, shelter, education, and medical care, and the right and responsibility
 11 to obtain legal representation for, and make decisions of legal or financial
 12 significance concerning, the child. These obligations are subject to any residual
 13 parental rights and responsibilities and rights and responsibilities of a guardian if one
 14 has been appointed. When a child is committed to the department and the department
 15 places the child with the child's parent, the parent has the responsibility to provide and
 16 pay for food, shelter, education, and medical care for the child. When parental rights
 17 have been terminated, or there are no living parents and no guardian has been
 18 appointed, the responsibilities of legal custody include those in (b) and (c) of this
 19 section. The department or person having legal custody of the child may delegate any
 20 of the responsibilities under this section, except authority to consent to marriage,
 21 adoption, and military enlistment may not be delegated. For purposes of this chapter
 22 a person in charge of a placement setting is an agent of the department.

23 * **Sec. 47.** AS 47.10 is amended by adding new sections to read:

24 **Sec. 47.10.086. Reasonable efforts.** (a) Except as provided in (b) and (c) of
 25 this section, the department shall make timely, reasonable efforts to provide family
 26 support services to the child and to the parents or guardian of the child that are
 27 designed to prevent out-of-home placement of the child or to enable the safe return of
 28 the child to the family home, when appropriate, if the child is in an out-of-home
 29 placement. The department's duty to make reasonable efforts under this subsection
 30 includes the duty to

31 (1) identify available departmental and community services that are

1 designed to sustain and enhance the capacity of a parent or guardian to care for the
 2 child at a level of adequacy that will allow the child either to remain in the home or
 3 to be returned to the home; the department shall place a high priority on determining
 4 whether appropriate community services are available;

5 (2) actively offer and attempt to provide or to refer the parent or
 6 guardian to the services identified under (1) of this subsection; the department shall
 7 place a high priority on referring the parents to services that are community services
 8 if community services are available and desired by the parent or guardian;

9 (3) document the department's actions that are taken under (1) and (2)
 10 of this subsection.

11 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(1)
 12 that a parent or guardian has not sufficiently remedied the parent's or guardian's
 13 conduct or the conditions in the home despite reasonable efforts made by the
 14 department in accordance with this section, the court may conclude that continuation
 15 of reasonable efforts of the type described in (a) of this section are not in the best
 16 interests of the child. The department shall then make reasonable efforts to place the
 17 child in a timely manner in accordance with the permanent plan and to complete
 18 whatever steps are necessary to finalize the permanent placement of the child.

19 (c) The court may determine that reasonable efforts of the type described in (a)
 20 of this section are not required if the court has found by a preponderance of the
 21 evidence that

22 (1) the parent or guardian has subjected the child to circumstances that
 23 pose a substantial risk to the child's health or safety; these circumstances include
 24 abandonment, sexual abuse, torture, chronic mental injury, or chronic physical harm;

25 (2) the parent or guardian has

26 (A) committed homicide under AS 11.41.100 - 11.41.130 of a
 27 parent of the child or of a child;

28 (B) aided or abetted, attempted, conspired, or solicited under
 29 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this paragraph;

30 (C) committed an assault that is a felony under AS 11.41.200 -
 31 11.41.220 and results in serious physical injury to a child; or

1 (D) committed the conduct described in (A) - (C) of this
2 paragraph that violated a law or ordinance of another jurisdiction having
3 elements similar to an offense described in (A) - (C) of this paragraph;

4 (3) the parental rights of a parent to a sibling of the child have been
5 terminated by the court;

6 (4) the department has conducted a reasonably diligent search over a
7 time period of at least three months for an unidentified or absent parent and has failed
8 to identify and locate the parent;

9 (5) the parent or guardian is the sole caregiver of the child and the
10 parent or guardian has a mental illness or mental deficiency that, according to a written
11 certification of a psychologist or physician, makes it more probable than not that, even
12 with the provision of family support services for 12 months, the caregiver will be
13 incapable of caring for the child without creating a risk of substantial physical harm to
14 the child;

15 (6) the parent or guardian has previously been convicted of a crime
16 involving a child in this state or in another jurisdiction and, after the conviction, the
17 child was returned to the custody of the parent or guardian and later removed because
18 of an additional substantiated report of physical or sexual abuse by the parent or
19 guardian;

20 (7) a child has suffered substantial physical harm as the result of abusive
21 or neglectful conduct by the parent or guardian or by a person known by the parent or
22 guardian and the parent or guardian knew or reasonably should have known that the
23 person was abusing the child;

24 (8) the parental rights of the parent have been terminated with respect
25 to another child because of child abuse or neglect, the parent has not remedied the
26 conditions or conduct that led to the termination of parental rights, and the parent has
27 demonstrated an inability to protect the child from substantial harm or the risk of
28 substantial harm;

29 (9) the child has been removed from the child's home on at least two
30 previous occasions, family support services were offered or provided to the parent or
31 guardian at those times, and the parent or guardian has demonstrated an inability to

1 protect the child from substantial harm or the risk of substantial harm; or

2 (10) the parent or guardian is incarcerated and is unavailable to care for
3 the child during a significant period of the child's minority, considering the child's age
4 and need for care by an adult.

5 (d) If the court orders the department to make reasonable efforts to provide
6 family support services, the court shall also order the parent or guardian of the child
7 to make reasonable efforts to participate in the family support services that are offered
8 by the department or referred to the parent or guardian by the department. If a parent
9 or guardian fails to participate or to attempt to participate in the services for 12 months,
10 the department may seek a court order extinguishing the department's responsibility to
11 offer or refer family support services to the parent or guardian. The department must
12 request the court for the new order within 90 day after the date that the parent or
13 guardian failed to participate in family support services and must accompany the
14 request with a petition for the termination of parental rights if the nonparticipating
15 person was a parent and with a new plan for permanent placement of the child. The
16 court shall grant the department's request under this subsection for an order
17 extinguishing the department's responsibility to offer family support services to a parent
18 or guardian if the court finds that it is no longer reasonable to require the department
19 to offer family support services to the parent or guardian; failure of the parent or
20 guardian to participate in family support services offered by the department for 12
21 months constitutes prima facie evidence that it is no longer reasonable to require the
22 department to offer family support services to the parent or guardian.

23 (e) If the court determines under (b) or (c) of this section that reasonable efforts
24 under (a) of this section are not required to be provided,

25 (1) the court shall hold a permanency hearing for the child within 30
26 days after the determination; and

27 (2) the department shall make reasonable efforts to place the child in
28 a timely manner in accordance with the permanency plan, and complete whatever steps
29 are necessary to finalize the permanent placement of the child.

30 (f) The department may develop and implement an alternative permanency plan
31 for the child while the department is also making reasonable efforts to return the child

1 to the child's family under (a) of this section.

2 (g) In making determinations and reasonable efforts under this section, the
3 primary consideration is the child's best interests.

4 **Sec. 47.10.088. Termination of parental rights and responsibilities.** (a)
5 Except as provided in AS 47.10.080(o), the rights and responsibilities of the parent
6 regarding the child may be terminated for purposes of freeing a child for adoption or
7 other permanent placement if the court finds

8 (1) by clear and convincing evidence that

9 (A) the child has been subjected to conduct or conditions
10 described in AS 47.10.011; and

11 (B) the parent

12 (i) has not remedied the conduct or conditions in the
13 home that place the child at substantial risk of harm; or

14 (ii) has failed, within a reasonable time, to remedy the
15 conduct or conditions in the home that place the child in substantial risk
16 so that returning the child to the parent would place the child at
17 substantial risk of significant physical harm or sexual abuse; and

18 (2) by preponderance of the evidence that the department has complied
19 with the provisions of AS 47.10.086 concerning reasonable efforts.

20 (b) In making a determination under (a)(1)(B) of this section, the court may
21 consider any fact relating to the best interests of the child, including

22 (1) the likelihood of returning the child to the parent within a reasonable
23 time based on the child's age or needs;

24 (2) the amount of effort by the parent to remedy the conduct or the
25 conditions in the home;

26 (3) the harm caused to the child;

27 (4) the likelihood that the harmful conduct will continue; and

28 (5) the history of conduct by or conditions created by the parent.

29 (c) In a proceeding under this chapter involving termination of the parental
30 right of a parent, the court shall consider the best interests of the child.

31 (d) Except as provided in (e) of this section, the department shall petition for

1 termination of a parent's rights to a child, without making further reasonable efforts,
 2 when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,
 3 and

4 (1) the child has been in foster care for at least 15 of the most recent
 5 22 months;

6 (2) the court has determined that the child is abandoned under
 7 AS 47.10.013 and the child is younger than six years of age;

8 (3) the court has made a finding under AS 47.10.085(b) or a
 9 determination under AS 47.10.086(c) that the best interests of the child do not require
 10 further reasonable efforts by the department;

11 (4) a parent has made three or more attempts within a 15-month period
 12 to remedy the parent's conduct or conditions in the home without lasting change; or

13 (5) a parent has made no effort to remedy the parent's conduct or the
 14 conditions in the home by the time of the permanency hearing under AS 47.10.080(l).

15 (e) If one or more of the conditions listed in (d) of this section are present, the
 16 department shall petition for termination of the parental rights to a child unless the
 17 department

18 (1) has documented a compelling reason for determining that filing the
 19 petition would not be in the best interests of the child; a compelling reason under this
 20 paragraph may include care by a relative for the child; or

21 (2) is required to make reasonable efforts under AS 47.10.086 and the
 22 department has not provided to the parent, consistent with the time period in the
 23 department's case plan, the family support services that the department has determined
 24 are necessary for the safe return of the child to the home.

25 (f) A child is considered to have entered foster care under this chapter on the
 26 earlier of

27 (1) the date of the first judicial finding of child abuse or neglect; or

28 (2) 60 days after the date of removal of the child from the child's home
 29 under this chapter.

30 (g) This section does not preclude the department from filing a petition to
 31 terminate the parental rights and responsibilities to a child for other reasons, or at an

1 earlier time than those specified in (d) of this section, if the department determines that
2 filing a petition is in the best interests of the child.

3 (h) The court may order the termination of parental rights and responsibilities
4 of one or both parents under AS 47.10.080(c)(3) and commit the child to the custody
5 of the department. The rights of one parent may be terminated without affecting the
6 rights of the other parent.

7 (i) The department shall concurrently identify, recruit, process, and approve a
8 qualified person or family for an adoption whenever a petition to terminate a parent's
9 rights to a child is filed. If the court issues an order to terminate under (j) of this
10 section, the department shall report within 30 days on the efforts being made to recruit
11 a permanent placement for the child if a permanent placement was not approved at the
12 time of the trial under (j) of this section. The report must document recruitment efforts
13 made for the child.

14 (j) No later than six months after the date on which the petition to terminate
15 parental rights is filed, the court before which the petition is pending shall hold a trial
16 on the petition unless the court finds that good cause is shown for a continuance.
17 When determining whether to grant a continuance for good cause, the court shall take
18 into consideration the age of the child and the potential adverse effect that the delay
19 may have on the child. The court shall make written findings when granting a
20 continuance.

21 (k) The court shall issue an order on the petition to terminate within 90 days
22 after the last day of the trial on the petition to terminate parental rights.

23 * Sec. 48. AS 47.10.092(a) is amended to read:

24 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
25 a child [MINOR] subject to a proceeding under AS 47.10.005 - 47.10.142
26 [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about
27 the child or the child's family [MINOR], including information that has been lawfully
28 obtained from agency or court files, to the governor, the lieutenant governor, a
29 legislator, the ombudsman appointed under AS 24.55, the attorney general, and the
30 commissioners of health and social services, administration, or public safety, or an
31 employee of these persons, for review or use in their official capacities. The

1 department shall [MAY] disclose additional confidential or privileged information and
 2 make copies of documents available for inspection [DOCUMENTS] about the child
 3 or the child's family [MINOR] to these state officials or employees for review or use
 4 in their official capacities upon request of the official or employee and submission
 5 of satisfactory evidence that a parent or legal guardian of the child has requested
 6 the state official's assistance in the case as part of the official's duties. A person
 7 to whom disclosure is made under this section may not disclose confidential or
 8 privileged information about the child or the child's family [MINOR] to a person not
 9 authorized to receive it.

10 * Sec. 49. AS 47.10.093(b) is amended to read:

11 (b) A state or municipal agency or employee shall [MAY] disclose
 12 appropriate information regarding a case to

13 (1) a guardian ad litem appointed by the court or to a citizen review
 14 board or local review panel for permanency planning authorized by AS 47.14.200 or
 15 47.14.220;

16 (2) a person or an agency requested by the department or the child's
 17 legal custodian to provide consultation or services for a child [MINOR] who is subject
 18 to the jurisdiction of the court under AS 47.10.010 as necessary to enable the
 19 provision of the consultation or services;

20 (3) foster parents or relatives with whom the child is placed by the
 21 department as may be necessary to enable the foster parents or relatives to
 22 provide appropriate care for the child who is the subject of the case, to protect the
 23 safety of the child who is the subject of the case, and to protect the safety and
 24 property of family members and visitors of the foster parents or relatives;

25 (4) school officials as may be necessary to enable the school to provide
 26 appropriate counseling and support services to the child [MINOR] who is the subject
 27 of the case, to protect the safety of the child [MINOR] who is the subject of the case,
 28 and to protect the safety of school students and staff;

29 (5) [(4)] a governmental agency as may be necessary to obtain that
 30 agency's assistance for the department in its investigation o. to obtain physical custody
 31 of a child;

1 (6) [AND (5)] a [STATE OR MUNICIPAL] law enforcement agency
 2 of this state or another jurisdiction as may be necessary for the protection of any
 3 child [A SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY]
 4 or for actions [DISCLOSURES] by that agency to protect the public safety;

5 (7) members of a multidisciplinary child protection team created
 6 under AS 47.14.300 as may be necessary for the performance of their duties;

7 (8) the state medical examiner under AS 12.65 as may be necessary
 8 for the performance of the duties of the state medical examiner;

9 (9) a person who has made a report of harm as required by
 10 AS 47.17.020 to inform the person that the investigation was completed and of
 11 action taken to protect the child who was the subject of the report; and

12 (10) the child support enforcement agency established in
 13 AS 25.27.010 as may be necessary to establish and collect child support for a child
 14 who is a child in need of aid under this chapter.

15 * Sec. 50. AS 47.10.141(f) is amended to read:

16 (f) If a child [MINOR], without permission, leaves the semi-secure portion of
 17 an office, program, shelter, or facility to which the child [MINOR] was taken by a
 18 peace officer under (b)(1)(C) [(b)(1)(c)] of this section, the office, program, shelter, or
 19 facility shall immediately notify the department and the nearest law enforcement agency
 20 of the identity of the child [MINOR] and the child's [MINOR'S] absence. If the same
 21 child [MINOR] is again taken into protective custody under (b) of this section and the
 22 peace officer knows that the child [MINOR] has previously been reported under this
 23 subsection as missing from a semi-secure placement, the peace officer, in addition to
 24 taking the appropriate action under (b) of this section, shall report the circumstances
 25 and the identity of the child [MINOR] to the department. Within 48 hours after
 26 receiving this report, the department shall determine whether to file a petition alleging
 27 that the child [MINOR] is a child in need of aid under AS 47.10.011
 28 [AS 47.10.010(a)(1)]. If the department decides not to file a petition alleging that the
 29 child [MINOR] is a child in need of aid, the department shall, within seven state
 30 working days after receiving the report from the peace officer under this subsection,
 31 send to the child's [MINOR'S] parents or guardian, as applicable, written notice of its

1 determination not to proceed with the petition, including the reasons on which the
 2 determination was based. If the department is unable to obtain a reasonably reliable
 3 address for a parent or guardian, the department shall keep a copy of the notice on file
 4 and, notwithstanding AS 47.10.093, release the notice to the child's [MINOR'S] parent
 5 or guardian on request of the parent or guardian. If the department files a petition
 6 alleging that the child [MINOR] is a child in need of aid, the court shall proceed under
 7 AS 47.10.142(d).

8 * Sec. 51. AS 47.10.141(g) is amended to read:

9 (g) If the department files a petition alleging the child [MINOR] is a child in
 10 need of aid under AS 47.10.011 [AS 47.10.010(a)(1)] because the child [MINOR] is
 11 habitually absent from home or refuses available care, the child's [MINOR'S] parent
 12 or guardian shall attend each hearing held during the child-in-need-of-aid proceedings
 13 unless the court excuses the parent or guardian from attendance for good cause. If the
 14 child [MINOR] is found to be a child in need of aid, the court may order that the
 15 child's [MINOR'S] parent or guardian

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

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

19 * Sec. 52. AS 47.10.142(a) is amended to read:

20 (a) The Department of Health and Social Services may take emergency custody
 21 of a child [MINOR] upon discovering any of the following circumstances:

22 (1) the child [MINOR] has been abandoned as abandonment is
 23 described in AS 47.10.013;

24 (2) the child [MINOR] has been [GROSSLY] neglected by the child's
 25 [MINOR'S] parents or guardian, as "neglect" is described [DEFINED] in AS 47.10.014
 26 [AS 47.17.290], and the department determines that immediate removal from the child's
 27 [MINOR'S] surroundings is necessary to protect the child's [MINOR'S] life or provide
 28 immediate necessary medical attention;

29 (3) the child [MINOR] has been subjected to physical harm [CHILD
 30 ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare,
 31 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the

1 department determines that immediate removal from the child's [MINOR'S]
 2 surroundings is necessary to protect the child's [MINOR'S] life or that immediate
 3 medical attention is necessary; or

4 (4) the child or a sibling [MINOR] has been sexually abused under
 5 circumstances listed in AS 47.10.011(7) [AS 47.10.010(a)(4)].

6 * **Sec. 53.** AS 47.10.142(c) is amended to read:

7 (c) When a child is taken into custody under (a) or (b) of this section or when
 8 the department is notified of a child's presence in either a program for runaway
 9 children [MINORS] under AS 47.10.300 - 47.10.390 or a shelter for runaway children
 10 [MINORS] under AS 47.10.392 - 47.10.399, the department shall immediately, and in
 11 no event more than 24 [12] hours later unless prevented by lack of communication
 12 facilities, notify the parents or the person or persons having custody of the child. If the
 13 department determines that continued custody is necessary to protect the child, the
 14 department shall notify the court of the emergency custody by filing, within 24 [12]
 15 hours after custody was assumed, a petition alleging that the child is a child in need of
 16 aid. If the department releases the child within 24 [12] hours after taking the child into
 17 custody and does not file a child in need of aid petition, the department shall, within
 18 24 [12] hours after releasing the child, file with the court a report explaining why the
 19 child was taken into custody, why the child was released, and to whom the child was
 20 released.

21 * **Sec. 54.** AS 47.10.142(h) is amended to read:

22 (h) Within 12 [18] months after a child [MINOR] is committed to the
 23 department under this section, the court shall review the placement plan and actual
 24 placement of the child [MINOR] under AS 47.10.080(l).

25 * **Sec. 55.** AS 47.10 is amended by adding a new section to read:

26 **Sec. 47.10.960. Duty and standard of care not created.** Nothing in this title
 27 creates a duty or standard of care for services to children and their families being
 28 served under AS 47.10.

29 * **Sec. 56.** AS 47.10.990(1) is amended to read:

30 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND
 31 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social

1 needs of the child;

2 * Sec. 57. AS 47.10.990(2) is amended to read:

3 (2) "child in need of aid" means a child [MINOR] found to be within the
4 jurisdiction of the court under AS 47.10.010 and 47.10.011 [AS 47.10.010(a)];

5 * Sec. 58. AS 47.10.990 is amended by adding new paragraphs to read:

6 (8) "child" means a person under 18 years of age and a person 19 years
7 of age if that person was under 18 years of age at the time that a proceeding under this
8 chapter was commenced;

9 (9) "custodian" means a natural person 18 years of age or older to
10 whom a parent or guardian has transferred temporary physical care, custody, and
11 control of the child for a period of time;

12 (10) "domestic violence" has the meaning given in AS 18.66.990;

13 (11) "family support services" means the services and activities provided
14 to children and their families, including those provided by the community, a church,
15 or other service organization, both to prevent removal of a child from the parental home
16 and to facilitate the child's safe return to the family; "family support services" may
17 include counseling, substance abuse treatment, mental health services, assistance to
18 address domestic violence, visitation with family members, parenting classes, in-home
19 services, temporary child care services, and transportation;

20 (12) "foster care" means care provided by a person or household under
21 a foster home license required under AS 47.35.015;

22 (13) "guardian" means a natural person who is legally appointed
23 guardian of the child by the court;

24 (14) "hazardous volatile material or substances" has the meaning given
25 in AS 47.37.270;

26 (15) "intoxicant" means a substance that temporarily diminishes a
27 person's control over mental or physical powers, including alcohol, controlled
28 substances under AS 11.71, and a hazardous volatile material or substance misused by
29 inhaling its vapors;

30 (16) "mental injury" has the meaning given in AS 47.17.290;

31 (17) "parent" means the biological or adoptive parent of the child;

1 (18) "permanency hearing" means a hearing

2 (A) designed to reach a decision in a case concerning the
3 permanent placement of a child under AS 47.10; and

4 (B) at which the direction of the case involving the child is
5 determined;

6 (19) "reasonable efforts" means, with respect to family support services
7 required under AS 47.10.086, consistent attempts made during a reasonable time period
8 and time-limited services;

9 (20) "reasonable time" means a period of time that serves the best
10 interests of the child, taking in account the affected child's age, emotional and
11 developmental needs, and ability to form and maintain lasting attachments;

12 (21) "serious physical injury" has the meaning given in
13 AS 11.81.900(b);

14 (22) "sexual abuse" means the conduct described in AS 11.41.410 -
15 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and
16 conduct prohibited by AS 11.66.100 - 11.66.150;

17 (23) "support" has the meaning given in AS 11.51.120(b).

18 * Sec. 59. AS 47.12.310(b) is amended to read:

19 (b) A state or municipal agency or employee shall [MAY] disclose
20 appropriate information regarding a case to

21 (1) a guardian ad litem appointed by the court or to a citizen review
22 board or local review panel for permanency planning authorized by AS 47.14.200 -
23 47.14.220;

24 (2) a person or an agency requested by the department or the minor's
25 legal custodian to provide consultation or services for a minor who is subject to the
26 jurisdiction of the court under this chapter as necessary to enable the provision of the
27 consultation or services;

28 (3) school officials as may be necessary to protect the safety of the
29 minor who is the subject of the case and the safety of school students and staff or to
30 enable the school to provide appropriate counseling and supportive services to meet the
31 needs of a minor about whom information is disclosed;

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

4 (5) a [STATE OR MUNICIPAL] law enforcement agency of this state
5 or another jurisdiction as may be necessary for the protection, rehabilitation, or
6 supervision of any minor [A SPECIFIC INVESTIGATION BEING CONDUCTED
7 BY THAT AGENCY] or for actions [DISCLOSURES] by that agency to protect the
8 public safety; [AND]

9 (6) a victim as may be necessary to inform the victim about the
10 disposition or resolution of a case involving a minor;

11 (7) the state medical examiner under AS 12.65 as may be necessary
12 to perform the duties of the state medical examiner; and

13 (8) foster parents or relatives with whom the child is placed by the
14 department as may be necessary to enable the foster parents or relatives to
15 provide appropriate care for the child who is the subject of the case, to protect the
16 safety of the child who is the subject of the case, and to protect the safety and
17 property of family members and visitors of the foster parents or relatives.

18 * Sec. 60. AS 47.14.100(a) is amended to read:

19 (a) Subject to (e), (f), and (i) [(e) AND (f)] of this section, the department shall
20 arrange for the care of every child committed to its custody by placing the child in a
21 foster home or in the care of an agency or institution providing care for children inside
22 or outside the state. The department may place a child in a suitable family home, with
23 or without compensation, and may place a child released to it, in writing verified by
24 the parent, or guardian or other person having legal custody, for adoptive purposes, in
25 a home for adoption in accordance with existing law.

26 * Sec. 61. AS 47.14.100(d) is amended to read:

27 (d) In addition to money paid for the maintenance of foster children under (b)
28 of this section, the department
29 (1) shall pay the costs of caring for physically or mentally handicapped
30 foster children, including the additional costs of medical care, habilitative and
31 rehabilitative treatment, services and equipment, special clothing, and the indirect costs

1 of medical care, including child care and transportation expenses;

2 (2) may pay for respite care; in this paragraph, "respite care" means
3 child care for the purpose of providing

4 [(A)] temporary relief from the stresses of caring for a foster
5 child [WHO HAS A PHYSICAL OR MENTAL DISABILITY OR A
6 PHYSICAL OR MENTAL IMPAIRMENT; IN THIS SUBPARAGRAPH,

7 (i) "PHYSICAL OR MENTAL DISABILITY" HAS THE
8 MEANING GIVEN IN AS 18.80.300(12)(A), (B), AND (D); AND

9 (ii) "PHYSICAL OR MENTAL IMPAIRMENT" HAS
10 THE MEANING GIVEN IN AS 18.80.300; AND

11 (B) PROTECTION FOR THE CHILD WHEN THE FOSTER
12 PARENT IS

13 (i) AWAY FROM THE HOME BECAUSE OF AN
14 EMERGENCY AND OTHER CARE IS NOT AVAILABLE FOR THE
15 CHILD; OR

16 (ii) ON VACATION AND THE CHILD, BECAUSE OF
17 AGE OR INFIRMITY, CANNOT BE PLACED IN ANY OTHER TYPE
18 OF TEMPORARY CARE FACILITY]; and

19 (3) may pay a subsidized guardianship payment under AS 25.23.210
20 when a foster child's foster parents or other persons approved by the department
21 become court-appointed legal guardians of the child.

22 * Sec. 62. AS 47.14.100(e) is amended to read:

23 (e) A child may not be placed in a foster home or in the care of an agency or
24 institution providing care for children if a [BLOOD] relative by blood or marriage
25 [EXISTS WHO] requests placement [CUSTODY] of the child in the relative's home.
26 However, the department may retain custody of the child and provide for its placement
27 in the same manner as for other children if the department

28 (1) [IT] makes a determination, supported by clear and convincing
29 evidence, that placement [THE CUSTODY] of the child with [BY] the [BLOOD]
30 relative will result in physical or mental injury; in [EMOTIONAL DAMAGE. IN]
31 making that determination, poverty, including inadequate or crowded housing, on the

1 part of the blood relative, is not considered prima facie evidence that physical or
 2 emotional damage to the child will occur; this [. THIS] determination may be appealed
 3 to the superior court to hear the matter de novo;

4 (2) determines that there is a member of the relative's household
 5 who is 16 years of age or older who has a criminal record or was the perpetrator
 6 in a substantiated report of abuse under AS 47.17; for the purpose of obtaining
 7 criminal justice information under this paragraph, the department is a criminal
 8 justice agency conducting a criminal justice activity under AS 12.62; or

9 (3) disqualifies the relative's home based on the results of a criminal
 10 background check from criminal justice information available under AS 12.62; the
 11 department shall conduct a criminal background check of available criminal
 12 justice information received under AS 12.62; the department may conduct a
 13 fingerprint background check of a relative who requests placement of the child;
 14 the department may not place a child with a relative who does not meet the
 15 standards required for placement in foster care as described in AS 47.35.022(a)
 16 and (b); for the purpose of obtaining criminal justice information under this
 17 paragraph, the department is a criminal justice agency conducting a criminal
 18 justice activity under AS 12.62.

19 * Sec. 63. AS 47.14.100 is amended by adding a new subsection to read:

20 (i) A child may not be placed with an out-of-home care provider, as defined
 21 in AS 47.14.299, if the department determines that the child can remain safely at home
 22 with one parent or guardian.

23 * Sec. 64. AS 47.14.240(d) is amended to read:

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

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

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

- 9 (A) the child's Indian custodian; and
 10 (B) the designated representative of the child's Indian tribe if the
 11 tribe has intervened in the court case; and
 12 (9) [(8)] other persons with a close personal knowledge of the case.

13 * Sec. 65. AS 47.14.240(h) is amended to read:

14 (h) The report required under (g) of this section must make advisory
 15 recommendations based on the best interests of the child in accordance with
 16 AS 47.10.082 and must include notification of the right to request court review under
 17 AS 47.10.080(f). If the court has scheduled the case for review, the local review panel
 18 shall submit its report at least 20 days before the hearing, and the department shall
 19 present to the court the recommendations that are made in the report.

20 * Sec. 66. AS 47.14 is amended by adding a new section to read:

21 **Article 3A. Multidisciplinary Child Protection Teams.**

22 **Sec. 47.14.300. Multidisciplinary child protection teams.** (a) The
 23 department shall create multidisciplinary child protection teams to assist in the
 24 evaluation and investigation of reports made under AS 47.17 and to provide
 25 consultation and coordination for agencies involved in child protection cases under
 26 AS 47.10.

27 (b) If a team is created under (a) of this section, the team may invite other
 28 persons to serve on the team who have knowledge of and experience in child abuse and
 29 neglect matters. These persons may include

- 30 (1) mental and physical health practitioners licensed under AS 08;
 31 (2) child development specialists;

- 1 (3) educators;
- 2 (4) peace officers as defined in AS 11.81.900;
- 3 (5) victim counselors as defined in AS 18.66.250;
- 4 (6) experts in the assessment and treatment of substance abuse;
- 5 (7) representatives of the district attorney's office and the attorney
6 general's office;
- 7 (8) persons familiar with 25 U.S.C. 1901 - 1963 (Indian Child Welfare
8 Act);
- 9 (9) guardians ad litem; and
- 10 (10) staff members of a child advocacy center if a center is located in
11 the relevant area.

12 (c) A team created under (a) and (b) of this section shall review records on a
13 case referred to the team by the department. The department shall make available to
14 the team its records on the case and other records compiled for planning on the case
15 by other agencies at the request of the department. The team may make
16 recommendations to the department on appropriate planning for the case.

17 (d) Except for a public report issued by a team that does not contain
18 confidential information, records or other information collected by the team or a
19 member of the team related to duties under this section are confidential and not subject
20 to public disclosure under AS 09.25.100 and 09.25.110.

21 (e) Meetings of a team are closed to the public and are not subject to the
22 provisions of AS 44.62.310 and 44.62.312.

23 (f) The determinations, conclusions, and recommendations of a team or its
24 members are not admissible in a civil or criminal proceeding. A member may not be
25 compelled to disclose a determination, conclusion, recommendation, discussion, or
26 thought process through discovery or testimony in a civil or criminal proceeding.
27 Records and information collected by the team are not subject to discovery or subpoena
28 in connection with a civil or criminal proceeding.

29 (g) Notwithstanding (f) of this section, an employee of the department may
30 testify in a civil or criminal proceeding concerning cases reviewed by a team even
31 though the department's records were reviewed by a team and formed the basis of that

1 employee's testimony and the team's report.

2 (h) A person who serves on a multidisciplinary child protection team is not
3 liable for damage or other relief in an action brought by the reason of the performance
4 of a duty, a function, or an activity of the team.

5 (i) In this section, "team" means a multidisciplinary child protection team
6 created under (a) and (b) of this section.

7 * Sec. 67. AS 47.14.990(2) is amended to read:

8 (2) "child in need of aid" means a child [MINOR] found to be within
9 the jurisdiction of the court under AS 47.10.010 and 47.10.011 [AS 47.10.010(a)];

10 * Sec. 68. AS 47.17.020(a) is amended to read:

11 (a) The following persons who, in the performance of their occupational duties,
12 or with respect to (9) of this subsection, in the performance of their appointed
13 duties, have reasonable cause to suspect that a child has suffered harm as a result of
14 child abuse or neglect shall immediately report the harm to the nearest office of the
15 department:

16 (1) practitioners of the healing arts;

17 (2) school teachers and school administrative staff members of public
18 and private schools;

19 (3) social workers;

20 (4) peace officers [,] and officers of the Department of Corrections;

21 (5) administrative officers of institutions;

22 (6) child care providers;

23 (7) paid employees of domestic violence and sexual assault programs,
24 and crisis intervention and prevention programs as defined in AS 18.66.990;

25 (8) paid employees of an organization that provides counseling or
26 treatment to individuals seeking to control their use of drugs or alcohol;

27 (9) members of a child fatality review team established under
28 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
29 under AS 47.14.300.

30 * Sec. 69. AS 47.17.020 is amended by adding new subsections to read:

31 (h) This section does not require a person required to report child abuse or

1 neglect under (a)(7) of this section to report mental injury to a child as a result of
 2 exposure to domestic violence so long as the person has reasonable cause to believe
 3 that the child is in safe and appropriate care and not presently in danger of mental
 4 injury as a result of exposure to domestic violence.

5 (i) This section does not require a person required to report child abuse or
 6 neglect under (a)(8) of this section to report the resumption of use of an intoxicant as
 7 described in AS 47.10.011(10) so long as the person does not have reasonable cause
 8 to suspect that a child has suffered harm as a result of the resumption.

9 * Sec. 70. AS 47.17.030(d) is amended to read:

10 (d) Before the department or a local government health or social services
 11 agency may seek the termination of parental rights under AS 47.10
 12 [AS 47.10.080(c)(3)], it shall offer protective social services and pursue all other
 13 reasonable means of protecting the child.

14 * Sec. 71. AS 47.17 is amended by adding a new section to read:

15 **Sec. 47.17.033. Investigations.** (a) In investigating child abuse and neglect
 16 reports under this chapter, the department may make necessary inquiries about the
 17 criminal records of the parents or of the alleged abusive or neglectful person, including
 18 inquiries about the existence of a criminal history record involving a serious offense as
 19 defined in AS 12.62.900.

20 (b) For purposes of obtaining access to information needed to conduct the
 21 inquiries required by (a) of this section, the department is a criminal justice agency
 22 conducting a criminal justice activity.

23 * Sec. 72. AS 47.17.035(b) is amended to read:

24 (b) If the department determines in an investigation of abuse or neglect of a
 25 child that

26 (1) the child is in danger because of domestic violence or that the child
 27 needs protection as a result of the presence of domestic violence in the family, the
 28 department shall take appropriate steps for the protection of the child; in this
 29 paragraph, "appropriate steps" includes

30 (A) reasonable efforts to protect the child and prevent the
 31 removal of the child from the parent or guardian who is not a domestic

violence offender;

(B) reasonable efforts to remove the alleged domestic violence offender from the child's residence if it is determined that the child or another family or household member is in danger of domestic violence; and

(C) services to help protect the child from being placed or having unsupervised visitation with the domestic violence offender until the department determines that the offender has met conditions considered necessary by the department to protect the safety of the domestic violence victim and household members;

(2) a person is the victim of domestic violence, the department shall provide the victim with a written notice of the rights of and services available to victims of domestic violence that is substantially similar to the notice provided to victims of domestic violence under AS 18.65.520.

* Sec. 73. AS 47.17.290(8) is amended to read:

(8) "maltreatment" means an act or omission that results in circumstances in which there is reasonable cause to suspect that a child may be a child in need of aid, as described in AS 47.10.011 [AS 47.10.010(a)], except that, for purposes of this chapter, the act or omission need not have been committed by the child's parent, custodian, or guardian;

* Sec. 74. AS 47.35.017(b) is amended to read:

(b) An application submitted under this section must contain at least the following information:

(1) the name and address of the applicant [,] and, if the applicant is an agency, corporation, partnership, association, or any other form of organization, the name, address, and title of each individual [ALL INDIVIDUALS] who has [HAVE] an ownership or management interest in the facility; if the applicant is an individual, the application must include the name, age, and driver's license number, if any, of each member of the individual's household;

(2) the name, physical location, and mailing address of the facility or agency for which the license is sought;

(3) the name and address of the administrator of the facility or agency,

1 if any;

2 (4) evidence that the administrator or foster parent is an adult with
3 sufficient experience, training, or education to fulfill the duties of an administrator or
4 foster parent;

5 (5) a release for the administrator or foster parent and for each other
6 person who is 16 years of age or older, as specified by the department by regulation,
7 who will have contact with individuals served by the facility or agency, authorizing the
8 department to review all federal, state, and municipal criminal justice information,
9 whether of this state, of a municipality of this state, or of another jurisdiction
10 [LAW ENFORCEMENT], medical records, licensing records, and protective services
11 records, identified in regulations adopted under this chapter, that are relevant to the
12 person who is the subject of the release and to the type of license for which the
13 application has been submitted;

14 (6) two sets of fingerprints and the social security number of each
15 person required to provide a release under (5) of this subsection in order for the
16 department to submit the fingerprints to the Department of Public Safety for the
17 purpose of conducting state and national criminal background checks from
18 criminal justice information received under AS 12.62 and regulations adopted
19 under AS 12.62; the department may not approve an application under this section
20 until the results of the criminal background check have been submitted to the
21 department;

22 (7) for a facility, the number of individuals that will be served in the
23 facility;

24 (8) [(7)] the type of facility or agency for which the license is sought;

25 (9) [(8)] copies of all inspection reports and approvals required by state
26 fire prevention and environmental health and safety authorities for operation of the
27 facility or agency, including any variances granted by these authorities;

28 (10) [(9)] a plan of operation, as required by the department by
29 regulation;

30 (11) [(10)] a staffing plan that describes the number of people who will
31 work at the facility or agency, staff qualifications, a description of each person's

1 responsibilities, and, for a facility other than a maternity home, a supervision schedule
 2 for the children in care that meets the requirements established by the department by
 3 regulation;

4 (12) evidence that the applicant is capable of meeting the minimum
 5 standards of care established by the department under AS 47.14.120;

6 (13) [(11)] evidence that the applicant has completed orientation or
 7 training required by the department, by regulation, for holders of the type of license for
 8 which the application was submitted; and

9 (14) [(12)] other information required by the department, by regulation,
 10 in order to monitor compliance with this chapter and regulations adopted under this
 11 chapter.

12 * Sec. 75. AS 47.35 is amended by adding a new section to read:

13 **Sec. 47.35.022. Foster care placement.** (a) Except as provided in (b) of this
 14 section, the department may not place or continue placement of a child for care for
 15 payment under AS 47.10 in a foster home that is licensed under this chapter if the
 16 department finds that a person for whom fingerprints are required to be submitted for
 17 licensure of the foster home is currently under arrest for, charged with, or has been
 18 convicted of, or found not guilty by reason of insanity of, a serious offense.

19 (b) Notwithstanding (a) of this section, the department may place or continue
 20 a placement for foster care if the applicant or licensee demonstrates to the satisfaction
 21 of the department that the applicant, licensee, or other person committed the conduct
 22 described in (a) of this section at least five years before the placement, and the conduct

23 (1) did not involve a victim who was under 18 years of age at the time
 24 the conduct occurred;

25 (2) was not a crime of domestic violence as defined in AS 18.66.990;
 26 and

27 (3) was not a violent crime under AS 11.41.100 - 11.41.455 or a law
 28 or an ordinance of another jurisdiction having similar elements.

29 (c) The department shall develop procedures for rechecking criminal justice
 30 information records for the information described in (a) of this section for persons who
 31 are 16 years of age or older who are living in a licensed foster home with access to

1 children placed by the department.

2 * Sec. 76. AS 47.35.023(b) is repealed and reenacted to read:

3 (b) Notwithstanding (a) of this section, if an emergency exists and a child must
4 be immediately placed, the department or the department's designee may issue a
5 provisional foster home license on an emergency basis for a period of 90 days or less
6 if the department or the department's designee determines that the applicant meets
7 minimal requirements for emergency conditions and the applicant agrees in writing to
8 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the
9 placement of a child in the foster home. The department may extend a provisional
10 foster home license issued under this subsection for one or two additional periods of
11 up to 90 days each in order to obtain the information from the national criminal
12 background check required under AS 47.35.017(b)(6). The department may not issue
13 a license under this subsection before checking state and national criminal justice
14 information available to the department under AS 12.62 and regulations adopted under
15 AS 12.62 about the administrator or foster parent and each person who is 16 years of
16 age or older in the foster home who will have contact with the child. If the department
17 cannot obtain direct access to the state and federal criminal justice information, the
18 department shall request the agency having primary law enforcement responsibility for
19 the geographic area in which the prospective foster home is located to obtain the
20 information and provide it to the department before the license is issued under this
21 section. If the criminal justice information readily available to the department shows
22 an offense which a person would be required to notify the department under
23 AS 47.35.047(b), the department may not issue the license under this subsection. If the
24 additional criminal justice information available from the fingerprint search or another
25 source after the license is issued reveals that the person has a record for one or more
26 of these offenses, the department shall immediately revoke the license and move the
27 child to an appropriate placement. For purposes of obtaining criminal justice
28 information under this subsection, the department is a criminal justice agency
29 conducting a criminal justice activity under AS 12.62.

30 * Sec. 77. AS 47.35.047(b) is amended to read:

31 (b) A licensee shall notify the department within 24 hours after having

1 knowledge of a conviction or indictment, presentment, or charging by information or
 2 complaint of an administrator, foster parent, member of the licensee's household, regular
 3 volunteer, or staff person for a violation of the following laws or the laws of another
 4 jurisdiction with similar elements:

5 (1) offenses against the family and vulnerable adults under
 6 AS 11.51;

7 (2) perjury under AS 11.56.200;

8 (3) offenses included in the definition of "serious offense" under
 9 AS 12.62.900 [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT,
 10 RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF A
 11 MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR
 12 THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF ANOTHER
 13 JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN AS 12.62.035].

14 * Sec. 78. AS 47.35.900 is amended by adding new paragraphs to read:

15 (20) "criminal justice information" has the meaning given in
 16 AS 12.62.900;

17 (21) "domestic violence" has the meaning given in AS 18.66.990;

18 (22) "serious offense" has the meaning given in AS 12.62.900.

19 * Sec. 79. AS 47.10.080(k), and 47.10.990(7) are repealed.

20 * Sec. 80. COURT RULE CHANGE; EXPEDITED APPEALS. (a) AS 47.10.080(i), as
 21 amended in sec. 41 of this Act, has the effect of amending Rule 218, Alaska Rules of
 22 Appellate Procedure, by requiring that expedited appeals from a judgment or an order under
 23 AS 47.10 be decided within a fixed timeframe.

24 (b) Section 41 of this Act takes effect only if this section receives the two-thirds
 25 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

26 * Sec. 81. COURT RULE CHANGES; CINA RULES. (a) Many provisions enacted or
 27 amended by secs. 30 - 58 of this Act have the effect of amending the Alaska Child in Need
 28 of Aid Rules, including rules regarding notice, parties, hearings, filing of petitions or reports,
 29 court review of orders, termination of parental rights, and duties of the Department of Health
 30 and Social Services.

31 (b) Sections 30 - 58 of this Act take effect only if this section receives the two-thirds

- 1 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.
2 * Sec. 82. APPLICABILITY. This Act applies to all new cases or proceedings filed with
3 the court on or after the effective date of this Act and to motions filed with the court on or
4 after the effective date of this Act in cases or proceedings pending before a court on the day
5 before the effective date of this Act.
6 * Sec. 83. This Act takes effect immediately under AS 01.10.070(c).

B...

AMENDMENT

OFFERED IN THE HOUSE
TO: CSHB 375(HES)

1 Page 31, lines 28 - 29:

2 Delete "After the permanency hearing required by (l) of this section, the [THE]
3 court shall hold a permanency hearing at least once a year"

4 Insert "For an order made under (c)(1) of this section, the [THE] court shall hold
5 a permanency hearing as required by (l) of this section and at least annually thereafter
6 during the continuation of foster care"

7 Page 32, line 1:

8 Delete "or supervision"

9 Insert "[OR SUPERVISION]"

10 Page 32, line 14, following the second occurrence of "the":

11 Insert "permanency"

12 Page 32, line 15, following the first occurrence of "the":

13 Insert "permanency"

14 Page 32, line 16, following "section":

15 Insert "The court shall review an order made under (c)(2) of this section at least
16 annually to determine if continued supervision, as it is being provided, is in the best
17 interest of the child; this review is not considered to be a permanency hearing and is not
18 governed by the provisions of this subsection that relate to permanency hearings"

19 Page 32, line 27, through page 33, line 25:

20 Delete all material and insert:

1 Page 27, following line 3

2 Insert a new subsection to read:

3 "(b) For purposes of (a) of this section, a parent or guardian who is a victim
4 of domestic violence, or who has a child in the parent's or guardian's care who is the
5 victim of domestic violence, is considered to have justifiable cause to take an action
6 or to fail to take an action that would otherwise be considered to be abandonment of
7 a child under (a) of this section if the action or failure to act is necessary to protect
8 the parent or guardian, or a child in the care of the parent or guardian, from further
9 acts of domestic violence. However, a parent or guardian who initially had justifiable
10 cause to act or fail to act as described in this subsection may be considered to have
11 abandoned the child without justifiable cause for purposes of (a) of this section if the
12 parent or guardian does not take reasonable steps to reunify with or provide care for
13 the abandoned child after becoming secure from further acts of domestic violence or
14 after providing that another child in the care of the parent or guardian is secure from
15 further acts of domestic violence."

16 Page 30, line 7, following "hearing":

17 Insert "When determining whether to grant a continuance for good cause, the
18 court shall take into consideration the age of the child and the potential adverse effect
19 that the delay may have on the child."

20 Page 30, lines 24 - 25:

21 Delete "the child's health care providers,"

1 changes after the hearing, the department shall promptly apply to the court for another
2 permanency hearing, and the court shall conduct the hearing within 30 days after
3 application by the department "

4 Page 34, lines 26 - 27

5 Delete all material

6 Page 34, line 28

7 Delete "(1)"

8 Insert "section for placement in licensed foster care, the court shall order the

9 (1) department to provide the foster parent with a copy of

10 (A) appropriate information held by the department regarding
11 the child to the extent required by AS 47.12.310(b)(8);

12 (B)"

13 Page 35, line 1:

14 Delete "(2)"

15 Insert "(C)"

16 Page 35, lines 1 - 2:

17 Delete "(1) of this subsection"

18 Insert "(B) of this paragraph:

19 (2) the foster parent to

20 (A) maintain and update records regarding medical, mental,
21 educational, and behavioral services provided to the child;

22 (B) provide all records described in (A) of this paragraph to the
23 department when the child leaves the foster home placement; and

24 (C) maintain the confidentiality of records regarding a child
25 placed in the foster home except when disclosure of the records is allowed
26 under regulations of the department or when disclosure is reasonably necessary
27 to ensure continuation of care for the child through appropriate medical,
28 mental, educational, and behavioral services"

- 1 Page 35, line 13
2 Delete ", without a court order."
- 3 Page 35, line 25
4 Delete "request a court order to allow a change in"
5 Insert "change"
- 6 Page 35, line 30, following "placement"
7 Insert "with the court"
- 8 Page 36, line 1:
9 Delete "an"
10 Insert "a timely"
- 11 Page 37, line 17:
12 Delete "parents"
13 Insert "parent or guardian"
- 14 Page 37, line 19:
15 Delete "parents"
16 Insert "parent or guardian"
17 Following the second occurrence of "services":
18 Insert "if community services are available and desired by the parent or
19 guardian"
- 20 Page 38, line 6, following "of":
21 Insert "a parent of the child or of"
- 22 Page 39, line 8:
23 Delete "or"
- 24 Page 39, line 12, following the second occurrence of "harm":

1 Insert ", or"
2 (10) the parent or guardian is incarcerated and is unavailable to care
3 for the child during a significant period of the child's minority, considering the child's
4 age and need for care by an adult

5 Page 46, line 29:

6 Delete "minor"

7 Insert "child [MLNOR]"

8 Page 46, line 31:

9 Delete "minor"

10 Insert "child [MLNOR]"

11 Page 59, lines 23 - 24:

12 Delete "an additional period of up to 90 days"

13 Insert "one or two additional periods of up to 90 days each"

Proposed amendment to CS for HB 375:

page 7, line 30 should read (2) is incapacitated by a controlled substance that is authorized under AS 17.30 or an intoxicant that is not authorized, and a third person who is at least 12 years of age and not incapacitated by an intoxicant is not present to care for the child.

Delete (3) lines 2-3 on page 8

(e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a relative by blood or marriage requests placement of the child in the relative home. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if it makes a determination, supported by clear and convincing evidence, that custody of the child by the relative will result in physical or emotional damage. Additionally, the department shall query available criminal history records on any relative requesting placement of the child. The department may conduct a fingerprint background check on any relative requesting placement of the child. The department shall not place a child with any relative who is currently under arrest for, charged with, or has been convicted of, or found not guilty by reason of insanity of, a serious offense. However, the department may place or continue the placement of the child with a relative who demonstrates to the satisfaction of the department that the conduct occurred at least five years prior to the placement and the conduct

- (1) did not involve a victim who was under 18 years of age at the time the conduct occurred;
- (2) was not a crime of domestic violence as defined in AS 18.66.990; and
- (3) was not a violent crime under AS 11.41.10 - 11.41.455 or a law or ordinance of another jurisdiction having similar elements.

Page 51, lines 19-30 delete entirely.

Page 55, lines 22-26 delete entirely.

Proposed Amendments to CS to HB 375:

page 34, lines 10 - 24 should be deleted entirely OR replaced with:

(p) if a child is removed from the parental home, the department shall provide reasonable visitation between the child and the parents or guardian. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents or guardian if there is clear and convincing evidence that visits are not in the child's best interests. Any parent or guardian who is denied visitation may request a review hearing.

Page 35, lines 12-31 and page 36, lines 1-4 should be deleted entirely OR replaced with:

(s) the department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's foster parents or out of home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe, if known, are entitled to advance notice of any non-emergency transfer. Any party opposed to the proposed transfer may request a hearing and must prove an abuse of discretion by the department for the court to deny the transfer. A foster parent or out of home caregiver who requests a change in placement of the child, should provide the department with reasonable advance notice of the requested change.

If (s) is inserted as above, then page 30, lines 21 after "it;" should be deleted through line 26.

Page 36, lines 22-24, the added language should be deleted OR delete line 22 "and the right and responsibility to obtain legal representation for,," The department should be concerned with protecting the child from abuse and neglect and obtaining needed services for the child's recovery.

Page two

page 43, line 19 should read "may or shall upon request" disclose....

Page 48, line 23 should read "may or shall upon request" disclose...

Page 50, lines 27 through page 51, line 18 should be replaced with:

5A

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BUNDE

TO: CSHB 375(HES)

- 1 Page 25, line 17, following "adequately;":
- 2 Insert "if a child, immediately after birth, tests positive for exposure to or infection
- 3 with the human immunodeficiency virus (HIV), the court may find that the child is a child
- 4 in need of aid under this paragraph if the child's mother tested positive for exposure to or
- 5 infection with HIV before or during the pregnancy, knew about the test results, and failed to
- 6 obtain treatment for that condition during the pregnancy after learning of the test results;"

5 B

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BUNDE

TO: CSHB 375(HES)

- 1 Page 25, line 17, following "adequately;":
- 2 Insert "if, at birth, the child's blood had alcoholic content, the court may find that the
- 3 child is need of aid under this paragraph;"

Bunde

6

Page 18, line 14.

After “;” insert “exposure to domestic violence shall be treated as in AS 25.20.061”

(again your technical assistance with this is appreciated.)

Amendment No.

8 #7

Page 7, line 24 to page 8, line 3, DELETE and REPLACE with:

Sec. 11.51.110. Endangering the welfare of a child in the second degree. (a) A person commits the offense of endangering the welfare of a child in the second degree if the person, while caring for a child under 10 years of age,

(1) causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or

(2) is impaired by an intoxicant, whether or not prescribed for the person under AS 17.30, and there is no third person present to care for the child who is at least 12 years of age and not impaired by an intoxicant.

5-7

Page 8, lines 5-8, DELETE and REPLACE with

“impaired” means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;

Page 47, line 31: Insert

“hazardous volatile material or substance” has the meaning given in AS 47.37.270;

Page 48, line 2: Replace the word “inhalants” with “a hazardous volatile material or substance misused by inhaling its vapors”

~~47.14.100~~

9
#8

Amendment No. ____

Add a new section to the bill.

* Sec. __. AS 12.55.155(c)(23) is amended to read:

(23) the defendant is convicted of an offense specified in AS 11.71 and ~~(A)~~ the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or (B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

AMENDMENT

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CSHB 375(HES)

1 Page 6, line 4, following "genitals":

2 Delete (to) another person"

3 Page 6, line 5, following "have"

4 Delete "on that person"

Delete to

in the presence of another person

p. 8 line 31

11

INSERT: (after "16,")

whose death has been caused by
any of the conditions described in
AS 47.10.014 or AS 47.10.015;

Make pg 8, lines 30-31 look like

AS 11. 41,100 (a) (2)

P 8 30,31 when the command was knowingly
directed ^{toward} a child under the
eye of Q 16.

12

PJ 29 like 22 delete

" in the courtroom or in chambers "

13

PS 28 18 99 Conceptual

PS 40 In 17 + 18, -

by a clear & convincing evidence
that the child has been subjected
to any of the conditions listed in

Conceptual

H.1

- pg 1 line's 17 + 21 delete "immediate"

pg 2 line 4 delete "immediate"

pg 25 l: 9 as defined in 47.17.290 of mental

p 2 line 12 delete §

p 25 line 29 or placed the child at
substantial risk to mental injury

~~p 35 line 17 add & mail~~

p 34 line 8 - add and the court place
the child - is delete (for placement)

by & c + c evidence that the proposed ~~best~~ transfer
is not in the best interests of the child

by clear and convincing evidence that the
proposed transfer would be contrary to the best
interests of the child

By col #2
#4

A M E N D M E N T

OFFERED IN THE HOUSE
TO: CSHB 375(HES)

- 1 Page 31, lines 28 - 29:
 - 2 Delete "After the permanency hearing required by (l) of this section, the [THE]
 - 3 court shall hold a permanency hearing at least once a year"
 - 4 Insert "For an order made under (c)(1) of this section, the [THE] court shall hold
 - 5 a permanency hearing as required by (l) of this section and at least annually thereafter
 - 6 during the continuation of foster care"

- 7 Page 32, line 1:
 - 8 Delete "or supervision"
 - 9 Insert "[OR SUPERVISION]"

- 10 Page 32, line 14, following the second occurrence of "the":
 - 11 Insert "permanency"

- 12 Page 32, line 15, following the first occurrence of "the":
 - 13 Insert "permanency"

- 14 Page 32, line 16, following "section":
 - 15 Insert "The court shall review an order made under (c)(2) of this section at least
 - 16 annually to determine if continued supervision, as it is being provided, is in the best
 - 17 interest of the child; this review is not considered to be a permanency hearing and is not
 - 18 governed by the provisions of this subsection that relate to permanency hearings"

- 19 Page 32, line 27, through page 33, line 25:
 - 20 Delete all material and insert:

1 ** Sec. 41. AS 47.10.080(l) is repealed and reenacted to read:

2 (l) Within 12 months after the date a child enters foster care as calculated
3 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
4 permanent plan developed in the hearing are governed by the following provisions:

5 (1) the persons entitled to be heard under AS 47.10.070 or under (f)
6 of this section are also entitled to be heard at the hearing held under this subsection;

7 (2) when establishing the permanent plan for the child, the court shall
8 make appropriate written findings, including findings related to whether

9 (A) and when the child should be returned to the parent or
10 guardian;

11 (B) the child should be placed for adoption or legal
12 guardianship and whether a petition for termination of parental rights should
13 be filed by the department; and

14 (C) the child should be placed in another planned, permanent
15 living arrangement and what steps are necessary to achieve the new
16 arrangement;

17 (3) if the court is unable to make a finding required under (2) of this
18 subsection, the court shall hold another hearing within a reasonable period time;

19 (4) in addition to the findings required by (2) of this subsection, the
20 court shall also make appropriate written findings related to

21 (A) whether the department has made the reasonable efforts
22 required under AS 47.10.086 to offer appropriate family support services to
23 remedy the parent's or guardian's conduct or conditions in the home that made
24 the child a child in need of aid under this chapter;

25 (B) whether the parent or guardian has made substantial
26 progress to remedy the parent's or guardian's conduct or conditions in the
27 home that made the child a child in need of aid under this chapter; and

28 (C) if the permanent plan is for the child to remain in out-of-
29 home-care, whether the child's out-of-home placement continues to be
30 appropriate and in the best interests of the child;

31 (5) the court shall hold a hearing to review the permanent plan at least
32 annually until successful implementation of the plan; if the plan approved by the court

1 changes after the hearing, the department shall promptly apply to the court for another
2 permanency hearing, and the court shall conduct the hearing within 30 days after
3 application by the department."

4 Page 34, lines 26 - 27:

5 Delete all material.

6 Page 34, line 28:

7 Delete "(1)"

8 Insert "section (for placement) in licensed foster care, the court shall order the

9 (1) (department to) provide the foster parent with a copy of

10 (A) appropriate information held by the department regarding

11 the child to the extent required by AS 47.12.310(b)(8);

12 (B)"

13 Page 35, line 1:

14 Delete "(2)"

15 Insert "(C)"

16 Page 35, lines 1 - 2:

17 Delete "(1) of this subsection"

18 Insert "(B) of this paragraph;

19 (2) the foster parent to

20 (A) maintain and update records regarding medical, mental,
21 educational, and behavioral services provided to the child;

22 (B) provide all records described in (A) of this paragraph to the
23 department when the child leaves the foster home placement; and

24 (C) maintain the confidentiality of records regarding a child
25 placed in the foster home except when disclosure of the records is allowed
26 under regulations of the department or when disclosure is reasonably necessary
27 to ensure continuation of care for the child through appropriate medical,
28 mental, educational, and behavioral services"

conceptual
and the department places the child
department

1 Page 35, line 13:

2 Delete ", without a court order,"

3 Page 35, line 25:

4 Delete "request a court order to allow a change in"

5 Insert "change"

6 Page 35, line 30, following "placement":

7 Insert "with the court"

8 Page 36, line 1:

9 Delete "an"

10 Insert "a timely"

11 Page 37, line 17:

12 Delete "parents"

13 Insert "parent or guardian"

14 Page 37, line 19:

15 Delete "parents"

16 Insert "parent or guardian"

17 Following the second occurrence of "services":

18 Insert "if community services are available and desired by the parent or
19 guardian"

20 Page 38, line 6, following "of":

21 Insert "a parent of the child or of"

22 Page 39, line 8:

23 Delete "or"

24 Page 39, line 12, following the second occurrence of "harm":

1 Insert "; or

2 (10) the parent or guardian is incarcerated and is unavailable to care
3 for the child during a significant period of the child's minority, considering the child's
4 age and need for care by an adult"

5 Page 46, line 29:

6 Delete "minor"

7 Insert "child [MINOR]"

8 Page 46, line 31:

9 Delete "minor"

10 Insert "child [MINOR]"

11 Page 59, lines 23 - 24:

12 Delete "an additional period of up to 90 days"

13 Insert "one or two additional periods of up to 90 days each"

Amendment to Amendment #1

✓ adopted

Page 23, line 10-11

Delete (E)

Replace with "frequent, regular, and reasonable visitation with the parent or guardian and immediate family members should be encouraged; and

~~delete~~

#5

~~#4 B~~

Proposed Amendments to CS to HB 375 after 4/17 hearing:

✓ page 3, line 7 should read:
"child or minor"

X Page 15, line 7, line 9, line 26, line 28, delete "AS 11.41.460"

Page 26, line 1-2 should read: "the parent, guardian or custodian's ability to parent has been substantially impaired by the addictive or habitual use of an intoxicant (and the addictive or habitual use of the intoxicant has resulted in a substantial risk of harm to the child;")

✓ page 28, line 26 should read: "the child, each parent, the tribe, the foster parent....."

✓ page 34, lines 10 - 24 should be replaced with:

(p) if a child is removed from the parental home, the department shall provide reasonable visitation between the child and the child's parents, guardian, and immediate family. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents, guardian or immediate family members if there is clear and convincing evidence that visits are not in the child's best interests. Any parent or guardian who is denied visitation may request a review hearing.

X ~~Page 35, lines 4-5, delete "for placement in licensed foster care or for placement with a relative of the child,"~~

Page 35, line 5 delete "or custodian"

Page 35, lines 12-31 and page 36, lines 1-4 should be replaced with:

(s) the department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's foster parents or out of home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe, are entitled to advance notice of any non-emergency transfer. Any party opposed to the proposed transfer may request a hearing and must prove an abuse of discretion by the department or the court to deny the transfer. A foster parent or out of home caregiver who requests a change in

by clear and convincing evidence that the transfer would be contrary to the best interests of the child

page two

placement of the child, should provide the department with reasonable advance notice of the requested change.

- ✓ If (s) is inserted as above, then page 30, lines 21 after "it;" should be deleted through line 26. *do it delete p30 line 21 after it; through line 26*
- Page 36, lines 22-24, the added language should be deleted OR delete line 22 "and the right and responsibility to obtain legal representation for,." *no dot for representation but R+ of parent*
- / Page 41, line 29 "take" should be "make" (typo).

page 43, line 19 should read "may or shall upon request" disclose....

- ✓ Page 45, lines 17-22, "minor" should be replaced with "child."
- ✓ Page 48, line 11 should read:
"...consistent attempts made during a reasonable time....."

Page 48, line 23 should read "may or shall upon request" disclose...

Page 50, lines 27 through page 51, line 18 should be replaced with:

- (e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a relative by blood or marriage requests placement of the child in the relative home. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if
- (1) the department makes a determination, supported by clear and convincing evidence, that placement of the child with the relative will result in physical or emotional damage. In making that determination.....de novo; or
 - (2) the department determines that a member of the relative's household who is 16 years of age or older has a criminal record or was the perpetrator in a substantiated report of abuse under AS 47.17; or
 - (3) the department disqualifies the relative home based on the results of a criminal background check from criminal justice information available under AS 12.62. The department must conduct a criminal background check of available criminal justice information received under AS 12.62. The department may conduct a fingerprint background check of a relative requesting placement of the

substituted w/ mental injury

page three

the child. The department shall not place a child with any relative who does not meet the standards required for placement in foster care as defined in AS 47.35.022 (a) and (b).

For purposes of obtaining criminal justice information under this subsection, the department is a criminal justice agency conducting a criminal justice activity under AS 12.62.

~~Page 51, lines 19-30 delete entirely.~~ pf 51 lin 22 parent or guardian.
debt rest

✓ Page 55, lines 22-26 delete entirely.

Page 59, lines 17-25, should read, "may issue a provisional foster home license on an emergency basis until the results of the fingerprint background check required under AS 47.35.017 (b) are received by the department, provided the applicant meets the minimal requirements for emergencyfoster home. Delete lines 22 - 25 sentence.

pg 51 lin 22 "paid" after parent or guardian

pf 24 Lin 26 after AS 47.10.016

add 47.14.180

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary / Senate AESS
Committee on HB 375 / SB272 Committee Name Dated 4-17-98
Bill/Subject

OPPOSE THIS BILL WHICH INCREASES GOVERNMENT CONTROLS OVER FAMILIES THROUGH SOCIAL SERVICES. This testimony is directed to those legislators who discern the dangers of greater government intrusion on our private lives just as we citizens realize it. We should not be expanding Social Services but rather trimming it just as we trim all other excess.

The Department of Social Services has proven to be the most dangerous and controlling of the state agencies. People have abused it by calling unfounded anonymous tips. If a liberal is in charge then conservative beliefs are considered to be "abusive." More restrictions added here are not going to solve the failures of social services to act under existing regulations. I am sorry about the two-year old and realize that this situation should not have happened but there are tragedies and the best resolution is people reaching out with charitable hearts, not through a governmental structure. Matters of the family need to be solved through loving solutions within the churches. There is nothing loving about government regulations.

As an aside, while the Department of Social Services has people who testify that they are interested in protecting children from abuse that could lead to death, these same workers testify in favor of the child abuse industry that exists in our country through abortion. The irony is that the social service workers who testify to you, use the "privacy clause" to defend a woman's right to kill her unborn baby through abortion while this same right to privacy does not seem to exist when social services want to violate privacy through their bills such as HB237 or SB272. This seems to be a schizophrenic condition within that department.

I personally knew sociology majors, future social workers, and would not rely on their "expert" testimony you are hearing. When I attended college down in Washington state all of these college students had straight A's because they would name their own grade and attended fluff courses. One of them asked me why I did not major in this as if it would be foolish not to take advantage of naming my own grade. I would not trust someone to have the power to regulate and overregulate our families in general based on my personal observations at college.

More restrictions that are far-reaching will not solve the failures of social services' under existing programs. More is not necessarily better and especially where government is concerned.

From A former liberal high school teacher,

SIGNED:

Quinn E. Ewing
Testifier

2325 - 30th Avenue
Address/Phone Number

Fairbanks, Alaska 99701

907-452-5538 (also a fax line)
907-479-5433



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE JUDICIARY

Committee on HB375 Committee Name Dated APRIL 20, 1998

Bill / Subject

AS A CITIZEN WITH AN ON-GOING FIGHT WITH DFYS, I BELIEVE IT IS IMPERATIVE THAT YOU, OUR LEGISLATURE UNDERSTAND THE NEGATIVE IMPACT DFYS HAS ON FAMILIES USING THE BROAD-BASED POWERS ALREADY GRANTED TO THEM. FOR INSTANCE, WHETHER THERE IS AN ABUSE ISSUE OR NOT, IMMEDIATELY DFYS HAS AN ON-CALL STRIKE FORCE WHO WILL UNDERTAKE ITS MISSION AGAINST AN INDIVIDUAL OR FAMILY WHO MAY NOT HAVE THE RESOURCES TO FIGHT EFFECTIVELY AGAINST THIS "GIANT". THERE IS LEGAL JARGON TO BE DEALT WITH AS WELL AS A LEGAL SYSTEM THAT MOST PEOPLE ARE UNABLE TO UNDERSTAND WITHOUT LEGAL ADVICE. ADDITIONALLY, EVEN THOUGH DFYS ADMINISTRATORS SAY THIS AGENCY IS AUDITED, IT IS AT BEST AN INTERNAL SCRUTINY BY INDIVIDUALS THAT HOLD THE SAME TRAIN OF THOUGHT THAT IN MANY CASES IS THE MAIN PROBLEM! I WANT YOU, OUR LEGISLATORS... MY LEGISLATORS, TO HEAR ME LOUD AND CLEAR - DFYS SHOULD HAVE TO FIGHT FOR CUSTODY OF CHILDREN OF COURSE, EXCEPT IN CASES OF LEGALLY SUBSTANTIATED REPORTS OF TRUE HARM. INSTEAD OF FAMILIES HAVING TO FIGHT TO GET DFYS OUT OF THEIR LIVES AS THEY WORK THROUGH NORMAL,

SIGNED: GERALDINE WILSON BROWN

Testifier

EVERYDAY ISSUES OF LIFE. FAMILIES MAKE STRONG CHILDREN, NOT DFYS.

SELF

Representing

PO BOX 74552, FBKS 99707-4552 (907) 451-8042

Address / Phone Number

OR 455-4386



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary
 Committee on HB 375 Committee Name Dated 4-20-98
Bill / Subject

It is essential that some funding for the General Relief Medical Program be restored. GRM serves the poorest of the poor -- providing treatment for cancer, diabetes, and cardiovascular conditions. Let's not have these folks die or get so sick that they end up as inpatients. If your concern is not wanting to fund abortions for Medicaid eligible women, then keep the \$300/month income limit for all GRM recipients. This would vastly curtail state sponsored abortions since most of the women get ATAP or SSI + are thus above income. Please, please restore funding for the truly medically needy

SIGNED: Ronnie Rosenberg
 Testifier

Representing
448 Snowy Owl Ln, Fairbanks 99712
 Address / Phone Number 452-6476



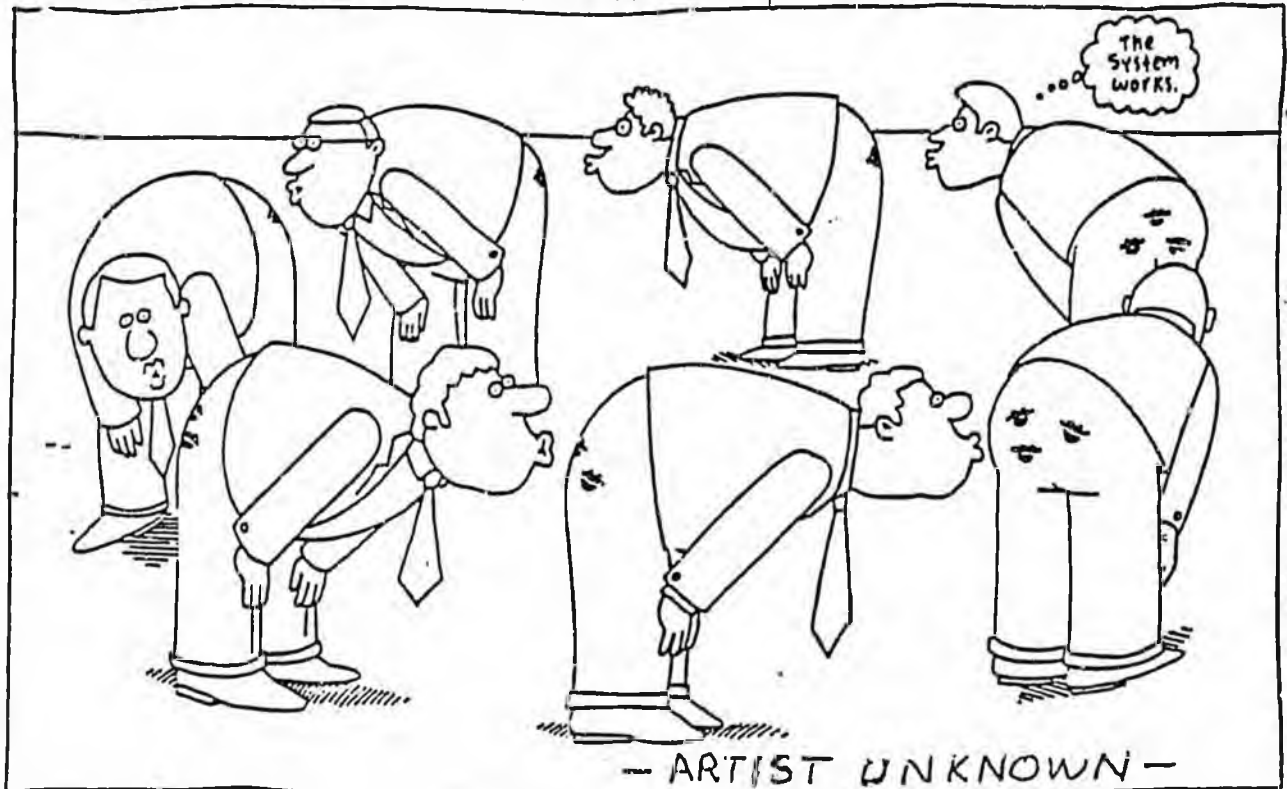
ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the MOUSE JUDICIARY
Committee on HB 375 Committee Name
Dated 4-17-98

Bill / Subject

FIGURE 1) ILLUSTRATES THE PROBLEM
CREATED BY SUPERSTITIOUS EXCLUSION
OF A BALANCED, CRITICAL ANALYSIS,
OF BUREAUCRATIC DYSFUNCTION.
D.F.Y.S. AND C.S.E.D. HAVE NEVER BEEN
The Intricacies of Government EXPOSED TO THIS.

FIG. 1)



SEEING, THINKING, AND
ACTING IN ONLY ONE
DIRECTION HAS ITS EFFECT.

SIGNED: SCOTT TRAFFORD CALDER
Testifier
P.O. BOX 75011
Representing Scott Calder
FAIRBANKS, ALASKA 99707
Address / Phone Number (907) 474-0174

Jennifer S. H. Taylor
P. O. Box 424,
Craig, Alaska 99921
907 - 826 3066

Thursday Afternoon, House Bill 375 HESS Committee Hearing, April 2nd, 1998

Con Bunde, Chairman, Health Education and Social Services Committee.
Room 104, fax:465-3871; ph: 800 892-4843

Constituent Testimony concerning House Bill 375, in the Legislature of the State of Alaska, Twentieth Legislature, Second Session. I submit my opinion and testimony to the House Committee of Health, Education, and Social Services, respectfully requesting its distribution to each Committee member, as follows:

It is my limited understanding that the opinion of the general public reflects fear of the loss of the liberty of privacy and control for parents, and the unwarranted intrusion by government entities also figures prominently in over-all resistance to H.B. 375. Nonetheless, there are portions of this bill I believe most worthy of redemption and which merit close examination, in particular consideration of the timely need for protection of the welfare of Alaska's children and Alaska's future.

Addressing Section 11. and Section 12. of HB 375 I find it imperative to point out that long term abandonment and lack of support of children left in the presumptive care of another, unemployed parent, where child support arrearages exceed the past due obligation of one year, or \$5000. as according to the Federal Child Support Recovery Act of 1992 (Title 18, Chapter 11A, Section 228) are commutative in the new equation for desperate poverty for many Alaskan children.

It is appropriate that this bill in particular address the issue of nonsupport of children as criminal, because the blatant neglect of children by parents who accumulate arrearages representing debts to their children of many months without support, reflects extreme indifference to the children's well-being and survival.

Following this Committee's attentive dedication, working in tedious Hearings until 11:00 p.m. last night on school funding, there is no doubt of your commitment to Alaskan children. It is a dedication which should be recognised by every one of our children, but which unfortunately cannot be realized by all our youth when so many are growing up with the confirmed belief that their government, as well as at least one of their parents, threw them away.

Opposition to the welfare of Alaskan children comes in the guise of displaced anger from parents who have abandoned, or are otherwise separated from their children. Significant opposition to the daily needs of innocent and defenseless children, too young by law to support themselves, is heard by you time and again

Page Two of Two

from parents who never formed adequate parental bonds with their children and lacked incentive to ensure familial ties. More often than not, the absent parents who abandoned their children have moved onto second families and their priorities are dominated by new spouses who resent the economic and emotional competition of spouses' prior relationships.

The parent left with sole physical custody in Alaska by "default", has the very tangible burden of shouldering double the responsibility of that of a parent in a unified family. Child Support Civil Rule 90.3 Commentary section VI B) freely acknowledges the, "percentage of income approach used in Alaska tends to slightly understate support relative to the national average for cases in which the custodial parent has child care expenses."

HB 375 page 10 speaks to the state's interpretation of the severity of nonsupport being charged as a class C felony, when the arrearages reach \$10,000. My concern is that there is currently so much bad press given to CSED from the obligors in not allowing for fair modifications, and that there are in fact, so many AK CSED cases currently which have gone without consequence, to exceed the \$10,000 ceiling, that sufficient pressure will eventually result in the elimination of this section unless "lawful excuse" exceptions and clearer conditions of culpability are delineated in Sec. 11.51.115.

Alaska Civil Rule 90.3 gives a list of exceptions allowing for court interpretation of good causes for support modifications such as unusual circumstances. In my mind \$10,000. in child support arrearages represents an AK average of 20 months of no financial support to a child not on welfare, and waiting this long sends a definitive message to our children of our dire lack of concern for their survival. Current AK law, AS 11.51.120(a) Criminal Nonsupport as a Misdemeanor A is rarely upheld for prosecution even when obligors are on state probation or parole and as such are prohibited from committing misdemeanor crimes as a condition of their release. (I can provide supporting documentation.)

This week marked one hundred years since Russian America was sold for American rule of Alaska. Alekandre Baranov knew in the 1790's that civil relations amongst his growing colony depended upon enforcing the responsibility of the Russian fathers toward their half-Native children while in the custody of their Native mothers. Were Alaskan children sold-out with Russian America?

Child support arrearages have been accumulating all over Alaska in direct inverse proportion to the custodial parent's moral and the children's diminishing standard of living. As the nurturing parent's resources rapidly dwindle, the real problem is not to absolve the noncustodial parent's arrearages, but how do we feed, provide and heat homes, buy warm clothing, and give nurturing care to the

Page Three of Three

children?

Government officials wonder of our state-wide predicament when Welfare support is phased out. I can answer some of these questions considering I have raised three children entirely alone since their conception, for over thirteen years, without any welfare assistance, and rarely with child support from their well-heeled fathers.

I am confident you could not imagine the physical and emotional stress I have endured. Still, their fathers will not take these children, even for a visit. One father has lived three doors away for the past four years and gone out of his way to avoid all contact with his sons for this duration. As a certified teacher I cannot find work in this part of Alaska, though I am hopeful to "relocate" to a job and home for the children; I have been on the state register as a Child Support Enforcement Officer I for two years, Alaska resident for 20 years. Construction work has kept me away from my children for 15 hours at a time, six days a week, and the cost of child care is prohibitive. You may laugh and flippantly say the children won't starve without child support. I challenge you to do the math. I do all our own carpentry, electrical repairs, plumbing, truck repairs and maintenance, and when I do, a youngster misses a meal, or two. We missed having a toilet in our home, in town, for three weeks last year when the floor fell through. Sometimes the children dress for school on a floor of ice, and they cry. There hasn't been a kitchen faucet to use in almost a year since the counter fell in, and the floor won't support a real fridge. The funny part is that one of the absent parents owns four apartments and various real estate out of state for rental income, living most of the year in a luxurious home in Homer. The other absent father owns five trucks, two full size mobile homes, and a large, expensive substance abuse addiction. Their combined total for child support arrearages exceeds \$50,000. Our annual family income for the past three years has been our permanent fund checks. We try to live on less than half the means of federal "below poverty" standards.

Do not dismiss me as a single case who fell through the cracks. I had my college degree and 24 graduate credits prior to the birth of my first child. I have put my parental responsibilities above all, because of my children's absolute need. Every Alaskan family is vulnerable to being reduced to the status of a single parent. Extreme poverty of rural Alaskan children of single parent households, not only elevates their susceptibility to abuse from stressed-out parents, poverty is the most documented reason for poor performance in school, and the lack of adequate nutrition and proper growth.

A perverse and pervasive trend has young, financially distraught single mothers seeking security with boyfriends who are impatient and indifferent to the children and subject the children to abusive torment, and sometimes murder.

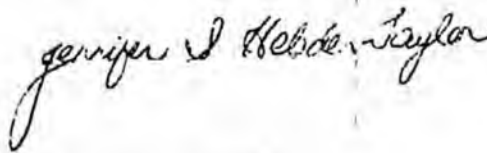
Page Four of Four

A weight is upon you to facilitate Alaskan childrens' most productive entrance into a friendly society, by ensuring the collection of the child support owed to them by their own parents. The support is their reassurance their government is working for them to keep them alive, healthy and secure. It is the most important message many Alaskan children will ever receive from Alaska. Supporting our children is the only way you can ensure that they, in turn, will support you in your twilight years in Alaska.

Please note - - - denotes the end of the section planned for the three minute limit during teleconference this afternoon.

Thankyou for the opportunity to voice my opinion and have it heard by the Alaskan House of Representatives HESS Committee.

Respectfully,

A handwritten signature in cursive script that reads "Jennifer S. H. Taylor". The signature is written in dark ink and is positioned above the printed name.

Jennifer S. H. Taylor