

**SB**

**272**

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. SB 272**

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to children in need of BRU: Trial Courts  
aid matters & proceedings Component: \_\_\_\_\_  
 Sponsor: Governor  
 Requestor: Senate HESS COMPONENT SERIAL NO. 768

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

| OPERATING EXPENDITURES        | FY 99        | FY 00        | FY 01        | FY 02        | FY 03        | FY 04        |
|-------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES             | 141.2        | 141.2        | 141.2        | 97.6         | 97.6         | 97.6         |
| TRAVEL                        | 5.0          | 5.0          | 5.0          | 5.0          | 5.0          | 5.0          |
| CONTRACTUAL                   |              |              |              |              |              |              |
| SUPPLIES                      | 5.0          | 5.0          | 5.0          | 5.0          | 5.0          | 5.0          |
| EQUIPMENT                     |              |              |              |              |              |              |
| LAND & STRUCTURES             |              |              |              |              |              |              |
| GRANTS & CLAIMS               |              |              |              |              |              |              |
| MISCELLANEOUS                 |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b>        | <b>151.2</b> | <b>151.2</b> | <b>151.2</b> | <b>107.6</b> | <b>107.6</b> | <b>107.6</b> |
| <b>CAPITAL EXPENDITURES</b>   |              |              |              |              |              |              |
| <b>CHANGE IN REVENUES ( )</b> |              |              |              |              |              |              |

**Fund Source** (Thousands of Dollars)

|                          |              |              |              |              |              |              |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts    |              |              |              |              |              |              |
| 1003 GF Match            |              |              |              |              |              |              |
| 1004 GF                  | 151.2        | 151.2        | 151.2        | 107.6        | 107.6        | 107.6        |
| 1005 GF/Program Receipts |              |              |              |              |              |              |
| 1037 GF/Mental Health    |              |              |              |              |              |              |
| Other                    |              |              |              |              |              |              |
| <b>TOTAL</b>             | <b>151.2</b> | <b>151.2</b> | <b>151.2</b> | <b>107.6</b> | <b>107.6</b> | <b>107.6</b> |

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

**Positions**

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

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

See attached analysis.

Prepared by: C. S. Christensen III, General Counsel *CC* Phone: 264-8228  
 Agency: Alaska Court System Date: 04/06/98

Approved by: Stephanie J. Cole, Administrative Director *RSJ* *CC* Date: 04/06/98  
 Agency: Alaska Court System

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**Alaska Court System**  
**Fiscal Analysis**  
**SB 272**

**FUNDING OVERVIEW**

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

|   | <u>Funding Requested in</u> |                    |   |
|---|-----------------------------|--------------------|---|
|   | <u>Operating Budget</u>     | <u>Fiscal Note</u> | <u>FY 98 Supplemental<sup>2</sup></u><br><i>(Duplicates funding in operating &amp; budget &amp; FN request)</i> |
| <b><u>Personal Services</u></b>   |                             |                    |   |
| Pro Tem Superior Court Judge, Anchorage, PPT, 12 months                               | \$ 87,000                   |                    | \$ 54,300   |
| Family Court Master, Anchorage, 24A, PFT, 12 months                                   | 84,700                      |                    |   |
| Family Court Master, Fairbanks, 24A, PFT, 12 months                                   | 96,000                      |                    |   |
| In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i> | 40,600                      |                    | 24,700  |
| In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge &amp; master)</i> | 20,300                      | 20,300             |   |
| In-Court Clerk, Fairbanks, 12A, PFT, 12 months <i>(support to judge &amp; master)</i> | 45,400                      |                    |   |
| Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months                                |                             | 27,000             |   |
| Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months                                 |                             | 16,700             |   |
| Court Clerk II, Anchorage, 10A, PFT, 12 months  |                             | 36,600             |   |
| Court Clerk II, Fairbanks, 10A, PFT, 12 months  |                             | 40,600             |   |
| <b>Total Personal Services</b>  | <b>374,000</b>              | <b>141,200</b>     | <b>79,000</b>   |
| <b>Travel</b>   |                             | <b>5,000</b>       | <b>5,000</b>  |
| <b>Supplies</b>   |                             | <b>5,000</b>       |   |
| <b>Equipment</b>  | <b>12,600</b>               |                    |   |
|   | <b>\$ 386,600</b>           | <b>\$ 151,200</b>  | <b>\$ 84,000</b>  |

\* The FY 98 Supplemental budget request covers a 15-month period: 3 months in FY 98 and 12 months in FY 99.

**FISCAL NOTE** *Incremental costs of SB 272 only*

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



# FISCAL NOTE

Bill Version: SB 272  
 (S) Publish Date: 2/2/98

**STATE OF ALASKA  
 1998 LEGISLATIVE SESSION**

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

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

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

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

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

**FUND SOURCE (Thousands of Dollars)**

| FUND SOURCE              | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 1002 Federal Receipts    |       |       |       |       |       |       |
| 1003 GF Match            |       |       |       |       |       |       |
| 1004 GF                  |       |       |       |       |       |       |
| 1005 GF/Program Receipts |       |       |       |       |       |       |
| 1037 GF/Mental Health    |       |       |       |       |       |       |
| Other (Specify Type)     |       |       |       |       |       |       |
| <b>TOTAL</b>             | ***** | ***** | ***** | ***** | ***** | ***** |

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

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

Continued on next page ...

|   |                       |
|---|-----------------------|
| Prepared by <u>Laura Baker, Budget Analyst</u>                            | Phone <u>465-4684</u> |
| Division <u>Office of Management and Budget</u>                           | Date <u>1/30/98</u>   |
| Approved by <u>Annalee McConnell, Director</u> <i>for David R. Jensen</i> | Date <u>1/30/98</u>   |
| Agency <u>Office of Management and Budget</u>                             |                       |

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

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

*Agencies and programs involved:*

Department of Administration

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

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

Department of Corrections

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

Department of Health and Social Services

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

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

Department of Law

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

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

Court System

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

**SENATE COMMITTEE REFERRAL**  
**First Committee of Referral**

DATE: 2/2/98

FURTHER: Judiciary  
 Finance

Date of 5-Day Notice: 4/2/98  
 (in accordance with Uniform Rule 23)

DATE TURNED  
 IN TO OFFICE: 4/30/98

Health, Education and Social Services Committee considered **SENATE BILL NO. 272**

**CRIMES AGAINST CHILDRE /FOSTER CARE**

and recommends:

- be replaced with \_\_\_\_\_ CS SB 272 (HES) (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS            | NR | DNP | AM |
|-----------------|----|----------------------------------|----|-----|----|
| <i>J. Seuss</i> | x  | <i>[Signature]</i>               |    | x   |    |
|                 |    | <i>[Signature]</i>               |    |     | x  |
|                 |    |                                  |    |     |    |
|                 |    |                                  |    |     |    |
|                 |    |                                  |    |     |    |
| <b>CHAIR:</b>   |    | <b>CHAIR:</b> <i>[Signature]</i> | ✓  |     |    |

**NEW FISCAL NOTE(S):**

Department                      Date              Zero              Fiscal

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
|            |      |      |        |
|            |      |      |        |
|            |      |      |        |
|            |      |      |        |
|            |      |      |        |

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date              Zero              Fiscal

| Department                        | Date    | Zero | Fiscal |
|-----------------------------------|---------|------|--------|
| OMB                               | 1/30/98 |      | ***    |
| <i>(Applies to original - CS)</i> |         |      |        |
|                                   |         |      |        |
|                                   |         |      |        |
|                                   |         |      |        |

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

In case you want to delete these sections

Sen Hallford - In (SB 218) - Crimes of Murder - Child Murders - Sec. 3, 4, 11, 12, 13, 15  
Sen Pearce - In (SB 323) - Sex Offenses - Offender Registration - Sec 7, 8, 19, 20

0-GS2009VE  
Lauterbach  
4/28/98  
In (H) JUD

CS FOR SENATE BILL NO. 272(HES)

HB 375

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Finance

Sponsor(s): SENATE 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 (2) the person knowingly engages in conduct that results in the death  
2 of another person under circumstances manifesting an extreme indifference to the value  
3 of human life;

4 (3) under circumstances not amounting to murder in the first  
5 degree, acting either alone or with one or more persons, the person commits or  
6 attempts to commit arson in the first degree, kidnapping, sexual assault in the first  
7 degree, sexual assault in the second degree, burglary in the first degree, escape in the  
8 first or second degree, robbery in any degree, or misconduct involving a controlled  
9 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or  
10 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime, or in  
11 immediate flight from that crime, any person causes the death of a person other than  
12 one of the participants; [OR]

13 (4) acting with a criminal street gang, the person commits or attempts  
14 to commit a crime that is a felony and, in the course of or in furtherance of that crime  
15 or in immediate flight from that crime, any person causes the death of a person other  
16 than one of the participants; or

17 (5) the person with criminal negligence causes the death of a child  
18 under the age of 16, and the person has been previously convicted of a crime  
19 involving a child under the age of 16 that was

20 (A) in violation of AS 11.41;

21 (B) in violation of a law or ordinance in another jurisdiction  
22 with elements similar to a crime under AS 11.41; or

23 (C) an attempt, a solicitation, or a conspiracy to commit a  
24 crime listed in (A) or (B) of this paragraph in violation of AS 11.41 or of  
25 a law or ordinance in another jurisdiction with similar elements.

26 \* Sec. 5. AS 11.41.300(a) is amended to read:

27 (a) A person commits the crime of kidnapping if

28 (1) the person restrains another with intent to

29 (A) hold the restrained person for ransom, reward, or other  
30 payment;

31 (B) use the restrained person as a shield or hostage;

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

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victim of domestic violence;

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

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

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

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

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

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

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

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

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

(6) the prohibition of overnight visitation;

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

(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 4/.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, as  
17 defined in AS 47.17.290, and the child's parent, guardian, or custodian has knowingly  
18 failed to provide the treatment;

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

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

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

1 or is under investigation for a sex offense against a minor, and the parent, guardian, or  
2 custodian subsequently allows a child to be left with that person, this conduct  
3 constitutes prima facie evidence that the child is at substantial risk of being sexually  
4 abused;

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

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

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

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

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

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

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

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

1 child;

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

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

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

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

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

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

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

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

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

1 (1) the child was the victim of an act described in AS 11.41.100 -  
2 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm  
3 occurred as a result of conduct by or conditions created by a parent, guardian, or  
4 custodian; or

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

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

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

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

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

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

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

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

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(b) The petition and all subsequent pleadings shall be styled as follows: "In the matter of . . . . ., a child [MINOR] under 18 years of age." The petition may be executed upon the petitioner's information and belief [,] and must be verified. It must include the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) An adjudication hearing shall be completed within 120 days after a  
27 finding of probable cause is entered unless the court finds good cause to continue  
28 the hearing. When determining whether to grant a continuance for good cause,  
29 the court shall take into consideration the age of the child and the potential  
30 adverse effect that the delay may have on the child. The court, at the conclusion of  
31 the hearing, [OR THEREAFTER] as the circumstances of the case may require, shall

1 find and enter a judgment that the child [MINOR] is or is not a child in need of aid.

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

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

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

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

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

1 (B) an additional one-year period of supervision past age 19 if  
2 the continued supervision is in the best interests of the person and the person  
3 consents to it; or

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

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

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

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

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

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

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

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

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

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

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

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

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

1 guardian;

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

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

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

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

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

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

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

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

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

28 (o) For purposes of terminating a parent's parental rights under the standards  
29 in (c)(3) of this section, the court may determine that incarceration of the parent is  
30 sufficient grounds for determining that a child [MINOR] is a child in need of aid under  
31 AS 47.10.011 [AS 47.10.010(a)(1)] as a result of parental conduct and that the parental

1 rights of the incarcerated parent should be terminated [CONDUCT IS LIKELY TO  
2 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

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

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

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

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

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

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

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

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

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

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

29 (2) require the foster parent to

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

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

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

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

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

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

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

25 \* Sec. 45. AS 47.10.082 is amended to read:

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

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

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

31 (3) keep the health and safety of the child as the court's paramount

1 concern [AS 47.10.010 - 47.10.142].

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

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

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

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

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

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

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

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

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

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

26 (2) the parent or guardian has

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

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

31 (C) committed an assault that is a felony under AS 11.41.200 -

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11.41.220 and results in serious physical injury to a child; or

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

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

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

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

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

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

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

(9) the child has been removed from the child's home on at least two previous occasions, family support services were offered or provided to the parent or

1 guardian at those times, and the parent or guardian has demonstrated an inability to  
2 protect the child from substantial harm or the risk of substantial harm; or

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

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

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

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

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

31 (f) The department may develop and implement an alternative permanency plan

1 for the child while the department is also making reasonable efforts to return the child  
2 to the child's family under (a) of this section.

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

5 **Sec. 47.10.088. Termination of parental rights and responsibilities.** (a)

6 Except as provided in AS 47.10.080(o), the rights and responsibilities of the parent  
7 regarding the child may be terminated for purposes of freeing a child for adoption or  
8 other permanent placement if the court finds

9 (1) by clear and convincing evidence that

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

12 (B) the parent

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

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

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

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

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

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

27 (3) the harm caused to the child;

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

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

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

1 (d) Except as provided in (e) of this section, the department shall petition for  
2 termination of a parent's rights to a child, without making further reasonable efforts,  
3 when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,  
4 and

5 (1) the child has been in foster care for at least 15 of the most recent  
6 22 months;

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

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

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

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

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

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

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

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

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

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

31 (g) This section does not preclude the department from filing a petition to

1 terminate the parental rights and responsibilities to a child for other reasons, or at an  
2 earlier time than those specified in (d) of this section, if the department determines that  
3 filing a petition is in the best interests of the child.

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

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

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

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

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

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

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

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

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

14 (1) a guardian ad litem appointed by the court or to a citizen review  
15 board or local review panel for permanency planning authorized by AS 47.14.200 or  
16 47.14.220;

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

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

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

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

1 of a child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) the child [MINOR] has been subjected to physical harm [CHILD  
31 ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare,

1 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the  
2 department determines that immediate removal from the child's [MINOR'S]  
3 surroundings is necessary to protect the child's [MINOR'S] life or that immediate  
4 medical attention is necessary; or

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

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

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

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

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

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

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

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

31 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND

1 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social  
2 needs of the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (18) "permanency hearing" means a hearing

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

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

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

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

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

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

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

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

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

22 (1) a guardian ad litem appointed by the court or to a citizen review  
23 board or local review panel for permanency planning authorized by AS 47.14.200 -  
24 47.14.220;

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

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

1 needs of a minor about whom information is disclosed;

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

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

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

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

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

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

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

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

28 (d) In addition to money paid for the maintenance of foster children under (b)  
29 of this section, the department

30 (1) shall pay the costs of caring for physically or mentally handicapped  
31 foster children, including the additional costs of medical care, habilitative and

1 rehabilitative treatment, services and equipment, special clothing, and the indirect costs  
2 of medical care, including child care and transportation expenses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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or older;

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

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

(4) the child's guardian;

(5) the child's guardian ad litem;

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

(7) the child's health care providers;

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

(A) the child's Indian custodian; and

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

(9) [(8)] other persons with a close personal knowledge of the case.

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

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

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

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

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

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

(1) mental and physical health practitioners licensed under AS 08;

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

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

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

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

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

30 (g) Notwithstanding (f) of this section, an employee of the department may  
31 testify in a civil or criminal proceeding concerning cases reviewed by a team even

1           though the department's records were reviewed by a team and formed the basis of that  
2           employee's testimony and the team's report.

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

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

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

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

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

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

17               (1) practitioners of the healing arts;

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

20               (3) social workers;

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

22               (5) administrative officers of institutions;

23               (6) child care providers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (A) reasonable efforts to protect the child and prevent the

1 removal of the child from the parent or guardian who is not a domestic  
2 violence offender;

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

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

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

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

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

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

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

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

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

1 (3) the name and address of the administrator of the facility or agency,  
2 if any;

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

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

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

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

25 (8) [(7)] the type of facility or agency for which the license is sought;

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

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

31 (11) [(10)] a staffing plan that describes the number of people who will

1 work at the facility or agency, staff qualifications, a description of each person's  
2 responsibilities, and, for a facility other than a maternity home, a supervision schedule  
3 for the children in care that meets the requirements established by the department by  
4 regulation;

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

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

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

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

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

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

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

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

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

30 (c) The department shall develop procedures for rechecking criminal justice  
31 information records for the information described in (a) of this section for persons who

1 are 16 years of age or older who are living in a licensed foster home with access to  
2 children placed by the department.

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

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

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

1 (b) A licensee shall notify the department within 24 hours after having  
2 knowledge of a conviction or indictment, presentment, or charging by information or  
3 complaint of an administrator, foster parent, member of the licensee's household, regular  
4 volunteer, or staff person for a violation of the following laws or the laws of another  
5 jurisdiction with similar elements:

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

8 (2) perjury under AS 11.56.200;

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

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

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

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

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

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

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

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

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

1 (b) Sections 30 - 58 of this Act take effect only if this section receives the two-thirds  
2 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

3 \* Sec. 82. APPLICABILITY. This Act applies to all new cases or proceedings filed with  
4 the court on or after the effective date of this Act and to motions filed with the court on or  
5 after the effective date of this Act in cases or proceedings pending before a court on the day  
6 before the effective date of this Act.

7 \* Sec. 83. This Act takes effect immediately under AS 01.10.070(c).

# LEGAL SERVICES

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

(907) 465-3867 or 465-2450  
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Juneau, Alaska 99801-2105

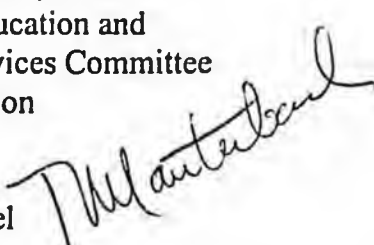
## MEMORANDUM

April 28, 1998

**SUBJECT:** CSSB 272(HES) (Draft version "E")

**TO:** Senator Gary Wilken, Chair  
Senate Health, Education and  
Social Services Committee  
Attn: Sheila Peterson

**FROM:** Terri Lauterbach  
Legislative Counsel



Enclosed is CSSB 272(HES), which is a duplicate of CSHB 375(JUD). There are some flaws in the bill, as follows:

(1) In sec. 8, the amendments that change the substantive elements of the crime in AS 11.41.460(a) cause the bill to violate the single-subject requirement of the state constitution. The substantive amendments do 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) In sec. 32, the inclusion of the phrase "as defined in AS 47.17.290" in AS 47.10.011(4) is improper because "mental injury" is already defined for all of AS 47.10 through a definition in AS 47.10.990. It is very important not to add these qualifiers when a defined term is used or the usefulness of definition sections is seriously weakened.

(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 SB 252, 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, it does not seem to me to be 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.

Senator Gary Wilken, Chair  
April 28, 1998  
Page 2

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

(6) In sec. 32, the reference to AS 47.14.100(i) that is in 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 ensure 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.

TML:glc  
98-254.glc

Enclosure

SB 272

**(Non) Sponsor Statement for HB 375**

by Representative Fred Dyson

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

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

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

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

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

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

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

**D. What this bill does:**

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

## SB 272 / HB 375 ("L" version)

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

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

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

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

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

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

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

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

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

- *Multidisciplinary Teams*

The teams are grounded in the idea that a successful response to child abuse requires a high level of teamwork amongst investigative and prosecuting agencies. They coordinate investigations, case management and prosecution in child abuse and neglect cases; allow consultation with doctors, teachers, psychologists and others with special expertise; review whether the cases they have managed were carried out according to the protocols set up by the team.

## SB 272 / HB 375 ("L" version)

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

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

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

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

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

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

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

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

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

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

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

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

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

## SUMMARY OF CRIMINAL CHANGES CHILD PROTECTION LEGISLATION

- PEOPLE WHO KILL CHILDREN WILL BE CHARGED WITH MORE SERIOUS CRIMES AND SERVE LONGER JAILTERMS:
  - (A) murder one if a child dies after two acts of violence, conduct knowingly directed toward the child (same child)
  - (B) murder one if a child dies during an act of sexual abuse or while kidnapped
    - murder one sentence is 20 - 99 years
    - under old law, these would probably be murder two
  - (C) murder two if a child dies, negligence, and the person has a prior conviction for a violent crime against a child (different or same child)
    - murder two sentence is 5 - 99 years.
  - (D) minimum 7 years for manslaughter when the victim is a child.
    - under the old law, 5 year minimum
    - maximum is 20 years.
  - (E) "shaken baby" deaths, death due to brain damage from being shaken. Criminally Negligent Homicide
    - under the old law, a C felony.
    - under the old law, 0-5 (0-2 benchmark)
    - under the new law, a B felony
    - under the new law, 0 - 10 and no benchmark)
- ADDITION OF FELONY INDECENT EXPOSURE WHEN THE VICTIM IS A CHILD
- ENDANGERING THE WELFARE OF A CHILD expanded -
  - abandonment of a child
  - leaving a child with a known sex offender
  - leaving a child with someone known to injure children

Penalties:

|                  |                                     |
|------------------|-------------------------------------|
| Death            | - B felony, faces up to 10 years    |
| Serious Injury   | - C felony, faces up to 5 years     |
| Injury           | - A misdemeanor, faces up to 1 year |
| Poor supervision | - B misdemeanor (drugs/alcohol)     |
- Failure to pay child support will be treated as criminal neglect of a child
- Sex offenders will register before they leave the jail, rather than be given 7 days after they leave the jail.

## SUMMARY OF CHANGES TO THE CIVIL CHILD PROTECTION STATUTES

- Child Fatality Review Team in statute with other death investigations.
- Teachers who have sexually abused children will lose their teaching certificates for life.
- Alaska will join the Interstate Compact on Adoption and Medical Assistance
- Children in Need of Aid statutes more precise and practical to work with.
  - Revised definition of abandonment
    - A. more serious w/younger children.
    - B. incarceration
    - C. children left with caretakers and not retrieved
    - D. runaways
  - Medical neglect
  - Physical harm
  - Sexual abuse
  - Emotional harm - dangerous to self or others, observable
  - Physical neglect
  - Substance abuse impairs parenting
  - Mental illness impairs parenting
  - Parents approving illegal and delinquent acts
- Timelines imposed on court process to keep cases moving.
- More participation in hearings by relatives and foster parents.
- Parents have a time-limited window to remedy the problems at home.
- Rehabilitation efforts to return the child home will not be required in aggravated cases:
  - homicide of a child,
  - felony assault on a child,
  - sexual abuse of a child.
- Multidisciplinary teams review DFYS files.
- Criminal background checks required on any licensed home:
  - adults in home
  - juveniles in home;
  - regular rechecks.

TONY KNOWLES  
GOVERNOR



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 30, 1998

The Honorable Mike Miller  
Senate President  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

272

Dear President Miller:

More than 15,500 reports of child abuse or neglect were filed last year in Alaska. National statistics have shown Alaska has the highest rate of child abuse and neglect among all 50 states with 38 substantiated cases for every 1,000 children in the state's population. These disturbing numbers have steadily increased since the 1980's along with increases in substance abuse and domestic violence. One abuse feeds another. The cycle must stop. We are shirking our greatest responsibility if we don't face this tragedy head on and demand the tools, laws and resources to put an end to it.

This child protection bill I am transmitting to you today is my Administration's effort to improve Alaska's laws to protect our children and prevent the crime that inevitably results when abused kids become angry teens and adults. This bill is part of my Smart Start for Alaska's Children initiative – a comprehensive approach to breaking the cycle of abuse and neglect, stopping family violence, preventing crime, and working together for a bright future for all of Alaska's children.

The bill makes many changes in Alaska law to protect children and prevent crime. The most significant include:

- Updating the child in need of aid laws to put children first and make sure every effort is made to reunify the family when appropriate, and to expedite making the child legally eligible for permanent placement when reunification is clearly not in the child's best interest.
- Increasing penalties for people who kill or harm children by abuse or neglect.

The Honorable Mike Miller  
January 30, 1998  
Page 2

- Establishing a child fatality review team and facilitating the sharing of information to improve our legal tools to investigate child fatalities and more comprehensively address situations that put Alaska children at risk.

- Requiring incarcerated sex offenders to register as sex offenders prior to release from prison.

- Improving criminal laws regarding criminal nonsupport of children by heightening penalties to be sure parents who are able, but choose not to support their children are appropriately punished.

- Authorizing the Department of Health and Social Services to enter into the Interstate Compact on Adoption and Medical Assistance to facilitate adoption of hard-to-place children when they move from state to state.

I have proposed attacking Alaska's escalating problem with child abuse on three major fronts: health care, prevention programs, and intervention when children are in peril. Earlier this session, I introduced a bill to expand Medicaid eligibility for children, giving our kids a chance for a healthy start in life. That legislation, along with several initiatives in my proposed budget, boosts programs such as Healthy Families and Head Start to prevent child abuse through education and counseling. This bill completes my Smart Start package by providing the necessary intervention tools to stop abusive situations. It represents my Administration's effort to say we will not allow this harmful situation to continue. I urge you to give this bill and my entire Smart Start package thorough and swift attention.

Sincerely,



Tony Knowles  
Governor

## SB 272 / HB 375

- ***Make child health and safety paramount in all child protection actions***  
The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.
- ***Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations***  
States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:
  - 1) when a child has been abandoned, tortured, subjected to chronic abuse or sexual abuse;
  - 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
  - 3) a parent's rights to a sibling have been involuntarily terminated.
- ***Require faster transition to safe, permanent homes for victims of abuse and neglect***  
Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:
  - 1) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
  - 2) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.
- ***Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child***  
The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.
- ***Allow foster parents and other caregivers to take part in child welfare hearings***  
The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.



**INTERSTATE COMPACT ON ADOPTION & MEDICAID  
ASSISTANCE  
(AS 47.05.090)**

**Susan Wibker  
Dept. of Health & Social Services  
March 1998**

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AN ACT

To authorize the Department of Health and Social Services by and through its Commissioner; to enter into interstate agreements to provide for medical and other necessary services for special needs children; establishing procedures for interstate delivery of adoption assistance and related services and benefits; and providing for the adoption of related regulations.

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

**ARTICLE I: FINDINGS**

The legislature finds that:

- (a) Finding adoptive families for children, for whom state assistance is desirable pursuant to AS 25.23.05 - AS 25.23.240, and assuring the protection of the interest of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state.
- (b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

**ARTICLE II: PURPOSES**

The purposes of the Act are to:

- (a) Authorize the Department of Health and Social Services to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department of Health and Social Services.
- (b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

**ARTICLE III: DEFINITIONS**

As used in this act, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or at Territory or Possession of or administered by the United States.
- (c) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

1 (d) "Residence state" means the state where the child is living.

2

3 **ARTICLE IV: COMPACTS AUTHORIZED**

4

5 (a) The Department of Health and Social Services is authorized to develop, participate  
6 in the development of, negotiate and enter into one or more interstate compacts on  
7 behalf of this state with other states to implement one or more of the purposes set  
8 forth in this Act. When so entered into, and for so long as it shall remain in force,  
9 such a compact shall have the force and effect of law.

10

11 **ARTICLE V: CONTENTS OF COMPACTS**

12

13 A compact entered into pursuant to the authority conferred by this Act shall have the following  
14 content:

15

16 (a) A provision making it available for joinder by all states.

17

18 (b) A provision or provisions for withdrawal from the compact upon written notice to  
19 the parties, but with a period of one year between the date of the notice and the  
20 effective date of the withdrawal.

21

22 (c) A requirement that the protections afforded by or pursuant to the compact  
23 continue in force for the duration of the adoption assistance and be applicable to all  
24 children and their adoptive parents who on the effective date of the withdrawal are  
25 receiving adoption assistance from a party state other than the one in which they  
26 are resident and have their principal place of abode.

27

28 (d) A requirement that each instance of adoption assistance to which the compact  
29 applies be covered by an adoption assistance agreement in writing between the  
30 adoptive parents and the state child welfare agency of the state which undertakes  
31 to provide the adoption assistance, and further, that any such agreement be  
32 expressly for the benefit of the adopted child and enforceable by the adoptive  
33 parents, and the state agency providing the adoption assistance.

34

35 (e) Such other provisions as may be appropriate to implement the proper  
36 administration of the compact.

37

38 **SECTION VI: OPTIONAL CONTENTS OF COMPACTS**

39

40 A compact entered into pursuant to the authority conferred by this Act may contain provisions in  
41 addition to those required pursuant to Section V of this Act, as follows:

42

43 (a) Provisions establishing procedures and entitlement to medical and other necessary  
44 social services for the child in accordance with applicable laws, even though the  
45 child and the adoptive parents are in a state other than the one responsible for or  
46 providing the services or the funds to defray part or all of the costs thereof.

47

48 (b) Such other provisions as may be appropriate or incidental to the proper  
49 administration of the compact.

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1 **ARTICLE VII: MEDICAL ASSISTANCE**

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- (a) A child with the special needs resident in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing in the Division of Public Assistance office of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the the Division of Public Assistance, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.
- (b) The Division of Medical Assistance shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.
- (c) The Division of Medical Assistance shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Division of Family and Youth Services for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefore. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Division of Family and Youth Services shall make regulations implementing this subsection. The additional coverage and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among these things, such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.
- (d) The submission of any claim for payment or reimbursement for services or benefits pursuant to this Section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed [\$10,000] or imprisonment for not to exceed [2] years, or both.
- (e) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provided medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreement entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

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**ARTICLE VIII: FEDERAL PARTICIPATION**

Consistent with federal law, the Department of Health and Social Services, in connection with the administration of this Act and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The aforementioned department(s) shall apply for and administer all relevant federal aid in accordance with law.

## Child Protection Law Comparison

| SUBJECT                             | CURRENT STATE LAW   | FEDERAL LAW | GOVERNOR'S PROPOSAL   |
|-------------------------------------|---|-------------|---|
| Abandonment                         | Requires no one caring or willing to provide care   | No change   | Requires a conscious disregard of parental duties without justifiable cause; more serious with children younger than 6 years old.             |
| Incarceration                       | Not jurisdictional unless abandonment; specific to termination  | No change   | Incarceration for DV and incarceration that leaves children unattended may be grounds for: jurisdiction; stop reasonable efforts; termination |
| Child left with unwilling custodian | Abandonment   | No change   | Specifically addressed and separated from abandonment.  |
| Child refuses to go home            | Abandonment   | No change   | Child refuses to go home and that conduct places the child at risk of harm; separated from abandonment.                                       |
| Medical Neglect                     | Knowing failure to provide needed physical or mental health treatment to prevent "substantial" physical harm or for observable severe mental harm | No change   | Knowing failure to provide treatment for any physical condition and observable severe emotional conditions                                    |
| Physical Harm                       | Child has suffered substantial physical harm or is at imminent and substantial risk of suffering such harm  | No change   | Child has suffered physical harm or is at substantial risk of suffering such harm   |
| Sexual Abuse                        | Child has been sexually abused or is at imminent and substantial risk of being sexually abused  | No change   | Some types of risk are specific.  |

| SUBJECT                                  | CURRENT STATE LAW   | FEDERAL LAW   | GOVERNOR'S PROPOSAL   |
|--|---|---|---|
| Emotional Harm                           | Not in statute  | Federal law mandates reporting of mental injury; 42 USC 671 (a) (9) (A)   | Requires an observable impairment which creates a serious risk to the child or others   |
| Physical Neglect                         | Requires that the child has suffered substantial physical neglect               | No change   | Any child in household neglected as defined   |
| Addiction or Habitual Use of Intoxicants | Not specific in jurisdiction  | No change   | Ability to parent is impaired by habitual or addictive use; relapse creates risk.   |
| Mental illness                           | Not specific in jurisdiction  | No change   | Ability to parent is impaired for extended periods of time due to mental illness of parent  |
| Delinquency                              | Requires that parents pressure, guide, or approve commission of delinquent acts | No change   | No change   |
| Petition                                 | 12 hours to file once children are removed                                      | Not in statute  | 24 hours to file once children are removed  |
| Reasonable Efforts                       | Reasonable efforts to prevent removal and to return child home required         | No longer requires reasonable efforts if: homicide of child; felony assault of child; sexual abuse; chronic abuse or neglect. 42 USC 671 (a) (15) | Same as federal law, with additional provisions. AS 47.10.086(c)  |
| Confidentiality                          | Files confidential with limited exceptions                                      | Requires procedures to protect confidentiality of files 42 USC 671 (a) (8).   | Expands exceptions to include: child fatality review team; multidisciplinary team; CSED; federal law enforcement; mandated reporters. |
| Adjudication                             | No time requirement   | No provision  | Must be completed within 120 days of probable cause finding. AS 47.10.080 (a).  |

| SUBJECT   | CURRENT STATE LAW  | FEDERAL LAW   | GOVERNOR'S PROPOSAL   |
|---|--|---|---|
| Permanency Hearing                              | 18 months after child is removed from home   | 12 months after date of removal as calculated under federal law. 42 USC 675 (5) (C)   | 12 months from removal as calculated in federal law. AS 47.10.080 (l).  |
| Date of removal                                 | Date of removal from home  | Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from removal. 42 USC 675 (5) (F).   | Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from date of removal. AS 47.10.088 (f).                           |
| Termination of Parental Rights                  | Always permissive; requires clear and convincing evidence that the parental conduct is likely to continue; reasonable efforts by a preponderance. 47.10.080 (c) (3). | Mandatory petitions when: 1) child in foster care 15 of 22 months; 2) homicide; 3) felony assault; 4) abandoned infant. 42 USC 675 (5) (E). | Must prove by clear and convincing evidence that the parents have not changed; by preponderance that reasonable efforts complied with; mandatory petitions. AS 47.10.088. |
| Timelines for Termination                       | No specific timelines.   | No specific timelines.  | Trial 6 months after petition filed. AS 47.10.088 (j); Ruling 90 days after trial. AS 47.10.088 (k); Appellate ruling 90 days after briefing. AS 47.10.080 (i).           |
| Concurrent Planning                             | No provision.  | Required during reasonable efforts and during permanency proceedings. 42 USC 671 (a) (15) (F) and 42 USC 675 (E)                            | Required during reasonable efforts and during permanency proceedings. AS 47.10.086 (e) and AS 47.10.088 (i).  |
| Documentation of Efforts to Find Permanent Home | No provision.  | Required documentation of child-specific recruitment efforts, including other jurisdictions. 42 USC 675 (1) (E)                             | Required documentation of child-specific recruitment efforts. AS 47.10.088 (i).   |
| Criminal Background Checks                      | Required in cases of suspected DV - AS 47.17.035; Self-report on licensed placements - AS 47.35.047.   | Required criminal background checks on any licensed placement. 42 USC 671 (a) (20).   | Required criminal background checks on any licensed placement with rechecks. AS 47.35.017; 47.35.022; 47.35.023; 047.   |
| Healthcare Coverage                             | Duty to kids in custody and out of home. AS 47.10.084 (a); subsidize special needs and hard to adopt kids.   | Required insurance coverage on all special needs and hard to adopt children. 42 USC 671 (a) (21).   | Subsidy continues. State joins Interstate Compact on Adoption and Medical Assistance. AS 47.05.090.   |
| Participation in Hearings                       | Parties to the case, otherwise in the court's discretion. AS 47.10.070.  | Foster parents and relative caretakers get notice and an opportunity to be heard. 42 USC 675 (5) (G).                                       | Foster parents and relative caretakers get notice and an opportunity to be heard. AS 47.10.070 (c).   |

| SUBJECT                                | CURRENT STATE LAW   | FEDERAL LAW  | GOVERNOR'S PROPOSAL   |
|--|---|--|---|
| Multidisciplinary Team                 | No provision.   | Allows the state to create multidisciplinary teams. 42 USCS 5106a(a) (2) (A).  | Allows DFYS to create multidisciplinary teams. AS 47.14.300.  |
| Kinship Care                           | Blood relative must be used as a placement unless there is clear and convincing evidence that physical or emotional damage will occur. AS 47.14.100.                      | Requires state to give preference to adult relative provided the relative meets state child protection standards. 42 USC 671 (a) (19).   | No change.  |
| Citizen Review for Permanency Planning | Reviews all cases of out-of-home children every 6 months. Child must be in least restrictive and most family-like setting in close proximity to home. AS 47.17.200 - 299. | Requires creation of Citizen Review Panels. 42 USC 5106a (c). Requires least restrictive most family-like setting, most appropriate setting, in close proximity to home. 62 USC 675 (5). | No change.  |
| Appointment of Guardian Ad Litem       | Mandatory if an investigation results in a judicial proceeding. AS 47.17.030 (e).   | Mandatory if a judicial proceeding results. 42 USCS 5106a (b) (2) (A) (ix).  | Addition of mandatory language to AS 47.10.050.   |
| Child Fatality Review Panel            | Not in statute  | Allowed in statute with provision mandating disclosure or reports. 42 USC 5106a (b) (2) (A) (vi).  | In statute. AS 12.65. Disclosure of reports in AS 12.65.140 (b).  |
| Investigation                          | Criminal background checks on parents required to determine if DV involved. AS 47.17.035  | Not addressed.   | Criminal background checks of every parent or perpetrator of abuse or neglect is allowed. AS 47.17.033. |
| Respite Care for Foster Parents        | Only when child has a mental or physical impairment or disability; or for emergencies. AS 47.14.100 (d) (2).  | Allowed as temporary relief to foster parents. 42 USC 629a (1) (D).  | Respite care for foster parents as temporary relief. AS 47.14.100 (d).                                  |
| Appeal of Agency Finding               | Grievance procedure in 7 AAC 54.205 - 240.  | Requires appeal process for agency findings. 42 USCS 5106a (2) (A) (xi) (II).  | No change.  |
| Racial Discrimination                  | Not in statute  | Race cannot be the basis of delaying an adoption or placement. 42 USC 671 (a) (18).  | No change.  |

| SUBJECT                          | CURRENT STATE LAW   | FEDERAL LAW   | GOVERNOR'S PROPOSAL   |
|----------------------------------|---|---|---|
| Expedited Permanence for Infants | Not in statute.   | Required in 42 USCS 5106a (b) (2) (A) (xi) (I) for abandoned infants.                           | Expedited for children younger than 6 years old. AS 47.10.013 and 47.10.088 (d) (2).    |
| Child Rights vs. Parental Rights | Outcome of case is determined by burden of proof and best interests of child. | Child's health and safety is of paramount concern. 42 USC 671 (a) (15) and 42 USC 629b (a) (9). | Best interests of child is primary concern. AS 47.10.086 (f) and 47.10.088 (b) and (c). |

Wilken

ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE  
Division of Legislative Finance



P.O.Box 113200  
Juneau, AK 99811-3200  
(907) 465-3795  
FAX (907) 463-4885

MEMORANDUM

DATE: March 26, 1998

TO: Senator Drue Pearce, Co-Chair  
Senate Finance Committee  
Attn: Stephanie Syzmanski

FROM: Susan Taylor, Fiscal Analyst *ist Taylor*  
Legislative Finance Division

SUBJECT: Bills relating to federal compliance

We contacted all executive branch departments and asked if there was any legislation introduced that is necessary to comply with federal laws and/or if there would be any federal funds sanctions if certain legislation was not passed this legislative session.

The attached schedule includes legislation required to bring the state into compliance with federal requirements and the potential impact if the legislation is not passed.

If you have any questions, please contact me at 465-5410.

5 —  
For our files.  
Re: GOV'S HESS Bills

## Federal Compliance Bills

### Potential Impact

#### Environmental Conservation

Drinking water standards

Must be passed by next session.

HB 71 An Act relating to administrative penalties for violation of public water supply system requirements; amending Alaska Rule of Civil Procedure 82 regarding attorney's fees

SB 50 An Act Relating to administrative penalties for violation of public water supply system requirements; amending Rule 602(b), Alaska Rules of Appellate Procedure

#### Health and Social Services

Legislation required to access federal funds -  
"kiddie care"

Federal funds can be carried  
forward to next fiscal year

HB 369 An Act relating to Medicaid coverage for certain eligible children and pregnant women; relating to primary care case management and managed care services as optional services and to premiums and cost-sharing contributions under the Medicaid program

HB 266 An Act relating to Medicaid coverage for certain eligible children and pregnant women; relating to primary care case management and managed care services as optional services and to premiums and cost-sharing contributions under the Medicaid program

#### Health and Social services - Child Protective Services

Attached is a summary of the bills before the legislature and the changes required.

The potential federal fiscal sanctions are unknown at this time. It is likely that the federal government would warn the state of the noncompliance and the state could remedy it in the next legislative session.

## Federal Compliance Bills

### Public Safety - Sex Offender Registration

Loss of 10% of Byrne funds or  
\$220.0 to \$240.0 per year.

SB132 An Act relating to registration of sex offenders and central registry of sex offenders; relating to access to, release of, and use of criminal justice information and systems; relating to notices concerning sex offender registrants

HB 186 An Act relating to registration of sex offenders and central registry of sex offenders; relating to access to, release of, and use of criminal justice information and systems; relating to notices concerning sex offender registrants

HB 252 An Act relating to criminal records; relating to notice about and registration of sex offenders and child kidnappers; and amending Rules 11(c) and 32(c), Alaska Rules of Criminal Procedure.

### Revenue - Child Support Enforcement Division

CSED and TANF federal funds  
sanctions

Last year's SB 154 implemented most of the changes needed as a result of welfare reform; provisions are still necessary to require employers to report new hires to DOL, Alaska to recognize liens placed on property within the State by other state's CSED

HB344 An Act relating to paternity establishment and support orders; relating to the crime of criminal nonsupport.

SB252 An Act relating to paternity establishment and support orders; relating to the crime of criminal nonsupport.

### Comparing Child Protection Proposals

| SUBJECT   | CURRENT STATE LAW                        | GOVERNOR'S BILL              |
|---|--|------------------------------|
| Murder One AS<br>11.41.100                                | Amended in Governor's Bill               | Amended in SB 218            |
| Murder Two AS<br>11.41.110                                | Amended in Governor's Bill               | Amended in SB 218            |
| Crim Neg Homicide AS<br>11.41.130                         | Amended in Governor's Bill               | Amended in SB 218            |
| Indecent Exposure One<br>AS 11.41.458                     | Additional statute in Governor's<br>Bill | Additional statute in SB 323 |
| Indecent Exposure<br>Two AS 11.41.460                     | Amended in Governor's Bill               | Additional statute in SB 323 |
| Possession of Child<br>Pornography AS<br>11.61.127        | No change in current law.                | Amended in SB 323.           |
| Endangering the<br>Welfare of a Minor One<br>AS 11.51.100 | Amended in Governor's Bill               | Amended in HB 333; SB 282.   |
| Endangering the<br>Welfare of a Minor Two<br>AS 11.51.110 | Amended in Governor's Bill               | Amended in HB 333; SB 282.   |
| Criminal Nonsupport<br>One AS 11.41.115<br>51             | Amended in Governor's Bill               |                              |
| Criminal Nonsupport<br>Two AS 11.51.120                   | Amended in Governor's Bill               |                              |
| Manslaughter AS<br>12.55.125 (c)                          | Amended in Governor's Bill               | Amended in SB 218            |

*Sen Halford  
(H) JUD*

*Sen Pearce  
(H) JUD*

*HB 333 -  
Dyson (H) ES  
SB 282 -  
Torgi (S) JUD*

Department of Health and Social Services

*Prepared by the Department of Health and Social Services*

| SUBJECT   | CURRENT STATE LAW                     | GOVERNOR'S BILL   |
|---|---------------------------------------|---|
| First Felony Sentence AS 12.55.125 (k)                          | Amended in Governor's Bill            | Amended in SB 218   |
| Sex Offender Registration AS 12.63.010                          | Amended in Governor's Bill            | Amended in SB 326; HB 252                                     |
| Notice to Public of Sex Offenders AS 18.65.087.                 | Amended in Governor's Bill            | Amended in HB 273; HB 326; HB 252.                            |
| Child Fatality Review Team AS 12.65.005                         | Additional statute in Governor's Bill |   |
| Notice of Release of Sex Offender AS 33.30.012                  | Amended in Governor's Bill            | Amended in HB 252.  |
| Child Abuse Investigations AS 47.17                             | Amended in Governor's Bill            | Amended in SB 323; SB 295; HB 453; HB 340.                    |
| Child in Need of Aid Jurisdiction AS 47.10.010                  | Amended in Governor's Bill            | Addressed in HB 366.<br>Dyson (H) R1s                         |
| Preference for Kinship Care AS 47.14.100 (e)                    | No amendment to current law           | Addressed in HB 332.<br>James (H) HES                         |
| Access to CINA Proceedings AS 47.10.                            | Amended in Governor's Bill            | Amended in HB 340; HB 456; HB 371; HB 340.<br>(H) HES - Dyson |
| Timelines for Permanency  | Amended in Governor's Bill            | Amended in HB 456.  |
| Permanency Planning for CINA Cases                              | Amended in Governor's Bill            | Amended in HB 456.  |
| Confidentiality in CINA and JD cases AS 47.10.093; AS 47.12.310 | Amended in Governor's Bill            | Amended in HB 453; HB 456.                                    |

SB326 - Ward  
(S) STA  
HB 252 - Ryan  
(H) R1s  
HB273 - Mosek  
(H) JUD

Parce (H) JUD  
Parnell (S) FIN  
Hodgins (H) HES

Dyson (H) HES  
Hodgins (H) HES

Dyson (H) HES

| SUBJECT  | CURRENT STATE LAW          | GOVERNOR'S BILL                       |
|--|----------------------------|---------------------------------------|
| Licensing Child Placements AS 47.35                  | Amended in Governor's Bill | Amended in HB 453.<br>Dyson (H) HES   |
| No Teaching Certificates for Sex Offenders AS 14.20. | Amended in Governor's Bill | Amended in SB 323.<br>Pearce (H) JUD  |
| Child Protection Teams AS 47.14                      | Amended in Governor's Bill | Amended in HB 340.<br>Hodgins (H) HES |
| Poverty as CINA Jurisdiction AS 47.10                | No change in current law.  | Specified in HB 366.<br>Dyson (H) RLS |
| Custodial Rights AS 47.10.084                        | No change in current law.  | Amended in HB 391.<br>Kelly (H) HES   |
| Runaways AS 47.10.141                                | No substantive change.     | Amended in HB 391.<br>Kelly (H) HES   |
| Reasonable Efforts to Return Child Home              | Amended in Governor's Bill |                                       |
| Resources for Foster Parents                         | Amended in Governor's Bill | Amended in HB 456.<br>Dyson (H) HES   |

## SB 272 / HB 375

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

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

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

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

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

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

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

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

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

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

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

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

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

## SB 272 / HB 375

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

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

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

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

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

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

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



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Senate HESS  
 Committee on SB 272 Committee Name  
Bill / Subject Dated 4-8-98

I support enactment of this bill. Judging by the time and effort put in by the House HESS committee, ~~and~~ ~~predict that~~ on its companion bill, I would guess that this committee will want to ~~that~~ review it in detail. I urge you to start this quickly, as it is vital that some version of this get passed this year. Alaska's children need these changes.

SIGNED: *Archer Hunt*  
 Testifier

Representing  
4624 Stanford Drive Fairbanks AK 99709 479-3990  
 Address / Phone Number

Author: guardian@xyz.net (linda gauthier) at CC2MHS1

Dear Senators:

Tomorrow you will be listening to a presentation of SB 272 by the Administration. In the House, the person usually presenting for the Dept. of law was Susan Wibker.

We noticed that in the House HESS committee conferences for HB375, Ms. Wibker consistently misrepresented actual federal requirements and mandates that are the Administration's main thrust in foisting this ill-advised legislation on the public.

For your information, sites on the Internet where you can download these actual laws are

<ftp://ftp.loc.gov/pub/thomas/c105/h867.enr.txt>

This is the Adoption and Safe Families Act of 1997, the most recent federal legislation in this area. There is actually VERY LITTLE in the 18 pages of this Fed legislation that REQUIRES the States to do anything. The exception is the actual timelines for children in foster care having their parents rights terminated quicker, and even that contains qualifiers pertaining to the States ability to provide services (treatment, counselling, etc) to the parents. Anything else Ms Wibker tells you about federal requirements for the states under this legislation is a deliberate misinterpretation and should be challenged. She will tell you that she "doesn't have a copy of the actual law" with her. (this is standard for her). Ask her why not. If we are paying her a very lucrative state salary to "lobby" for these bills (rather than do whatever job she is supposed to be doing) the least she could do is come prepared.

The next relevant Internet access is

<http://www.ncsea.org/publications/fedbill.html>

This is the Personal Responsibility and Work Reconciliation Act of 1996. It is also known as the Welfare Reform Act. This act is also used by the administration to justify the provisions in SB 272 and HB 375.

This bill is 238 pages, but most of it is irrelevant. In point of fact, it sets forth standards for the inclusion of representatives from PARENTAL RIGHTS ORGANIZATIONS to be included in advisory commissions on the various components of the Child Abuse Industry, a provision which each and every Abuse Moonie from this Industry finds it convenient to ignore.

Of particular interest in this legislation is the phrasing of "Sec. 417. Limitations of Federal Authority" on page 82, quote

" No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part."

The third piece of federal legislation quoted by the administration in hearings on HB375 is to be found at

<http://www.acf.dhhs.gov/programs/cb/policy/capta.htm>

This is a version of the Child Abuse Prevention And Treatment Act, and contains the latest version and a legislative history with amendments. It is 27 pages.

I know this is a lot of legislation to wade through, but you shouldn't have to. If the administration spokespersons demand that you amend State law to conform to Federal Mandates and Requirements, they should be prepared to show you chapter and verse page by page of what provisions in federal law actually require you to do anything.

The next excuse from the administration will be that, while fed law may not actually require such legislation on the part of the states, the states will lose grant money or matching funds if they do not comply with certain federal regulations. This is a lie. The federal budget actually contains specific language PROHIBITING FEDERAL AGENCIES FROM INVESTIGATING FRAUD AND ABUSE IN SOCIAL SERVICES. Alaska also has a very powerful congressional delegation in DC that has been successful in the past in obtaining exemptions and changes in fed law and regulation based on Alaska's unique circumstances. No state in America has ever lost title IV funds for non-compliance. EVER. The bureaucrats in DC are not interested in taking money back, they want to give it away so they can ask for more every year, much like the bureaucrats in Alaska.

Representatives from our various parental rights organizations will be listening to the teleconference tomorrow, and taping it at home if it is on Gavel-to-gavel. We hope and pray that you will live up to your responsibility to those who elected you to CUT THE SIZE AND SCOPE OF GOVERNMENT. SB 272 and HB 375 will double the numbers of children in foster care in two years, with concurrent increases in demands from every profitable "non-profit" service provider that has been enriching itself off the misery of children for twenty years. The more social workers you

hire, the more reports of abuse there will be. It is a closed-loop system of never-ending expansion. Please draw the line this year, and table this ill-advised legislation.

Thanks for your time.

Walter Gauthier  
Guardians of Family Rights  
Box 2246  
Homer Alaska 99603  
232809

# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the

Senate HESS

Committee on

HB375

Committee Name

Dated

4-29-98

Bill/Subject

Please enter this as testimony concerning HB375 which is being heard today.  
4-29-98

To: Senate HESS

From: Jonathan and Ruth Ewig  
2325-30th Avenue  
Fairbanks, Alaska 99701  
phone and fax: 907-452-5538

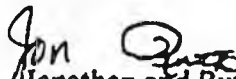
RE: HB375-The Governor's bill which increases power and money to the Department of Health and Social Services

**THIS IS A DANGEROUS BILL! Vote NO. Kill it, bury it. Do what you need to do.**

This department already wields too much power. They invested 25% of their money to kill 843 unborn babies just last year. (See next page article.) Does this kind of decision-making protect children from child abuse? No. Abortions are the ultimate child abuse and the department is using our state money to finance abortions. They could better serve us by referring women to one of many statewide Crisis Pregnancy Centers where the mother and baby are helped, rather than killing the baby and wounding the mother.

In the article included in my testimony the department assures us that they will do what they want with the funds. That is high-handed and apparently they do not fear any authority. Do the only right thing. Oppose HB375 and when possible eliminate this department and delegate their functions to the churches where it belongs.

Sincerely yours,

  
Jonathan and Ruth Ewig  
Pro-family parents

Fairbanks, Alaska 99701  
907-452-5538 (also a fax line)  
907-479-5433

HELPING PARENTS HELP KIDS



CHILDREN'S RIGHTS COUNCIL



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**EVALUATORS OF RESEARCH:**  
 John Goldubaldi, Ed.D.  
 D. Richard Kuhn  
 Nancy Hideo O'Leary

**ADVISORY PANEL:**  
 Rabbi Menachem Alter, D. Min.  
 Former President, Board of Rabbis  
 of Greater Washington, D.C.

**"Dear Abby"**  
 (Abigail Van Buren)  
 Los Angeles, California

**Honorable Fred Thompson**  
 U.S. Senator, Tennessee

**Honorable Bob Graham**  
 U.S. Senator, Florida

**Honorable Phillip Stabenow**  
 U.S. House of Representatives, Michigan

**Honorable Sherwood Boehlert**  
 U.S. House of Representatives, New York

**Kay and Ray Brylinski, Co-founders**  
 Grandparents' Right in New Struggle  
 (G.R.I.N.S.), Cov. Ind., Indiana

**David Elmer, Author**  
 State Women, California

**Pat Boyd, President**  
 Parents Without Partners (PWP)  
 Chicago, Illinois

**Jim Cook, President, Kids Custody**  
 Association, Los Angeles, California

**Karla DeCrow**  
 Former President of N.O.W.  
 Jamaica, New York

**Edell R. Dawson, Co-Founder, CRC**  
 Reston, Virginia

**Phyllis Diller, Comedian**  
 Los Angeles, California

**Margaret Engel, President**  
 Stepfamily Association of America

**Warren Farrell, Ph.D., Author**  
 Former Member of the Board of  
 Directors, New York City N.O.W.  
 Los Angeles, California

**Larry Gaughan, Director, Family**  
 Mediation of Greater Washington, D.C.

**Jonathan M. Gorman, President**  
 Jonathan Gorman Foundation  
 Los Angeles, California

**Jennifer Itham, President**  
 Mothers Without Custody (M.W.C.)  
 Crystal Lake, Illinois

**Jeanne Kelly, Ph.D., Executive Director**  
 Northern California Mediation Center  
 Corte Madera, California

300 "T" Street N.E., Ste. 401, Washington, D.C. 20002-4389  
 Telephone (202) 547-8227 • Fax (202) 546-4CRC (4272)

ALASKA PRESIDENT & STATE COORDINATOR

317 Maple  
 Kodiak, Alaska 99615  
 (907) 486-2290

April 27, 1998

SB272

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

Dear Chairmen Hanley and Theriault:

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

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

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

Sincerely,

*James J. Beffington*  
 President and State Coordinator

The Children's Rights Council of Alaska  
 Chairman, The Alaska Task Force on Family Law Reform 1995-1997

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

Elizabeth Kübler-Ross, M.D.  
 Author, Psychiatrist  
 Grand Waters, Virginia

Vicki Lantry  
 Author, Columnist  
 Decatur, Minnesota

James Levine  
 Families and With Institute  
 New York, New York

John Money, Ph.D., Professor of  
 Medical Psychology and Pediatrics  
 Johns Hopkins University and Howard  
 Baltimore, Maryland

HELPING PARENTS HELP KIDS



# CHILDREN'S RIGHTS COUNCIL



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U.S. House of Representatives, Michigan

Honorable Steven and Bechler  
U.S. House of Representatives, New York

Kay and Ray Reynolds, Co-founders  
Grandparent Rights in New Strength  
(G.R.I.N.S.), Columbus, Indiana

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Santa Monica, California

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Chicago, Illinois

Jim Cook, President, John Corody  
Association, Los Angeles, California

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Laurens, California

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Jonathan M. Goldson, President  
Jonathan Goldson Productions  
Los Angeles, California

Jennifer Isham, President  
Mothers Without Courts (MWOOC)  
Crystal Lake, Illinois

Jean Berlie Kelly, Ph.D.  
Executive Director  
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# TESTIMONY on CSHB375

Version 0-GH2009\H

(Monday, April 20, 1998)

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

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

CRC does not support this version of CSHB375 or the previous 4-5 versions. CSHB375 CANNOT BE FIXED!!!! This bill in its current form, with its extensive amendments needs to pass both houses by a two-thirds majority or it fails. Our recommendation, let CSHB375 die in the Judiciary Committee. Throw CSHB375 in a drawer and leave it there. Adopt HB384 instead. DFYS could wait on recommendations from a Legislative Commission. A legislator or the governor could provide a simpler version of CSHB375 concerning the Adoption and Safe Family Act of 1997 (ASFA) or the Child Prevention and Treatment Act of 1996 (CAPTA).

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

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

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

Department of Health and Human Services Secretary, Donna Shalala, testified in 1996 "that close to one million children a year are abused or neglected nation-wide. While these numbers may be staggering, we should also be concerned by the nearly 2 million false and unsubstantiated reports of child abuse and neglect that are filed wrongfully, and in some cases maliciously." David Lieberman, Executive Director of the Child Welfare League of America admits that 62% of allegations of child abuse and neglect are false. CPS agencies across the United States have estimates of false and unwarranted allegations of up to 80%.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

However, any parent accused of criminal behavior, which would include, sexual assault or molestation, physical harm, torture or death, domestic violence, or other emotional harm also have rights. Accused parents have the right to a quick, but thorough investigation, a speedy hearing, and exoneration if the allegations are found to be unsubstantiated, invalid or even false. CS HB375 has no protection of a parent's civil rights, due process, constitutional guarantees of protection from unjust or malicious prosecution, fair adjudication, or exoneration when allegations are found to be invalid or unconfirmed.

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

CS HB375 is part of Governor Knowles' "Smart Start" Program. The governor is spending thousands of taxpayer dollars in brochure/pamphlet publication, advertising, and state-wide swings in state planes to promote his so-called "Smart Start Program". Yet, ten departmental front-line caseworker positions went unfilled in 1997. 20-page booklets, "Alaska's Children of a Hidden War" are being passed out to the legislature, at public events, Knowles campaign-oriented events, as well through other state government offices. Is the governor or the department using state money wisely? What about the unethical or illegal misuse of state funds to promote a campaign for re-election or "Smart Start" programs?

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

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

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

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

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

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

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

## **Sectional Summary of CSHB375**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sections 20 & 28 - 62 -- This section is not cohesive with the "legislative intent" of child protection. These sections can remain in this bill.** Section 28 & part of section 45 are the only new federal mandates. Sections 29 - 57 will also have to pass by a two-thirds majority of each house of the legislature, to become effective.

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

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

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

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

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

Sincerely,



**Diana L. Buffington**

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

**317 Maple**

**Kodiak, AK 99615 Phone number -- (907) 486-2290**

# Audit Report

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DEPARTMENT OF HEALTH AND SOCIAL  
SERVICES, DIVISION OF FAMILY AND  
YOUTH SERVICES, SELECTED CHILD  
PROTECTION ISSUES

March 26, 1998

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Audit Control Number:

06-4586-98

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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March 26, 1998

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF FAMILY AND YOUTH SERVICES  
SELECTED CHILD PROTECTION ISSUES

March 26, 1998

Audit Control Number

06-4586-98

This report summarizes our review of various operational aspects of the Division of Family and Youth Services. Two central aspects of our review were how the agency utilized personnel in FY 97, and how well the agency is doing in responding to reports of abuse and neglect of children, in addition to supervising children in state custody.

This audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we conducted a review of various aspects of management and casework related to the child protective services function within the Division of Family and Youth Services (DFYS), which is organizationally located in the Department of Health and Social Services (DHSS).

### Objectives

1. To evaluate how effectively DFYS management utilized FY 97 personal services appropriations in maintaining agency staffing levels to adequately address and respond to reports of abuse and neglect received by the agency.
2. To evaluate how effectively and consistently DFYS met timelines, established either in statute or the agency's internal policy and procedures in investigating and responding to reports of child abuse or neglect.
3. To identify the factors and circumstances, if any, which inhibit DFYS' ability to effectively respond to reports of child abuse and neglect.
4. To identify the degree to which DFYS is unable to respond to reports of harm, how DFYS manages these reports, and evaluate the effect of not responding may have on child safety.
5. To assess the impact of recent changes in federal law and proposed state legislation on the State's child protection system.

### Scope

Our audit focused primarily on determining the effectiveness of DFYS' investigative practices. Most of our analysis is based upon data related to operations of FY 97. Our fieldwork reviewed casework operations across the state.

Our scope was hindered to a limited degree by the unreliability of DFYS' management information system, which compiles child protection data. These limitations existed primarily due to inconsistent and untimely data entry practices across the State. Where we could not rely on the data, we developed alternative audit techniques to confirm the information that served as a basis of our observations and conclusions. The deficiencies of DFYS' management information system are addressed in Recommendation No. 7.

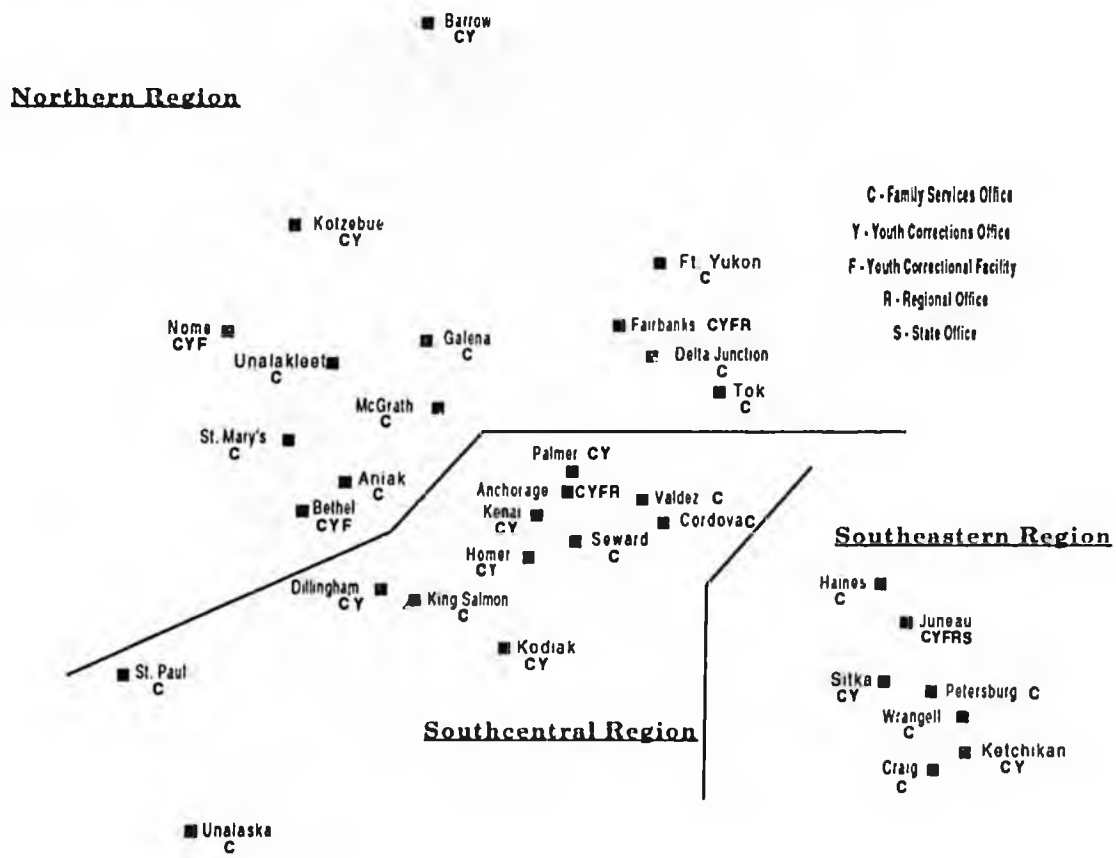
## Methodology

Significant methodologies applied in this audit include the following:

1. Interviews of DFYS child protection staff across the State including investigators, supervisors, and regional managers.
2. Review reports on Alaska's child protection system including the following:
  - *Administrative Review of the Anchorage Family and Youth Services Office*, April 1996.
  - Alaska Judicial Council, *Improving the Court Process for Alaska's Children in Need of Aid*, October 1996.
  - *Anchorage Family and Youth Services Records Review*, November 5, 1996.
  - *Child Fatality Review and Response*, May 27, 1997.
  - *Statewide Case Record Review, Multiple Reports of Harm*, August 1997.
  - *Report by the Review Panel, A review of five child protection cases from the state of Alaska*, December 1, 1997. (a.k.a. Kempe Center Report)
  - *Child Protection Review Team, Report to Governor Knowles*, December 11, 1997.
  - *Protecting Alaska's Children From Neglect: The Appropriate Legislative Response, Alaska Law Review - Volume 14*.
3. Review of other child protection system reports including:
  - State audit reports from Washington, Kansas, Arizona, and Minnesota.
  - Various publications from the Child Welfare League of America.
4. Analysis of the use of amounts appropriated for DFYS personal services in FY 97 using agency budgets and state payroll information.
5. Random sample review of 712 reports of harm received by five DFYS offices across the State during FY 97. This review included 412 investigated reports and 300 uninvestigated reports. We reviewed reports received in the Anchorage, Fairbanks, Bethel, Kenai, Mat-Su, and Juneau DFYS offices.
6. Job-shadowed social workers responding to reports of harm in Anchorage, Fairbanks, Bethel, and Mat-Su.

7. Interviewed individuals outside DHSS including employees of the Department of Law, University of Alaska, and Alaskan residents concerned about the State's child protection system.
8. Performed a review of various aspects of the legal system and its affects on the State's child protection system. Our review included obtaining an understanding of current state and federal laws, the impact of recent Alaska Supreme Court decisions, recent changes to federal law (the Adoption and Safe Families Act of 1997), and proposed changes to state law (HB 375 and SB 272).

# Department of Health and Social Services Division of Family and Youth Services Offices



## ORGANIZATION AND FUNCTION

Title 47 of the Alaska Statutes charges the Department of Health and Social Services with responsibility for providing a range of services designed to remedy or prevent abuse, neglect, and exploitation of children and youth. To meet these statutory responsibilities, the department created the Division of Family and Youth Services (DFYS) in 1980 by combining the Division of Social Services with the youth section of the Division of Corrections.

The Family Services section of DFYS is responsible for providing child protection and welfare services, licensing of child care facilities, and the recruitment, selection, and training of foster parents. The other major section of DFYS, Youth Corrections or Youth Services is responsible for supervising adjudicated youth offenders.

The focus of this audit was Family Services. Specifically, the audit concentrated on child protective services (CPS). The goal of CPS is to identify, treat, and prevent child abuse and neglect, as well as to ensure reasonable efforts are made to protect and maintain children in their own homes. DFYS provides protective services for children by investigating reports of harm, referring families to community resources, initiating legal intervention if children are unable to remain safely in their own homes, and providing out-of-home placements and permanency planning when necessary.

When a child is taken into physical custody they are placed either in foster care, or perhaps in an emergency shelter facility. DFYS also contracts with residential care facilities to provide assorted levels of care and treatment of youth.

Each provider is subjected to licensure and periodic review to assure children are provided with reasonable care in a safe environment. Responding to complaints of abuse and neglect for children in out-of-home care is also the responsibility of DFYS social and licensing workers.

In 1991, the Hickel administration comprehensively reorganized DFYS. A central aspect of the reorganization was the realignment of management within the agency's Family Services and Youth Corrections sections. The Family Services section was scaled down (from five) to three regions: Southeast, Southcentral, and Northern. Under the reorganized structure, regional administrators were responsible for both Family Services and Youth Corrections operations within their particular region. The administrator for each region, headquartered in Juneau, Anchorage, and Fairbanks, respectively, currently reports directly to the division director. The map on page 4 shows the various DFYS offices around the State.

According to the agency's FY 99 budget documents, the three DFYS regions had 328 permanent, full-time authorized positions during FY 97. Including Central Office and Youth Facility Services, DFYS had 570 permanent, full-time authorized positions. During that same period, DFYS' three regions had a combined operating appropriation in excess of \$22 million. The total DFYS operating appropriations were \$69.8 million, which included the three regions, Central Office, Purchased Services, and Youth Facility Services.

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## BACKGROUND INFORMATION

The purpose of Child Protective Services is to identify, treat, and prevent child abuse and neglect, through provision of services to children and families. Child Protective Services staff most often become aware of suspected child abuse or neglect from persons referred to as reporters.

Reporters may be concerned individuals in the general public, or mandatory reporters. Mandatory reporters, as defined under AS 47.17.020, are persons who, in the performance of their occupational duties, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect.

### The screener receives information on potential harm to a child

The screening phase involves receiving information of potential harm to a child and determining whether to initiate an investigation.<sup>1</sup> Screening involves ascertaining the current status of the child, the potential for immediate and/or future danger, and the location of the child and parents. The screener elicits additional information about the alleged victim and the family in order to most accurately assess the degree of risk to the child.

Additional information helpful for the screening assessment includes: prior history with child protection, substance use or abuse by parents or caregivers, domestic violence, history of concerns, and family strengths and resources. Although the screener may be able to determine the need and immediacy of intervention on the basis of a brief contact with one reporter, it may also be necessary to contact several collateral sources to acquire the needed information. If the report of harm does not meet the criteria for investigation, the case is closed.

Reports of harm meeting criteria for investigation are assigned a priority level and moved into the investigation stage. DFYS has three priority levels (see page 8) with three different response times. Those reports determined to be priority 1 must be responded to within 24 hours from the time the report is received; priority 2 must be responded to within 72 hours, and priority 3 within 7 days.

The figure on page 10 summarizes the screening and intake process and illustrates how the two aspects of screening and investigation fit together.

---

<sup>1</sup> AS 47.17.030 (a) requires DFYS to investigate all reports of harm. The statute reads as follows:

*If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government. For cases not referred to an agency of a local government, the department shall, for each report received, investigate and take action, in accordance with law, that may be necessary to prevent further harm to the child or to ensure the proper care and protection of the child. [Emphasis added]*

**P1** Assigned to all cases presenting the greatest degree of risk to the child, and requiring an emergency response.

P1 must be responded to within 24 hours.

**Priority One (P1)**

|  |                   |
|--|-------------------|
| Death  | Abandonment       |
| Brain Damage, Skull Fracture                       | Failure to Thrive |
| Subdural Hematoma                                  | Burns, Scalding   |
| Internal Injuries                                  | Wounds            |
| Malnutrition                                       | Bone Fractures    |
| Torture  | Venereal Disease  |
| Sexual Exploitation or Molestation                 |                   |
| Lack of Supervision (no caretaker and young child) |                   |

## Report of Harm Prioritization

**P2** Assigned to all reports which present a lesser degree of risk to the child. Priority 2 designations indicate that while the situation is serious, information available does not indicate the child is in immediate danger.

P2 must be responded to within 72 hours.

**Priority Two (P2)**

Cuts/Bruises/Welts  
Human Bites  
Sprains/Dislocations  
Tying/Close Confinement  
Drug/Alcohol Abuse  
Medical Neglect  
Excessive Corporal Punishment

**P3** Assigned to those referrals which indicate that a delay in responding to the situation will not result in significant additional harm.

P3 must be responded to within seven calendar days from receipt of the report.

**Priority Three (P3)**

Other Abuse  
Inadequate Food (older child)  
Inadequate Shelter  
Inadequate Clothes  
Educational Neglect  
Other Neglect (older child)  
Emotional Abuse (no observable manifestations)

Source: Child Protective Services Manual, 1998 version.

### The DFYS investigator gathers information about the alleged abuse or neglect

The investigation phase involves gathering information about a particular incident or history of incidents with the goal of protecting the child from harm or further harm. In the course of an investigation, the social worker must consider factors that may indicate that risk exists beyond the immediate allegations. Such risk factors include chemical dependency, domestic violence, and if the parents or caretakers were victims of abuse or neglect as children. Social workers are also directed to consider family strengths and resources that can be coordinated to reduce the risk to the child. Such factors include the presence of responsible extended family, neighbors and friends of the family involved, and other potential support structures. The various reports of harm discussed on page 12, which were taken from the sample of reports of harm (ROH) reviewed, illustrate the variety of circumstances DFYS screeners and investigators must address.

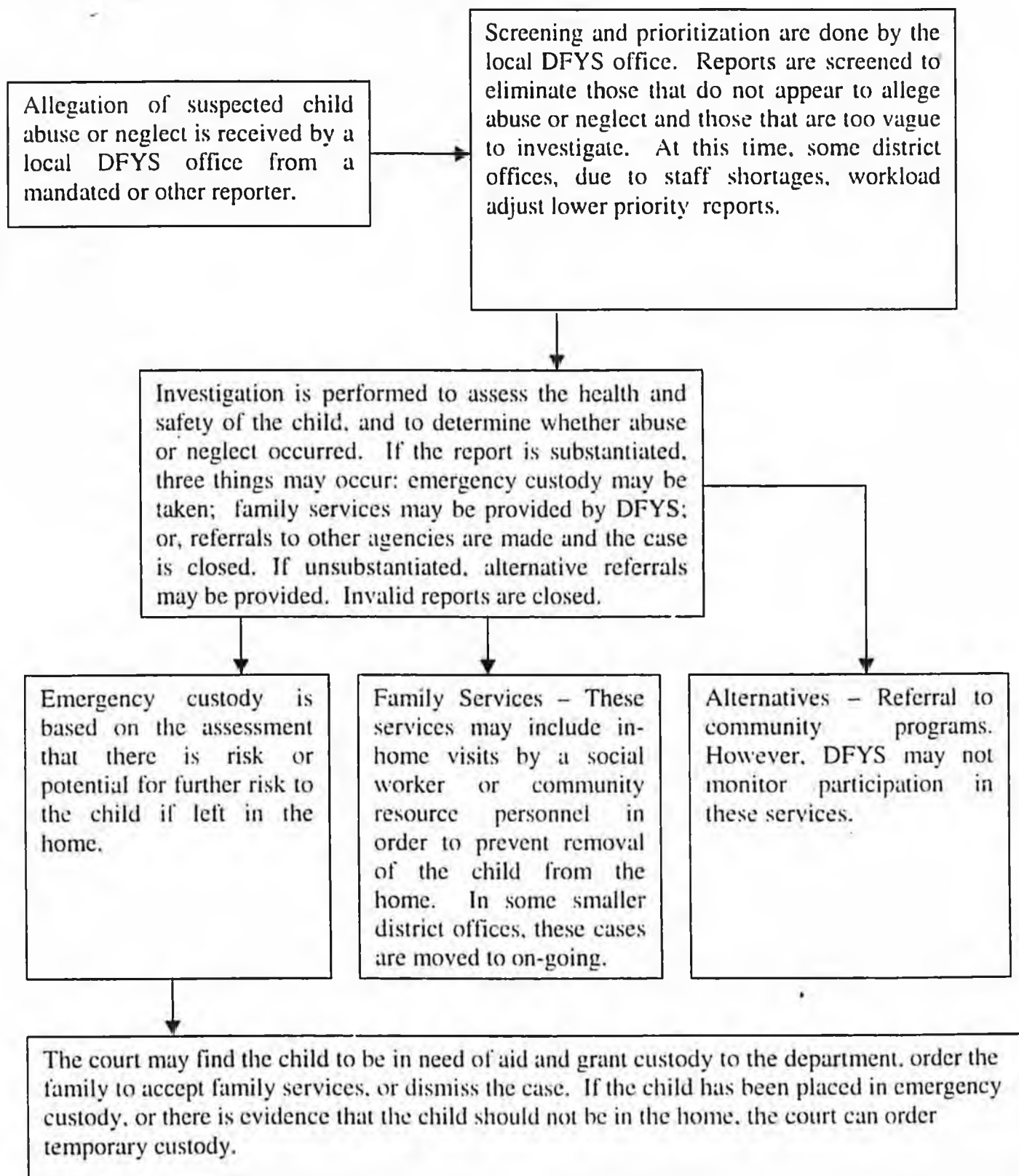
Social workers often have to coordinate interviews with law enforcement agencies to ensure, when both agencies are mandated to respond, trauma to the child is minimized. Regardless of other agency involvement, the social worker retains final responsibility for the direction and resolution of the investigation.

The investigating social worker also prepares a risk assessment. The risk assessment involves a review of the level of danger to the child. Social workers use the facts gained in the investigation, along with the circumstances in a report of harm, to complete the risk assessment tool (RAT). The RAT is intended to measure and quantify the degree of risk for each case. RAT scores determine service level, which in turn dictates the minimum required services to a family. The purpose of these services, which can include family support and referral activities, is to protect the child and to alleviate the risk which originally led to DFYS intervention.

### Investigations will be concluded with a finding on the allegation

Investigations will be concluded with a finding on the allegation. Findings are substantiated, unconfirmed, or invalid. If a finding is substantiated, it is determined that the child suffered harm or faces risk of harm as a result of abuse or neglect. If a finding is classified as unconfirmed, the investigator cannot determine whether the child suffered harm through the action or inaction of caretakers. A social worker may make an invalid finding when there are no facts to support the allegation. When a referral is determined to be invalid, the case is closed. When a referral is unconfirmed or substantiated, the situation will be assessed by analyzing the outcome and service level (as determined by the RAT). The investigation will then be terminated by either closing the case or transferring the case to the ongoing caseload (see flowchart on next page).

## The Screening and Investigation Process



DFYS social workers provide ongoing services to children and families

Whenever a decision is made to maintain a case open beyond the investigation phase, ongoing services will be provided to the family. At a minimum, ongoing cases represent those cases in which DFYS is legally required to be involved. However, cases in some offices will remain open when it is probable DFYS will take custody of the children if the family does not follow the case plan.

It is the agency's policy is to make reasonable efforts to maintain children in their own home. However, if conditions are unsafe for the child, then removal is warranted. From that point forward, casework services are directed toward permanency for the child, and when possible, through family reunification.

The minimum casework service levels to be provided to the child and family is determined by the family's score (low, medium, high) on the RAT, their location to the DFYS office involved (local or remote), and the progress shown by the family since the initial classification. Changes in service level can be made only after a service level review has occurred. Service level standards represent a minimum level of service to be provided to a family. Certain cases will require higher levels of contact, as determined by risk to the children, client need, and good social work practice.

| RAT Level     | Service Level Requirements   |
|---------------|--|
| LOCAL HIGH    | Four face-to-face family contacts per <i>month</i> (two of which may be by a collaborative <sup>2</sup> ). Plus one face-to-face contact with child(ren) individually, if age appropriate, by social worker per <i>month</i> . Social worker must make one of the family contacts in the home. |
| REMOTE HIGH   | One face-to-family contact by social worker in home with family per <i>month</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by social worker per <i>month</i> . Worker must arrange three collaborative contacts per month.                                     |
| LOCAL MEDIUM  | Two face-to-face family contacts with family per <i>month</i> (one of which may be by a collaborative). Plus one face-to-face with child individually, if age appropriate by social worker per <i>month</i> . Social worker must make one of the family contacts in the home.                  |
| REMOTE MEDIUM | One face-to-face family contact by social worker in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually per <i>quarter</i> in home. Worker must arrange two collaborative contacts per <i>month</i> .   |
| LOCAL LOW     | One face-to-face family contact by social worker in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by social worker per <i>quarter</i> .  |
| REMOTE LOW    | One face-to-face family contact by collaborative in home per <i>quarter</i> . Plus one face-to-face with child(ren) individually, if age appropriate, by collaborative per <i>quarter</i> . One face-to-face with family <i>every six months</i> by DFYS.                                      |

<sup>2</sup> Collaborative contact is a contact by a secondary service provider who is involved in the development and implementation of the case plan. If the worker does not designate a collaborative contact worker, all contacts must be made by the social worker.

## Sample of Assigned Reports of Harm Received by DFYS

**Case One:** Paternal grandmother reported that stepmother's long fingernails scratch grandchild (age 11) when stepmother grabs grandchild. Also stepmother has emptied old cat litter into grandchild's bed and made grandchild sleep in it for a week when grandchild forgot to empty litter box. Parents forced other grandchild (age 10) to eat his own vomit. Case assigned as priority 2, investigated, and closed as unconfirmed.

**Case Two:** Anonymous reporter states that father is under the influence of alcohol or dope. Father has hit the kids (two children under 5) with a flashlight and yelled at kids. Another female in the home is using drugs. Children are inside courtyard (gated area) but parent is not watching them. Neighbors are watching kids according to caller. Case assigned as priority 2, investigated, and closed as unconfirmed.

**Case Three:** Neighbor reported that parents and children are often heard screaming and hollering at each other as well as someone is being beat and put into the closet (possibly 6 year-old male). This minor has been heard screaming at his parents to stop drinking. Case assigned as priority 2, investigated, and closed as unconfirmed.

**Case Four:** Counselor at school reported that 14 year-old child was out for two days and when the child returned to school, was hung over. Child told counselor she had been drinking with her mother. Case assigned as priority 2, investigated, and closed as unconfirmed.

**Case Five:** Anonymous report that teen mom may be neglecting 9 month-old baby. Baby is taken out with mom all night while mom parties. Case assigned as priority 2, investigated, and closed as invalid.

**Case Six:** Anonymous report that 9 year-old female is left alone after school hours while mother and father neglect her. The child seems to find her own place to stay without the parents making arrangements. Parent's priority seems to be alcohol and bingo. Parents do not make a safe plan for the child after school. The child is not fed regularly. The house is unfit and filthy. Possibly past sexual abuse. Nonspecific concern that the father or older brother may have sexually abused 9 year-old. Case assigned as priority 2, investigated, and unconfirmed.

**Case Seven:** Medical doctor reports concerns regarding sexual abuse of a 2 year-old girl by father. Mother alleges that her daughter has been using her finger to penetrate herself sexually. Minor alleges that "daddy hurt me." Case assigned as priority 2, investigated, and unconfirmed.

**Case Eight:** Neighbor called concerning neglect of four siblings. Reportedly the mother leaves her children unsupervised with their 13 year-old brother who is out of control. The 13 year-old has been sexually acting out, assaultive physically as well as verbally to anyone who challenges him with any sense of authority. A neighbor and her two children were assaulted by him, another child was shot in her face with a toy gun, and another child was beat with a broom stick handle. The mother leaves every night and does not return until morning on a regular basis. Case assigned as priority 1, investigated, and unconfirmed.

**Case Nine:** Police call to report they've taken four children (ages 2-13) into custody because they are unsupervised. Research of the database shows many previous neglect reports on this family. Case is assigned as priority 1, investigated and substantiated. The Assistant Attorney General advises that the history and the latest incident is not enough to gain temporary custody.

**Case Ten:** Women's shelter calls to report that an 8 year-old child has disclosed sexual abuse by mom's boyfriend. Mom and child are currently living at the shelter because the boyfriend is also violent. Case is assigned as priority 3 (because the child is no longer in contact with the boyfriend) and investigated, but unconfirmed.

In-home, ongoing services address problems that impair the ability of the family to function at a minimally sufficient level. The social worker may enable the parents to remain in charge of their children while periodically assessing whether in-home services are adequate to assure protection of the child. The social worker often utilizes community resources and extended family resources.

Out-of-home services provide structured, time-limited rehabilitation programs for parents to help reunite families as quickly as possible. These services often include planned, regular visitation between parents and child.

In some cases, reunification is not possible. Some parents cannot or will not provide security, affection, and continued care for the child. If reunification efforts have failed, an alternative placement plan must be developed and promptly implemented. Permanency planning choices include long-term foster care, guardianship, and adoption.

The screening, investigations, and ongoing services described on page 10 reflect the agency's child protective services (CPS) manual descriptions of the processes associated with each of those units. These processes were designed under the assumption that the agency would be adequately staffed to carry out the policies and practices outlined in the CPS manual. However, increasing workloads and relatively steady funding levels have reduced DFYS' ability to respond in accordance with CPS manual standard. The agency has developed several strategies to deal with the discrepancies between caseload and resources. Among these is a case prioritization method referred to as workload adjusting.

#### Original workload adjustments based on workload accounting system and case prioritization

During the mid 1980s, DFYS experienced a steady increase in the demand for child protective services, which resulted in high caseloads. In an effort to *"identify and provide services to those clients with the greatest need and to most effectively allocate resources to enhance service provision to those clients,"* the agency developed a case management system. The case management system included a workload accounting system. This system, intended as a tool for managers to better evaluate caseload distribution among their workers, consists of time standards for each area of the intake<sup>3</sup> and ongoing casework process. These standards are based on the results of a DFYS time study conducted in 1989.

DFYS managers have unanimously commented that the hours applied in the workload accounting system significantly understate actual hours required to do the job. Managers attribute this understatement largely to a lack of awareness on the part of social workers regarding the precepts of the study. Because the implications of failing to accurately track the hours required for each task were not emphasized when social workers were assigned these tracking duties, the resultant study was haphazard at best. Furthermore, managers do not believe CPS standards were followed during the time study.

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<sup>3</sup> The term intake covers different components of case work depending on the size of the DFYS office processing the ROH. In the Anchorage district office the intake function consists of two separate and distinct components—screening and investigations. In other smaller offices, intake covers both screening and investigations with little distinction.

When a memorandum publishing the results of the study was issued in 1989, it was clear that the division was unable to meet the minimum standards of contact with clients or investigate all reports, even with required hours measured by understated time standards. The memorandum describes the problem:

*In most work sites, Division employees are faced with the prospect of having a system which defines clients with the highest risk but due to chronic understaffing, are unable to meet with those clients on even the most minimum scale. This results in situations where the quality of service to all clients is diminished. The purpose of [workload adjusting] is to address this systemic deficiency and allow workers to provide enhanced services to those clients at the highest risk of continued harm.*

The memorandum goes on to describe situations in which cases may either be closed (for ongoing units) or not investigated (for intake units). The decision to workload adjust investigations was to be based on the workload accounting report. Workload adjusting could take place only in offices where the workload for investigators was above 1.05, a calculation of the ratio of available hours to required hours. Only reports of harm rated as priority 3 were to be eligible for workload adjustment. Additionally, if a third priority 3 report was received for a family that had not been investigated, due to the prior reports, the referral would automatically receive a priority 2 rating and be investigated within priority 2 timelines. Reports of harm not investigated were to be logged and investigated at a later date, when the workload dropped below a 1.05 ratio. All workload adjustments, whether for intake or ongoing services, were to be recorded on a work adjustment report and submitted on a monthly basis to the regional manager.

In the years since the workload adjustment policy was developed, the systematic approach to prioritizing caseloads has deteriorated. Essentially the systematic approach to prioritizing caseloads has been abandoned due to the dramatic increase in reports of harm since 1989 (see chart on page 18). Workload adjusting priority 3 reports has become standard for most offices. In general, intake supervisors make these adjustments with little or no attention to standardized workload reports. Furthermore, where the initial workload adjusting theory was designed only to delay an investigation, currently most workload adjusted ROHs will never be investigated.

#### New federal law promotes limiting time children may be kept in out-of-home care

On November 19, 1997 the president signed into law the Adoption and Safe Families Act of 1997. The primary focus of this law is to improve the safety of children, promote adoption and other permanent homes for children who need them, and support families. The new law made numerous changes and clarified a wide range of federal policies that had been in place since the 1980 Adoption Assistance and Child Welfare Act. The new law provides for the following:

1. Set-aside funding is provided for continuing support of Court Improvement Program. - The Alaska Court System (ACS) continues its efforts at streamlining and promoting consistency in the adjudication of child-in-need-of-aid (CINA) cases through funding

from this program. ACS had received funding to review how it handled CINA hearings in various jurisdictions and issued a 1996 report that identified many significant areas of difference and made numerous recommendations for improvements.

2. Adoption Incentive Payments provided for states. – The legislation provides \$20 million in federal fiscal years 1999 through 2003 for payments to eligible states which exceed the average number of adoptions the state completed between 1995 and 1997. Essentially the program provides for paying states a bonus for each foster child adopted.
3. New time line and basis for filing for termination of parental rights. – Previously, federal law did not require states to initiate termination of parental rights proceedings based only on a child's length of stay in foster care. Under the new law, states must file a petition to terminate parental rights on behalf of any child, regardless of age, who has been in foster care for 15 out of the most recent 22 months. For children already in foster care, states are required to phase in the filing of termination petitions beginning with children for whom the permanency plan is adoption or have been in care the longest.
4. New, shorter time frame for permanency hearings. – Former federal law required a disposition hearing within 18 months of a child's placement into out-of-home care. The new law establishes a permanency planning hearing for children in care to occur within 12 months of a child's entry into care. At the hearing, the law requires a determination be made whether and when: (1) the child will be returned home; (2) the child will be placed for adoption and a termination of parental rights filed; (3) the child will be referred for legal guardianship; or, (4) another planned permanent living arrangement is made if other options are not appropriate.
5. Further definition of "reasonable efforts" to reunite families. – As required by the 1980 law, States must continue to make reasonable efforts to preserve and reunify families. However, currently the "reasonable efforts" requirement does not specifically apply in cases in which a court has found:
  - The parent has subjected the child to "aggravated circumstance" as defined in state law (including, but not limited to abandonment, torture, chronic abuse, and sexual abuse).
  - The parent has committed murder or voluntary manslaughter or aided or abetted, attempted, conspired or solicited to commit such a murder or manslaughter of another child of the parent.
  - The parent has committed felony assault that results in serious bodily injury to the child or another one of their children.
  - The parental rights of the parent to a sibling have been involuntarily terminated.

6. Access for foster parents, pre-adoptive parents, and relative caretakers to court reviews along with an opportunity to speak. – Under the new law a foster parent, any pre-adoptive parent, or relative caring for a child must be given notice of and an opportunity to be heard in any review or hearing involving the child.
7. Established outcome measures. – The U.S. Department of Health and Human Services will develop, in consultation with governors, state legislatures, state and local public officials, and child welfare advocates, a set of outcome measures to be used to assess the performance of states in operating child protection and child welfare programs. Also to be developed is a system for rating the performance of states with respect to the outcome measures.

In many respects it is this new federal law, in addition to the recent Alaska Supreme Court decisions, and recent casework setbacks, which has contributed to the administration seeking a substantial revision to the State's CINA statutes. As with most federal legislation, the State has both "stick" and "carrot" incentives to conform with the law. Perhaps most significant is the prospect of losing federal funding (some \$10 million in FY 97) used to support various aspects of child protection services in the State.

## REPORT CONCLUSIONS

### Personnel and Caseload

A central issue of our review involved the utilization of resources. The request for the review was prompted in large part by a request for increased funding. The legislature expected to receive such a request for expanded funding in order that the Department of Health and Social Services' (DHSS) Division of Family and Youth Services (DFYS) could be more responsive to the reports of abuse and harm to children. In various reviews conducted of DFYS in recent months, which grew out of tragic child deaths in the fall of 1997 and winter of 1998, the lack of necessary personnel resources was a common theme.

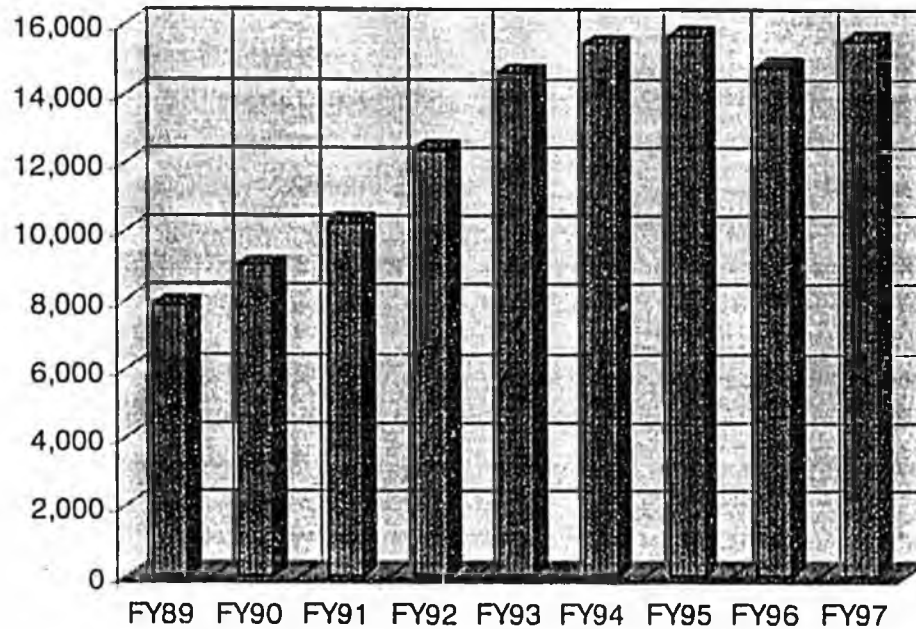
As shown on the graph on page 18, DFYS has, in recent years, faced a growing caseload. This growth has limited DFYS' ability to carry out investigations within the guidelines required by the agency's child protective services (CPS) manual. Specifically, not all reports are investigated. Of those reports that are assigned, many investigations are not begun on time. Though DFYS is currently unable to comply with CPS manual standards, the prioritization of reports of harm reflect the agency's efforts to use limited resources to best protect the children most at risk.

### In FY 97 DFYS could not investigate more than 3,700 reports of harm within its jurisdiction

DFYS is required to take and investigate all calls from the public regarding suspected child abuse and neglect. These calls are referred to as reports of harm (ROH). Alaska Statute 47.17.030(a) requires DFYS to respond to every ROH. The statute requires in part that the agency ". . . for each report received, investigate and take action in accordance with law, that may be necessary to prevent further harm to the child or to ensure the proper care and protection of the child."

DFYS' FY 99 budget documents state, that due to lack of resources, the agency was unable to respond to more than 5,000 reports of harm (ROH) during FY 97. This total represents some ROHs which would not typically be responded to, regardless of availability of staff. Over 1,200 of these reports represent complaints that contain either insufficient information on which DFYS could act, or represent situations that are beyond the agency's jurisdiction. The table on the next page summarizes ROHs, both assigned and uninvestigated, by various DFYS offices statewide

## Reports of Harm



The graph above illustrates the increasing trend in total referrals regarding child abuse and neglect made to the agency. Fortunately, it has not currently been increasing at rates experienced during the early years of the graph.

| FY 97 Screening Outcome of all Reports of Harm <sup>4</sup> |                       |                            |            |  |            |
|---|-----------------------|----------------------------|------------|--|------------|
| District Office   | Total Reports of Harm | Assigned for Investigation |            | Not Assigned for Investigation (Workload Adjusted) |            |
|   |                       | Number                     | Percentage | Number   | Percentage |
| Anchorage   | 5,725                 | 5,090                      | 89%        | 589  | 10%        |
| Mat-Su  | 1,052                 | 343                        | 33%        | 707  | 67%        |
| Kenai   | 881                   | 669                        | 76%        | 155  | 18%        |
| Fairbanks   | 2,534                 | 990                        | 39%        | 1,403  | 55%        |
| Bethel  | 1,361                 | 668                        | 49%        | 482  | 35%        |
| Juneau  | 752                   | 393                        | 52%        | 182  | 24%        |
| All Others  | <u>3,242</u>          | <u>2,376</u>               | 73%        | <u>222</u>   | 7%         |
| <b>Statewide</b>  | <b><u>15,547</u></b>  | <b><u>10,529</u></b>       | <b>68%</b> | <b><u>3,740</u></b>                                | <b>24%</b> |

<sup>4</sup> Reports of Harm screened out as non-child protection issues or insufficient information account for the difference between total Reports of Harm, assigned and workload adjusted.

DFYS' triage response to ROHs is risk based but leaves some children at risk

To manage an increasing workload, DFYS has developed an informal policy to delay or never investigate ROHs determined to be lower risk. The use of this practice, referred to as workload adjusting, varies between district offices. Some agency offices workload adjusted as many as two-thirds of the ROHs received.

Though DFYS appears to be generally triaging in ways consistent with a risk based approach, the agency's inability to investigate many cases leaves some children at risk.

The ROH described in the inset at right, one of the reports we reviewed, is an example of a workload adjusted report. From our review of 300 workload adjusted reports of harm, a profile of a typical workload adjusted case emerged. In general, these reports are for neglect of older children from families that have been investigated before. The figures on the following page, graphically summarize the various information about workload adjusted ROHs.

**Example of a Workload Adjusted ROH**

The report of harm concerned alleged neglect of an 11 year old girl. There had been 9 prior reports of harm, 4 of which had been investigated. The narrative stated the child *"has missed 40 days of school this year, not from illness. She is a very bright 6<sup>th</sup> grader, but is doing very poorly in school - used to be a straight A student. Child is withdrawn, has frequent somatic complaints, sad affect, poor hygiene."*

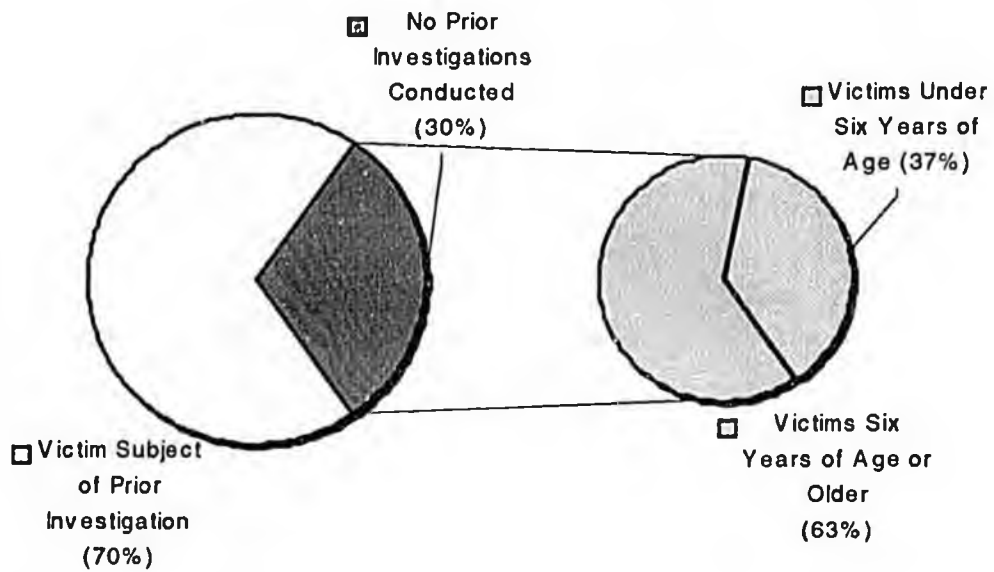
Though this report was not assigned for investigation, another report, received about six weeks later, was assigned. After three more investigated reports, which were substantiated for neglect, the division took custody of the child.

The agency's CPS manual, which provides guidance for prioritizing ROHs, comments that children younger than 6-years-old are more vulnerable to harm than older children. Of the workload adjusted reports we reviewed, 56 (19%) involved children under the age of 6. This group, labeled the most vulnerable by DFYS policy, represents children that are the least able to care for or protect themselves. These children are also more likely to be isolated from public view and mandatory reporters than their school-aged counterparts.

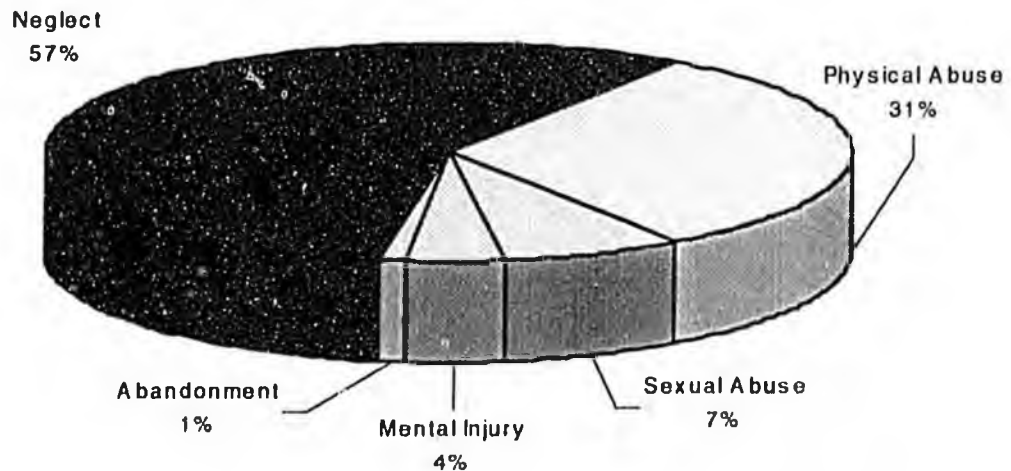
The CPS manual also suggests an evaluation of prior reports of harm as a tool to help determine the prioritization of a report. The Anchorage district office has institutionalized the practice (though not written into policy) of investigating any report on a child that has had the previous two reports workload adjusted. This practice, which is **not** uniform statewide, indicates a recognition that multiple reports often suggest an increased risk to the child. Multiple reports are often indicative of an increased risk to the child. This was borne out in an internal DFYS report that examined and actually "reworked" the cases of children on which the agency had received multiple ROHs. The inset on page 21 further discusses the findings of the agency's multiple ROH report.

We reviewed 300 unassigned Reports of Harm (ROH), of which 116 were categorized as physical or sexual abuse. The remaining 184 were categorized as neglect, mental injury, or abandonment. Of the 116 physical or sexual abuse reports, as the figure below illustrates, 70% involved children that were subjects of prior investigations. The remaining subjects had no prior investigation conducted. Of these reports, 37% of the subjects were children under the age of 6.

### Workload Adjusted Reports of Harm



### Workload Adjusted Reports by Harm Category



Of the 300 reports we reviewed, 126 involved reports on families that had not been previously investigated. Though a number of prior reports of harm on a family is generally considered to elevate risk, investigated reports provide the agency with knowledge of the child, the family, and the situation. DFYS' knowledge of families that have never been investigated, however, is often very limited. In these cases, the decision to workload adjust a report is entirely dependent on information provided by the reporter. Though mandatory reporters, such as healthcare professionals and teachers are trained to recognize the less obvious signs of child abuse and neglect, many reporters – such as the general public – are less likely to recognize more subtle indicators of abuse or neglect.

Reports of neglect are also more susceptible to being workload adjusted. In general, reports of neglect are assessed as lower risk than reports of physical or sexual abuse. Though the effect of cumulative neglect on children may be as harmful as abuse, the risk of harm associated with each report of neglect, viewed separately, is not usually assessed as significant as an incident of physical or sexual abuse.

Though most of the reports that were workload adjusted were for incidences of neglect or mental injury, 115 of the 300 (38%) were for physical or sexual abuse. Many of these reports concern children that are not immediately exposed to the alleged abuser, but family systems are dynamic, often involving volatile situations. Workload adjusting reports of this nature limits DFYS' ability to ensure the children's continued safety.

In some cases, workload adjusted reports represent ROHs investigated by other agencies. In the Fairbanks and Anchorage district offices, for example, some reports of harm are investigated by military social workers and other on-base officials.

The agency's management information system does not permit us to readily identify these ROHs that are classified as "workload adjusted" but are, presumably investigated by a non-DFYS entity. As a result, we cannot comment on the extent that such reports may "overstate" the number of unassigned ROHs, but our assessment, based on our sample would be that the total would be relatively small.

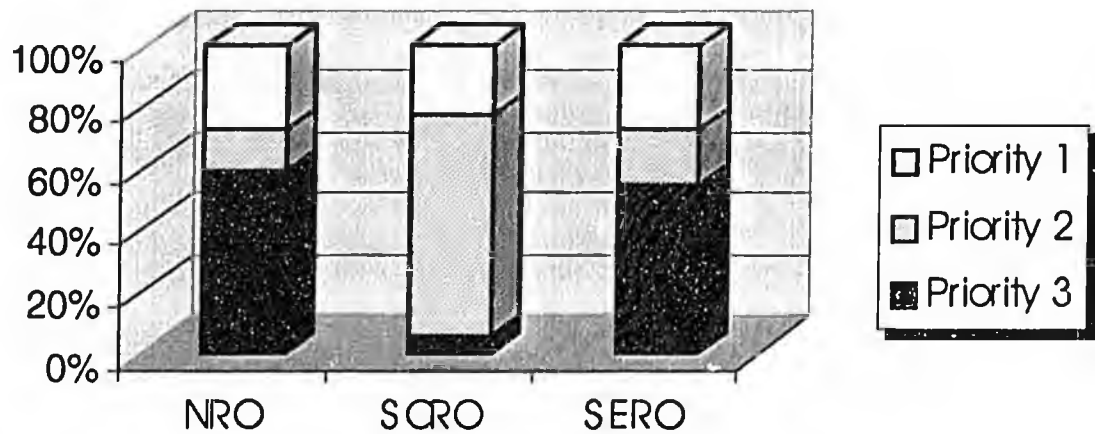
#### **Multiple ROH Report Identified Children at Risk and Key Risk Factors**

In response to the failure of DFYS to protect a six year old girl from harm, despite the agency having received 16 ROHs, the commissioner directed an internal review of high risk cases – eventually defined as those with six or more ROHs on record at the agency. The review was undertaken both to ensure the safety of the children in these high-risk situations and to better understand the key risk factors for families with multiple reports.

Of the 475 cases reviewed, 78 (16%) were identified as needing additional casework to ensure the continuing safety of the children involved. Of those, DFYS assumed custody in six cases.

Additionally, through the review DFYS identified two key risk factors related to families with multiple ROHs. In 81% of the cases, substance abuse was involved, while in 59% of the cases, domestic violence was a factor. Some cases involved both factors.

## Regional Prioritization

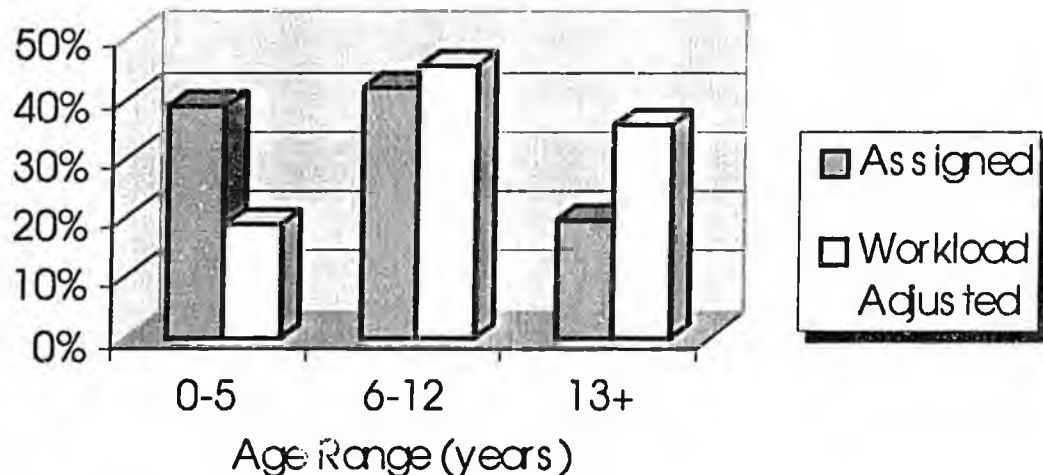


NRO – Northern Region

SCRO – Southcentral Region

SERO-Southeast Region

## Referrals by Child's Age



Note—The percentages for the assigned ROHs presented in the above chart represent the summary for all DFYS FY 97 assigned reports (10,529). The percentages for the workload adjusted figures were compiled and summarized from our sample of 300 workload adjusted ROHs.

Many investigations are not initiated as required, but highest priority cases are more timely

As discussed in the Background Information section, DFYS prioritizes investigations based on a supervisor's evaluation of the seriousness of the report. The CPS manual specifies timelines for initiating investigations depending on the priority assigned to the investigation.

For the 401 assigned cases we reviewed, DFYS did not initiate<sup>5</sup> an investigation within the CPS manual timelines for 174 (43%) reports.

Of these reports with delayed response, most (more than 95%) were priority 2 and 3 reports, but 18 (4.5%) were priority 1 reports, those in which the children appear to be most at risk.

Of the priority 1 cases not investigated within the specified timeline, 7 were for neglect while 11 were for physical or sexual abuse. The average timeline for these delayed cases was more than 5 days compared to the one-day response required by the CPS manual.

#### Regions Differ in Case Prioritization

Our review found that regions interpret the prioritization process very differently. While consistent percentages across regions suggest that the regions agree on the elements of a report that constitute a priority 1, wide differences in percentages of priority 2 and 3 cases indicate that these cases are treated with less consistency.

For example, cases that may be categorized as priority 2 and investigated through the Anchorage office would possibly be labeled as priority 3 or even workload adjusted in the Fairbanks office. These prioritization differences in conjunction with dissimilar staffing levels result in significant variances between offices in the priorities assigned to reports and in the numbers of reports that are investigated (see the top chart on the opposite page).

#### Most investigations completed within two months

In a review of the length of time cases take to investigate, as measured by the first report of contact compared to the last report of contact, we found that while the average case took about 35 days to investigate, most (83%) were completed within 60 days. Notably we also found that cases that were ultimately substantiated typically were investigated longer than cases determined to be unconfirmed or invalid. In a review of 412 cases, we found that on average, substantiated cases took nearly 45 days to investigate, while unconfirmed cases took only 29 days.

Lack of timely and thorough investigations can actually increase the risk of abusive or neglectful behavior. According to a 1990 report issued by the U.S. Advisory Board on Child Abuse and Neglect, unresolved investigations create and sustain uncertainty in the family about the future. This uncertainty causes anxiety within families, and may stall children's development. Further, mandated reporters (i.e. teachers, doctors, etc.) may begin to doubt the system and fail to continue to report suspected cases of abuse, thus placing children at greater risk of continued abuse or neglect. The risk is even greater for families who are not offered or do not accept services following an investigation.

#### DFYS social workers do not consistently meet required ongoing case contact standards

Besides being unable to investigate all ROHs as required by statute, DFYS social workers are unable to effectively supervise the children that are in state custody and other children that require "ongoing" casework. Included in the agency's policy and procedures are what are termed

<sup>5</sup> By DFYS' definition, a social worker "initiates" an investigation when she/he attempts a face to face contact with the family. This may include school visits or home visits, even if the social worker is unable to actually contact the family due to nobody at the residence or the child being absent from school.

"contact standards." These standards are established based on the severity of the case, and require social workers to make and document their contacts.

The Southcentral Region developed and implemented an internal supervisory review process for ongoing cases. The reviews were carried out over the last nine months of calendar year 1997. These reviews, in total have indicated that in the Southcentral Region more than two-thirds (67.5%) of the ongoing cases did not meet the required contact standards.

These findings appear to be consistent with a 1996 review conducted by the University of Washington of the Anchorage district office case files. The report included the following observations regarding case contacts:

1. Case records did not document required family home visits.
2. Of 322 cases where home visitation should have occurred, 44% documented one or more home visits within the last six months, while documentation of a required visit was lacking in 56% (181) of the cases.
3. Of 271 cases in which home visitation should have been expected in the last year, at least one visitation was documented in only 60% of cases.
4. Visits to foster homes are not occurring as necessary.

Making the necessary contacts with the individuals involved in a particular case is the central aspect of casework. The caseworker must stay apprised of changing dynamics in the child's life, the progress of the parents and children at reunification, and gathering information from involved third parties such as foster parents and counselors regarding the child's case. Essentially, contact and the interaction generated by such caseworker contact is the central aspect of casework. By not meeting, or documenting contact standards, as set out in the agency's CPS manual, DFYS staff is not effectively and consistently fulfilling a central part of its mission.

The lack of consistency with which the agency meets casework contact standards, provides some credence to the information generated by the division's workload analysis report. According to such a statewide analysis developed in November 1997, DFYS needs 15 more caseworkers to adequately address the agency's current caseload.<sup>6</sup> The estimate likely understates the need for additional workers, since it is widely acknowledged within the agency that the workload measurement model tends to understate work hours actually required to carry out the casework. While recognizing the report may understate the need for workers, we still believe it is significant that the analysis shows the need for more resources. This analysis is consistent with the deficiencies noted by both internal and external reviews.

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<sup>6</sup> The analytical workload report attempts to measure the division's workload in a consistent, objective manner, and identify when, and by how much, the agency becomes short-staffed. The workload analysis report attempts to quantify agency workload by assigning an estimated number of hours to various tasks involved in working a particular case. The hours assigned for each casework task is based on the severity of the cases. More severe cases require more casework contact, which results in a higher number of work hours being required. The merits and drawbacks of workload measurement information is discussed further in Recommendation No. 8.

DFYS did not fully utilize appropriation funding for personnel during FY 97

In FY 97, DFYS' appropriation for child protective services was set out in four different budget components – Central Office, Northern Region, Southcentral Region, and Southeast Region. Funding in these four components supported both child protective services and youth probation activities (youth correction activities related to facilities were funded in other, separate budget components).

As shown in the chart on page 27, these four components comprised a single appropriation within DFYS' budget. For these four components, DFYS received FY 97 appropriations of \$22,560,300 designated for personal services. This total appropriation was slightly less than the governor's request of \$22,788,600. The requested amount reflected a vacancy and turnover (v&t) factor of 4.9%. Since no positions were specifically eliminated by the legislature, the appropriation of the less than requested amount essentially resulted in a slightly increased v&t factor of 5.9%.

DFYS also received additional authorizations for personal service expenditures of \$699,200 for this appropriation. This additional authorization funding was for costs associated with new legislation related to deterring of automobile theft, runaway minors, the State's welfare reform initiative, and cost-of-living pay increases approved by the legislature. The agency transferred a net of \$11,400 by shifting funding from personal services to other account categories — resulting in a total net increase of \$687,800. As shown on the following page, authorizations for the appropriation totaled \$23,248,100.

### Barriers to Effective Hiring also had an Adverse Impact on DFYS Service Delivery

In addition to holding positions open to meet v&t requirements, the filling of positions was also adversely effected in FY 97 by the constraints of the state's recruitment and hiring process. During the course of our review we interviewed various DFYS hiring managers who expressed frustration over both the lack of qualified and attractive candidates for vacant positions, and the difficulties involved with hiring within the requirements of the state personnel system.

The Department of Health and Social Services has taken steps to address many, if not all the concerns and problems involved with keeping agency social worker and other positions filled. Below is a listing of the various problems cited by agency hiring managers, and the action that the department and agency are either taking or intending to take to address them.

| Problem  | Corrective Action   |
|--|---|
| Job classification registers for social worker positions were not kept open continuously. When registers were open, they were opened at times of the year that did not coincide with college graduation dates — a likely source of prospective employees.                                  | DHSS began continuous recruitment for social worker I - IV and social services associate I - III positions during January 1998.<br><br>In June of 1992, the application examination authority, for all departments, was consolidated within Division of Personnel (DOP), Department of Administration. DOP closed most job classes to open recruitment. Application examining became backlogged at DOP. Authority to examine applications was transferred back to all departments in July 1996. At this time, DHSS addressed backlog of approximately 4,000 applications. |
| Applicants, despite scoring well against qualification criteria often were not considered desirable candidates by hiring managers, based on past work performance. These individuals and unresponsive candidates hinder the hiring process by filling the upper ranks of the job register. | No corrective action. These candidates cannot be removed from the registers under current personnel rules involuntarily.<br><br>Workplace Alaska could provide more hiring flexibility to DFYS offices. <sup>7</sup> However, the General Government Unit has not "signed off" on having social worker positions recruited through this alternative program.  |
| Most social worker positions are ineligible for the Workplace Alaska, on-line, internet hiring process.  | No corrective action in immediate future. Class action lawsuit currently exists between the Unions and the State of Alaska concerning Workplace Alaska.<br><br>While more hiring responsibility is placed on DFYS offices through using Workplace Alaska, most expressed approval for the process and stated that better candidates are produced than through the traditional register hiring process.  |
| Application rating tool is too cumbersome and time consuming.  | DHSS Human Resources section revised application rating tool during January 1998. All people on existing registers were asked to reapply.   |
| Difficulty attracting employees to rural offices.  | No direct corrective action. DFYS hopes continuously open registers, improved training, and establishing a relationship with the University of Alaska will provide relief to this problem.  |

<sup>7</sup> Workplace Alaska is an alternative state employment procedure which allows state agencies to recruit and hire personnel through advertising of a separate listing, posted on the internet, rather than working the traditional ranked register system. However, as noted above, most line social worker positions remain subject to the standard state hiring process.

| <u>DFYS Budget Component</u>                                | FY 97   |  |
|---|---|--|
|   | <u>Governor's Request<br/>(Personal Services)</u> | <u>Appropriation<br/>(Personal Services)</u> |
| 1 Delinquency Prevention                                    |   |  |
| 2 Foster Care   |   |  |
| 3 Subsidized Adoption and Guardianship                      |   |  |
| 4 Residential Child Care                                    |   |  |
| 5 Family Preservation                                       |   |  |
| 6 Southcentral Region                                       | \$ 10,188,976                                     | \$ 10,118,000                                |
| 7 Northern Region   | 6,958,603   | 6,878,400                                    |
| 8 Southeastern Region                                       | 3,355,049   | 3,309,400                                    |
| 9 DFYS Central Office                                       | <u>2,285,972</u>                                  | <u>2,254,500</u>                             |
| 10 McLaughlin Youth Center                                  | \$ <u>22,788,600</u>                              | 22,560,300                                   |
| 11 Fairbanks Youth Facility                                 |   |  |
| 12 Nome Youth Facility                                      |   |  |
| 13 Johnson Youth Center                                     |   |  |
| 14 Bethel Youth Facility                                    |   |  |
| 15 Social Services Block Grant Offset                       |   |  |
| Legislation for Additional Personal Services Authorizations |   | 408,000                                      |
| Cost of Living Allowance Funding                            |   | 291,200                                      |
| Net Other Transactions (Transfers to Other Accounts)        |   | <u>(11,400)</u>                              |
| Total Personal Services Authorizations                      |   | \$ <u>23,248,100</u>                         |

A standard practice in most executive branch agencies is to leave some authorized, funded positions vacant in order to be sure operational expenditures are within established budgets (which are set with a v&t factor "built-in"). Although DFYS received a relatively small reduction in the requested funding for staff, agency managers left 21 positions vacant for all of FY 97.<sup>8</sup> Of these, ten were case carrying social worker positions, one was a social worker supervisory position, while six others provided support, both administrative and programmatic, to line social workers. Three Central Office positions were kept completely vacant. Only one juvenile probation position was left open for all of FY 97.

Our analysis indicates that child protective services, particularly in-the-field social worker positions, absorbed a disproportionately greater number of these empty positions, ostensibly kept vacant to cover the agency's imposed v&t factor. This practice was particularly pronounced in DFYS' Northern Region (NRO). Of the ten case-carrying social workers positions kept vacant statewide, five were in NRO. Additionally, NRO held vacant a supervisory social worker IV position, in addition to having three of the six administrative support forced vacancies.

The combination of the positions left vacant, (or forced vacancy factor), combined with the other positions that went vacant for shorter periods time (the natural vacancy factor), allowed DFYS to come in well under (just over \$1 million) the agency's FY 97 personal services

<sup>8</sup> One position included in our count of 21 was filled for two months, and another was filled for only one month. The other 19 were left completely vacant for all of FY 97.

budget. As a result, the agency has sufficient funding to cover retirement incentive program costs not only for staff within the agency's appropriation, but for other agencies within DHSS.

Most of the excess authorization funding (just over \$880,000) was used to fund a reimbursable services agreement (RSA) with the Division of Retirement and Benefits for retirement incentive program (RIP) costs. The RSA essentially prepaid RIP costs for FY 98, FY 99, FY 00, and FY 01. In addition, the RSA funds were used not only to cover the RIP costs for DFYS employees, but also for some of the RIP costs of participating staff of the Alaska Psychiatric Institute. See Recommendation No. 4 for further discussion of these transactions.

### Summary of Caseload and Personnel Issues

As discussed in this section, our review of various aspects of FY 97 operations showed DFYS did not consistently meet either its statutory mandates nor the agency's own internal measures of effective casework. In our view, it is clear that the primary reason for the agency's failure to effectively operate is the lack of enough qualified, trained, line social workers.

To some degree, the agency contributed to this lack of resources, by the manner in which it allowed its personnel to be deployed during the year. Despite having vacancies beyond what was needed to meet its budget, it is our conclusion that this factor alone does not completely account for the agency's inability to effectively carry out its mission. We discuss further in Recommendation No. 1 our concerns about personnel resources and the extent that additional positions are needed to remedy the problems involved.

### Other Issues

In addition to the personnel and caseload issues discussed in the previous section, there are other issues that have an impact on the operations of the Division of Family and Youth Services. State law also affects the functioning of the agency, and how it is interpreted and applied by the courts. In addition, new federal legislation prospectively will have a substantial impact on the operations, and possibly funding, of DFYS. This legislation will effect the training and casework practices of the agency. Given these issues we offer the following conclusions and concerns.

#### Lack of specificity in current statutes limits DFYS' authority to terminate parental rights

We often saw cases where parents repeatedly failed to take appropriate action or change their personal conduct to alleviate the living conditions that posed a threat to the safety of their children. Included in the cases we selected for review were two where DFYS moved to terminate parental rights. In both instances there were numerous children involved and the parents had an extensive history of failure in complying with the case plan developed by DFYS. The case plan attempted to reunify the children in state custody with their parents while providing some assurance of safety and care. The children's case files involved sequential case plans, filled out over numerous years, which called for the parents to enter substance abuse treatment. The parent(s) involved were given multiple opportunities to make minimal changes

needed to forestall termination of parental rights, but their efforts were repeatedly insufficient to fully resolve the problems involved.

In the course of our review, we became aware of two recent Alaska Supreme Court decisions that have served to narrow the State's child-in-need-of-aid (CINA) statutes. These decisions appear to be primarily the result of unclear statutory wording and have had an impact on agency casework. The court's interpretation and application of the CINA statute has essentially driven casework practices. This has made it more problematic for the State to seek parental rights terminations and contributes to the ongoing concern about children "lingering" in repeated foster care placements.

The governor's Child Protection Working Group report included the recommendation that stricter guidelines and timelines related to the termination of parental rights be established in statute. The working group observed that current laws do not establish clear and definite timelines nor provide clear guidance establishing the responsibilities of parents to address either the behaviors or conditions which expose their children to harm. As a result, children often linger for years in state custody without a permanent home. The working group stated that "*parents need to take a greater responsibility for getting their children back.*" From our review of case files, combined with our historical experience and review of cases in prior audits, we concur with the governor's working group recommendations and observations.

DFYS staff training efforts have suffered from lack of coordination, consistency, and funding

DFYS training has undergone significant transition over past years resulting primarily from shifts in administration, decisions by management, and/or use of available funding. This transition has resulted in untimely "CORE" training which provides child protection orientation to new employees. Prior to February 1998, CORE training had not been held since early 1995. CORE training offered by DFYS is a three-part training course providing:

- an overview of State of Alaska child protection services;
- interviewing techniques; and,
- case management.

## Two Alaska Supreme Court rulings in recent years have weakened DFYS' authority to intervene on behalf of children

Alaska Statute 47.10.010 (a) sets out the following six circumstances where a court should find that a child is in need of aid (CINA):

1. The child being habitually absent from home or refusing to accept available care, or having no parent, guardian, custodian, or relative caring or willing to provide care, including physical abandonment [by the child's parent or parents].
2. The child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed to provide the treatment.
3. The child having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by the child's parent, guardian, or custodian or the failure of the parent, guardian, or custodian adequately to supervise the child.
4. The child having been or being in imminent and substantial danger of being, sexually abused either by the child's parent, guardian, or custodian, or as a result of conditions created by the child's parent, guardian, or custodian, or by the failure of the parent, guardian, or custodian adequately to supervise the child.
5. The child committing delinquent acts as a result of pressure, guidance, or approval from the child's parents, guardian, or custodian.
6. The child having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.

For the most part, these subsections have not generated much controversy and the courts have applied what is termed their "plain meaning" when interpreting and applying the various clauses. However, the way in which two recent Alaska Supreme Court decisions have applied and interpreted sections one and six of the above list, have had an adverse impact on DFYS' ability to intervene legally on behalf of a child.

In January 1996 the Alaska Supreme Court ruled that under current statute the courts do not have jurisdiction to intervene solely on evidence that a parent is willing but unable to provide for a child's needs (section one above). In September 1997 the court ruled that Alaska courts do not have jurisdiction to intervene to protect a child based solely on evidence that the child has suffered "emotional neglect."

One legal commentator stated, in an *Alaska Law Review* article "[w]hile many children in need of aid remain unaffected by these two decisions because they are protected by other subsections of the [child protection statutes], these decisions decidedly have left children vulnerable in certain cases of neglect."

Case carrying social workers also expressed concern regarding the need for training specific to their job. As an example, investigators were concerned about not receiving training for interview techniques specific to child sexual abuse. It is critical for investigators to receive training relevant to their jobs as they are required to determine whether children should remain in or be removed from their homes, and often must justify, in court, their decision to remove the child.

Some Northern Region social workers and administrative staff filed a class action complaint with their union in October, 1997 which identified their concerns regarding inadequate training. These employees felt that they had not received the training resources necessary to perform the responsibilities of their respective positions. Included in the agency's draft response to the class action complaint, was the following statement:

**CORE 101**

This is a five day course in basic child protection services to be provided to all staff who have not previously attended core training. Topics covered include, but are not limited to, the history of child welfare, DFYS mission and mandate, personal safety, assessment of child abuse and neglect, intake, investigation, confidentiality, ethics, cultural sensitivity, family centered services, safety issues, and stress and time management.

*The reason for the lack of necessary training for social workers has been lack of funding for the training purposes. For example, there is not enough funding available to complete the CORE series in this fiscal year. However, the problem of lack of funding for training of social workers must be addressed at the legislative level.*

According to the agency, funding concerns were both travel as well as personal services related. Our review indicates that this is not solely a legislative funding issue however, it is coupled with a management decision not to fill all the regional training positions. Review of funded positions indicates that all three training positions were funded for both FY 97 and FY 98.

We recognize DFYS has intensified its training over the past few months and are now offering the basic CORE training to social workers. Additionally, workers are scheduled to attend job-specific training such as courses related to inhalant and sex abuse, and interviewing children.

Concurrent planning will be important in meeting new federal law requirements

The Adoption and Safe Families Act of 1997, signed into law November 19, 1997, amends the Child Welfare and Adoption Assistance Act of 1980. The new law clarifies that the health and safety of children served by child welfare agencies must be of paramount concern and aims to move children in foster care more quickly into permanent homes. Such federal requirements may require states adopt the practice of concurrent planning.

Concurrent planning allows two plans to be in place at the same time. This will require the social worker devise a permanency plan for an abused or neglected child. The concurrent

plan simultaneously works toward the goal of family reunification with a back-up strategy for an alternative permanency placement. In some cases, the likelihood of a child returning home is slim, but the law requires that reasonable efforts be made to reunify children with the birth families. By having a backup plan in place in case reunification efforts fail, the backup plan can continue once it is decided reunification efforts should end.

Two plans should reduce unnecessary delays that prevent a permanent, stable situation for children and families: minimize the number of out-of-home placements; and save foster care dollars by redirecting funds that are used to sustain homes with little chance of success. Some key elements to concurrent planning will require additional time by the social worker. The social worker will initially need to identify children in need of concurrent planning and provide intensive up-front reunification services. Full disclosures will need to be made to the biological parents and other involved parties.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should consider authorizing and funding additional social worker positions in order for the Division of Family and Youth Services (DFYS) within the Department of Health and Social Services (DHSS) to better meet the agency's statutory mandates.

As evidenced by the conclusions presented in the previous section, DFYS is unable to respond effectively to either of the two main aspects of its overall mission. The division is not effectively meeting its responsibilities either in the investigations or screening process or in the manner in which the agency monitors children in state custody or otherwise subject to supervision. As set out in the Report Conclusion section:

1. DFYS cannot investigate all reports of harm (ROH) – DFYS is required to take calls regarding suspected child abuse and neglect. The agency is required by statute to respond to and investigate all such reports of harm (ROH) that fall within the agency's legal jurisdiction. Without conducting an investigation in every case, DFYS cannot assess a child's safety. DFYS was unable to respond to more than 3,700 ROHs during FY 97. To ensure DFYS can investigate all appropriate ROHs, we believe additional social worker staff is needed.
2. DFYS cannot meet child protective service (CPS) standards related to supervision of children in state custody – The frequency of contact between the social worker and the families on their case load provides an objective way to measure the social work being provided to children and families. Both internal and external reviews of ongoing cases indicate the agency is not able to carry out effective, ongoing casework on the children in state custody, or otherwise being supervised by the State. Reviews typically point out a lack of sufficient documentation of required social worker contacts with children.

According to Governor Knowles' Child Protection Review Team's report issued in December, 1997 current caseloads for investigatory social workers at DFYS ranged from 26 to 35 cases per month. Social workers in the agency with ongoing caseloads average between 22 to 24 cases, which is also twice the Child Welfare League of America (CWLA) standard of 12 to 15. The report pointed out that this total was 100% to 200% above the CWLA standard of 12 cases per worker. However, CWLA notes "*virtually no state spends enough to meet basic national child welfare standards.*" In fact, national averages are 15.3 cases per investigations worker and 24 per ongoing caseload worker.

Lack of adequate staff to investigate reports of child abuse and neglect has meant that not all ROHs can be investigated, and lower risk cases are delayed. Besides leaving children at greater risk, these circumstances have also limited early intervention which contributes to problems going unaddressed until they are more severe or chronic. Intervention at that time is typically more difficult and costly.

Higher case loads and understaffing also limits the State's ability to do effective casework and take better care of children who are in its custody. Social workers do not have the time to help families and monitor the safety of children.

DFYS needs more staff to meet its statutory mandate to investigate all ROHs received. Staff shortage problems were brought about partially by the misallocation of personnel resources, particularly in the Northern Region. Despite this factor, we believe the agency needs additional staff in order to meet its statutory responsibility to respond to, and investigate, each ROH within its jurisdiction. Additional staff are also needed for the agency to provide more effective casework to children in state custody.

We have reviewed the agency's budget request increment for the funding of 40 additional staff<sup>9</sup> and the documentation the agency prepared to justify the number of social worker positions involved. The information we reviewed seems reasonable and does tend to support the social worker positions involved.

Most of the costs of proposed new positions, at least for FY 99, come from federal funding sources. More specifically, the department is proposing to use \$286,900 in Title IV-E funds along with \$1,065,000 from the Social Services Block Grant, which was generated by welfare reform savings. These totals cover over half of DHSS' \$2 million request. Federal authorities are permitting states to shift funding in this manner as an incentive to implement welfare reform measures. When considering whether to fund all or part of these requested positions, we suggest the legislature inquire and satisfy itself regarding funding support for the positions over the next few years.

In our view, DFYS needs new social workers and related support positions to effectively carry out the agency's mission - to protect children from abuse and neglect. The agency has asked for 40 new positions (see Recommendation No. 2). It does appear the agency did consider the social worker positions funded, but left vacant in FY 97, when developing estimates. We also know that the time estimates used as a basis for calculating some of the positions included in the budget request were conservative in that estimates understate the actual time involved to carry out certain social worker tasks (see Recommendation No. 8).

We support the social worker component of the department's budget request. Based on our fieldwork review and observations, and our overall assessment of the agency's needs, while also being mindful of the practical constraints involved in recruitment and hiring, we believe the agency could effectively utilize 30 to 40 positions in addition to the fully funded positions already authorized. Currently, the budget request recognizes hiring constraints. Under the request, DFYS would not receive 12 month funding for all new positions. Specifically, funding is staggered so 26 positions are funded for 12 months, 13 positions are funded for 9.6 months, and 1 position is funded for 10 months. In our view, even these assumptions reflect an overly optimistic estimate of the agency's ability to recruit and fill social worker positions.

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<sup>9</sup> DHSS documentation shows positions are based upon staff shortages indicated by FY 97 assigned investigations and 3,725 ROHs which were workload adjusted during FY 97.

Recommendation No. 2

If the legislature appropriates additional funding for child protection services for FY 99, the commissioner of DHSS should report the effects of those increases to the legislature.

The governor has proposed a \$32 million legislative package called Smart Start to expand public services to Alaska's children. An element of this plan calls for an increase to the child protection system in the amount of \$14 million.

This proposed increase to Alaska's child protection system addresses numerous phases of protection services including expanding resources for Alaska State Troopers, improving the State's foster care system, and, at a cost of \$1.6 million, adding 40 new DFYS staff positions. As discussed in Recommendation No. 1, we believe weighing current workload demands against DFYS' statutory mandate, and considering the impact of recent federal legislation (see Recommendation No. 3), does suggest a need for more DFYS staff.

To ensure accountability for any funds appropriated to address this need, we believe DFYS should measure the impact on child protection services resulting from any additional funding authorized by the legislature. Specifically, we believe this information should be reported to the legislature and include, at a minimum:

- The progress of any funded elements of the governor's Smart Start package for child protective services.
- The impact any additional staff have had on DFYS' ability to respond to uninvestigated reports of harm, to investigate in a timely manner, and to meet contact standards for ongoing cases.
- Vacancy experienced within social worker positions during FY 98 and the first six months of FY 99 and how close that vacancy reflects budgeted vacancy. This analysis should include conclusions regarding whether hiring problems experienced in the past have been remedied.
- Changes made to the child protection system as a result of any audits, management reviews, changes in federal legislation, and, potentially, changes in state legislation.

We believe DHSS management, in order to demonstrate its willingness to be held accountable for the extra funding, should commit to providing the legislature such information, in a formal report by February 1, 1999.

**Governor's Smart Start Proposal:  
Composition of 40 requested DFYS  
Staff Positions**

**Southcentral Region**

| <u>Job Type</u>           | <u>Qty.</u> |
|---------------------------|-------------|
| Social Worker             | 16          |
| Supervisory Social Worker | 2           |
| Licensing                 | 1           |
| Support                   | 5           |
| <b>SCRO Total</b>         | <b>24</b>   |

**Northern Region**

| <u>Job Type</u>           | <u>Qty.</u> |
|---------------------------|-------------|
| Social Worker             | 7           |
| Supervisory Social Worker | 2           |
| Licensing and Eligibility | 3           |
| Support                   | 4           |
| <b>NRO Total</b>          | <b>16</b>   |

**TOTAL NEW POSITIONS** **40**

### Recommendation No. 3

The legislature should consider amending relevant child protection statutes in order to provide a basis for better and more consistent casework.

In our review of case files done for this review along with files reviewed in the course of prior audits, we came across numerous children that lingered in state custody due to the irresponsibility of their parents. We often saw cases where parents repeatedly failed to take appropriate action or change their personal conduct to alleviate the living conditions that posed a threat to the safety of their children. During this review, we went through two specific files where the State had moved for termination of parental rights because of the parents repeated failure to effectively comply with the established case plan. In both instances the court did not approve of termination, primarily due to the current interpretation and application of the State's child-in-need-of-aid (CINA) statutes.

As discussed in the Report Conclusions section, Alaska Supreme Court rulings made in recent years have served to undermine the practical enforceability of two sections of the State's central child-in-need-of-aid statutes. Specifically, the courts addressed:

1. Willingness to care – AS 47.10.010(a)(1) states a child may be a child-in-need-of-aid if they have no parent, guardian, custodian, or relative "*caring or willing to provide care . . .*" [Emphasis added.] The court interpreting this language required the parent care or be willing to care, but is not required to do both. The courts found that statute does not "*require ability to care – willingness is enough.*" Given this interpretation, the State's ability to terminate parental rights under this provision is limited as long as the adults involved express a willingness to care for the child, regardless if such willingness is demonstrated by their behavior in meeting the requirements of the DFYS case plan.
2. Neglect must be physical and substantial – AS 47.10.010(a)(6) states a child may be a child-in-need-of-aid if he or she "*...suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian.*" [Emphasis added.] Here the court essentially attached the modifier substantial to both the phrases "physical abuse" and "neglect." Moreover, the court interpreted the law to require physical neglect, as opposed to emotional or other non-physical neglect. Given this interpretation, in any CINA proceeding, such as termination, the State must demonstrate not just neglect, but substantial physical neglect to successfully make its case.

The Kempe Center, one of the outside organizations that reviewed the casework carried out in selected DFYS cases, observed in its report that:

*. . . current Alaska statutory and case law needs to be carefully reviewed. The review should include Alaska statutes, court interpretation of Alaska statutes, and the understanding and behavior of DFYS staff based on current law. . . .*

*Read narrowly, only if a child is at risk of being sexually abused by the child's parent, guardian, or custodian can parental failure to protect the child be the basis for intervention .... This language leaves unclear what is envisioned for a*

*parent who risks his or her child with sexualizing casual acquaintances, no matter how often or with what result. In general, the statutes seem to leave confused the question of a parental incapacity which allows a child to substance abuse, contributes to depression or irreversible developmental delays so long as the parent expresses willingness to keep trying.*

The governor's Child Protection Working Group suggested that statutory changes be pursued that, in general, would accomplish the following:

1. Change the philosophical orientation of the statutes – The working group suggested that instead of the current statutory focus of the termination statute on the conduct of the parent, the focus be shifted to the best interests of the child. The working group observed in its report that "the purpose of the statutes is to protect the child; therefore, the basis for terminating parental rights should also focus on the needs of the child.
2. Separate statutory provisions for termination – Currently, termination of parental rights is listed as just one of several "disposition" options available once a child is adjudicated as CINA. The working group recommends that termination be listed separately with its own distinct definitions and specific listing of what will "*justify and constitute grounds for terminating parental rights.*"
3. Establish guidelines for compliance based on the age of the child – The working group noted that many states set guidelines on how long a parent has to comply with a reasonable case plan to regain custody of their children. Usually, the younger the child, the quicker the parent must comply. Adoption of such a system in statute would reduce the number of children lingering in the system.<sup>10</sup>

Besides promoting both better casework and long-term care for the child involved, such a change in statute will clarify DFYS' authority and give the agency a better chance of maintaining the federal funding it receives under Title IV-B and Title IV-E of the federal Social Security Act. Funding under these two sections assist states in providing a wide range of child welfare services – everything from subsidizing the cost of out-of-home placements, to training funds for social workers, to funding the development of management information systems. New federal legislation, the Adoption and Safe Families Act of 1997, which became effective in November 1997, ties certain federal funding assistance to the state achieving various requirements related to out-of-home placement of children.

Under the new federal legislation, States must move to terminate parental rights and identify, recruit, and approve a qualified adoptive family on behalf of any child, regardless of age, who has been in foster care for 15 out of the most recent 22 months. These new requirements apply not only to children entering foster care in the future but also to children already in out-of-home placement. For children already in care, states must phase in filing of

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<sup>10</sup> The working group's report cites as an example the State of Massachusetts. According to the report, that state gives as a basis that "*(if) the child is four years or younger and in out-of-home placement for at least six of the last twelve consecutive months, and the child was prevented from returning to the parent's home due to the parent's failure to accept services to address and correct the conditions that caused the child to be in out-of-home placement...*" the state can move to terminate parental rights.

termination petitions starting with the children that already have adoption permanency plans or who have been in out-of-home care the longest.

Additionally, it appears federal authorities will require state officials to certify that state law conforms with certain provisions of the new federal legislation. In particular, the federal government will require state law to:

1. clarify "reasonable efforts" requirements related to termination of parental rights;
2. provide for the State to initiate or join proceedings within a specified time to terminate parental rights; and,
3. clearly state the safety of children be the paramount statutory concern.

To provide incentive for state compliance, the federal government is likely to make some, if not all federal Title IV-E funding conditional on this certification. In recent years this funding has represented approximately \$10 million in federal funds for Alaska. All of the provisions cited above are included in current proposed legislation.

In our view, many of the provisions contained in bills currently being considered by the legislature (HB 375 and SB 272) will serve to address concerns we have about shortening stays in out-of-home placement and compliance with federal legislation. These proposed bills ensure continued federal support for child placement, training, and a workable management information system. We recommend the legislature evaluate the issues involved and consider appropriate revisions to the State's CINA statutes as set out in proposed legislation.

Recommendation No. 4

The DHSS director of administrative services should ensure expenditures for the retirement incentive program (RIP) are made in accordance with legislative appropriations.

The legislature passed a retirement incentive program during the 1996 legislative session. The bill requires departments pay for three years of employer contributions for each RIP participant. This effectively purchases three years of retirement benefits for each employee electing early retirement. The RIP legislation (Chapter 4, FSSLA 96, Section 22) requires the employer to file a proposed retirement incentive plan with the commissioner of administration. This plan must include a reimbursement agreement that:

*Requires the employer, for each employee who retires under this plan to reimburse the appropriate retirement system, within three years after the end of the fiscal year in which the employee is appointed to retirement*

In anticipation of state employees taking advantage of the RIP program, DHSS encumbered unexpended balances from various FY 97 appropriations for those employees that had applied for RIP. The majority of the employees who had applied for RIP in FY 97 were not scheduled to retire until after July 1, 1997 (FY 98) at the earliest. Additionally, for those employees who retired, DHSS paid the full three-year obligation using unexpended FY 97 funds, an amount totaling \$2,165,305.

The Alaska Constitution Article IX, Section 13 requires expenditures be made in accordance with legislative appropriations. We believe the initial obligation for RIP costs should not be recognized until an employee actually retires. Therefore payment of those costs should not be made from operating appropriations relating to years preceding an employee's retirement.

DFYS encumbered their FY 97 Family and Youth Services appropriation in the amount of \$880,000 at the end of the year to pay for RIP costs. This encumbrance was liquidated in FY 98 with a transfer to the Division of Retirement and Benefits totaling \$785,317. Out of 21 retirees who were employed through the Family and Youth Services appropriation, 3 retired during FY 97 and 18 retired during FY 98. The three-year employer costs for the 3 FY 97 participants totals \$107,954. Of this amount, \$6,412 represents the FY 97 portion of these costs based upon a 36 month, or 3 year, payment period. The remaining funds were spent for employees outside the Family and Youth Services appropriation and for RIP costs reflecting obligations of FY 98 through FY 01.

While the bill did not prohibit departments from paying the full employer cost in any one year, we believe this is inappropriate. The RIP program is designed to create cost savings within the positions involved by filling those positions with lower cost employees. Those savings, by design, should be realized incrementally as time passes. Payments for employer contributions of RIP retirees should reflect these annual savings and therefore payments should be made on an annual basis.

In addition, we believe paying the employer costs for RIP employees in one-lump sum violates the basic premise of the legislative budget process where annual operating

appropriations are made for operating costs of state agencies for a one-year time period. We believe using an operating appropriation for a three-year obligation is inappropriate.

The RIP legislation did not provide authority and specific allowance on how the funding is provided. Therefore, we believe the appropriation from which a retiring employee is funded should pay the relevant RIP costs.

We recommend the DHSS director of administrative services initiate corrective action by either: (1) reversing the expenditures made to the FY 97 appropriation and charge the correct fiscal years' appropriation; or, (2) with the concurrence of the Office of Management and Budget, request ratification from the legislature for these payments.

#### Recommendation No. 5

The director of DFYS should develop and implement a clear and consistent policy regarding when ROHs can be left uninvestigated.

As discussed in Background Information section, some ten years ago DFYS developed systematic guidelines to be followed in staff shortage or work overload situations. DFYS referred to this practice as "workload adjust." The guidelines, which were tied in part to the agency's workload measurement model, provided some central direction as to how work was to be prioritized in situations where workload demands precluded meeting all the agency's operating responsibilities. If the workload adjust situation continued, agency personnel were to use the workload measurement model to demonstrate the extent of the shortage in staff and as support in seeking additional resources.

Our evaluation of the escalating volume of ROHs to which the agency was unable to respond, along with various internal case reviews, concluded various offices in the State were applying the "workload adjust" guidelines in a very different manner from what was originally intended.

The guidelines intended for ROHs to be workload adjusted on a temporary basis when high caseload prevented timely investigation and review. However, rather than being a short term approach to responding to a period of high service demand, workload adjusting has become institutionalized as a standard, everyday response to increasing numbers of ROHs.

Though we recognize that Alaska Statute requires the agency to investigate all reports of harm, we are aware that there will likely be situations when the agency will find this mandate impossible to meet. In our view, it is important to have clear consistent guidelines for all child protection offices to follow. We also recommend that any such guideline be tied to a revised workload measurement model (see Recommendation No. 8) to clearly document the workload demands on staff and establish the need to prioritize between the various cases and ROHs. Additionally, a new, clear and consistent policy should be accompanied by uniform guidelines for assigning consistent priority ratings for all ROHs received. Such an integrated approach to workload adjusting and consistent priority ratings would promote better overall child safety in circumstances where demand for services exceed available staff.

Recommendation No. 6

The director of DFYS should continue efforts to develop an integrated professional development and training program in conjunction with the University of Alaska and pursue Title IV-E funding.

DFYS and UAA have signed a memorandum of agreement to develop a training program for current and potential social workers. This training will be at least two-fold in that it will provide the following:

1. A training academy designed to address core training and specialized training needs of DFYS workers.
2. A stipend program offered to DFYS employees who wish to enroll in the social worker program to obtain either their Bachelor of Social Work (BSW) or Master of Social Work (MSW). This program will require the student to commit to work for DFYS for a period of time after they obtain their BSW or MSW.

DFYS is currently pursuing dedicated federal training funds available to support the partnership. DHSS policies and procedures outline the department's commitment to ensuring staff have the knowledge and skills necessary to carry out responsibilities on a daily basis, in order to provide effective services.

An adequately funded, consistent training program is critical to child protection by providing more motivated, better-educated, and trained staff necessary to deal with the changing complexities of child protection. A well-trained and stable workforce is essential for effective functioning of child welfare programs. Undermining this infrastructure is the high rate of turnover of child welfare staff nationwide. The average duration of employment has been estimated to be less than two years.<sup>11</sup> The on-going drain of staff results in uncovered caseloads, discontinuity of service to families, and increased administrative costs.

We encourage DFYS in its efforts to seek the funding necessary to adequately train staff. We recommend DHSS continue to develop an integrated professional development and training program and pursue federal funding.

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<sup>11</sup> *Partnership for Child Welfare*, February 1998, Vol. 5, No. 5

Recommendation No. 7

The director of the Division of Family and Youth Services should ensure accurate and timely entry of child protection case information into its management information system.

Child protection data detail is accumulated on DFYS' management information system database known as Prober. Prober is a relational database which stores information about each DFYS client. The information should provide management with useful, accurate information about the families served by DFYS, and virtually eliminate the practice of labor-intensive hand tallies. Due to time constraints on the social workers, lack of adequate training, unclear definitions for various Prober fields, and purported system anomalies, some case information was found to be inaccurate or incomplete.

Areas of concern include:

1. Lack of clear definition for cases not assigned. — DFYS staff incorrectly classified screening outcomes for child protective cases that were not assigned for investigation. Incorrect classification appears to be caused by lack of clear definitions for (1) non-CPS cases; (2) cases with insufficient information; and (3) cases that are not worked due to workload adjustment. Although staff advised us of recent meetings to clarify definitions, we were unable to obtain formal clarification.
2. Inconsistent classification of siblings on reports of arm screen. — DFYS district offices inconsistently account for siblings included on reports of harm received for physical or sexual abuse. One district office enters case information into the Prober ROH screen only for the victim(s) while another district office enters information on the ROH screen for all siblings as well as for the victim(s).
3. Limited fields on Prober. — Although Prober allows for reporting both a primary and secondary type of harm, often DFYS cannot discern which harm category poses more danger to a child (in cases where two or more are present). This is further complicated when the finding on the primary and secondary categories differ. For example, the finding for the primary harm category may be substantiated, while the secondary category is unconfirmed or invalid.
4. Untimely investigation closure on Prober. — At the time of our review, Prober reported 4,500 investigations open longer than 90 days. Our analysis of these open investigations showed that:
  - Investigations were actually closed but due to untimely paperwork, cases were not closed on Prober.

- The district office thought the investigation was closed in Prober and case file documentation was stamped as being entered into Prober. This problem could be the result of inaccurate data entry problem or a problem with the update of the database.
- The case was moved into on-going services however, the investigation paperwork was never completed.

Accurate management information is critical when used to justify additional funding, to assess the need to assign a report for investigation instead of workload adjusting a report, or to provide prior history of a family moving between Alaskan regions.

DFYS management should encourage timely and accurate input and provide clear and consistent definitions to the district offices. We also recommend DFYS continue to pursue development of a Statewide Automated Child Welfare Information System (SACWIS). The SACWIS should be developed in compliance with Title IV-E of the Social Security Act and should implement recommendations set forth by the U.S. DHHS Office of Information System Management.

#### Recommendation No. 8

The director of DFYS should develop an updated, accurate, and relevant workload measurement model.

Since the mid-1980s DFYS has had in place a workload measurement model which was integrated into the agency's management information system (MIS). The model took the form of a report which summarized the caseload work for each social worker, district office, region, and for the entire agency. Cases assigned to each worker were weighted based on the number of estimated work hours necessary to provide services. Service levels were established for each assigned case based on factors that ostensibly indicated how much social work a given case required. For example, a caseworker handling a case with custody issues will likely require more resources than a case without those circumstances.

Over recent years the workload measurement reports have become progressively irrelevant to agency managers. All managers we interviewed indicated these reports provide limited value in helping manage the caseloads they supervise. The primary complaint both managers and line social workers have about the workload measurement report was that it substantially understates the number of hours involved to carry out various tasks related to a case. For example, a worker is allocated only 5.7 hours for an investigation that does not result in emergency custody and 9.2 hours when emergency custody occurs.

A second problem managers point out is the report excludes cases that were not investigated. These cases, if investigated as required by statute, would substantially increase the investigation workload and increase the on-going workload to some degree. The workload report also fails to accurately measure cases that are prematurely closed in response to workload demands.

From our observations, developed through on-site fieldwork, including four days of "job shadowing" social workers, it appears these criticisms have merit. We noted, especially in rural district offices, the commute time alone may involve more time than allotted for the entire investigation. For the tasks observed, it consistently took workers longer to accomplish the work than what was assigned for that task by the model.

Despite these recognized shortcomings, we still believe the concept and value of such a workload measurement device is important. It does provide management, particularly at the statewide level, a comprehensive way to identify and gauge the distribution of the agency's workload. When developing the budget request for new positions discussed in Recommendation Nos. 1 and 2, we were told agency management relied in large part on the information in the workload measurement reports. Further, the original concept of workload adjusting cases, as discussed in Recommendation No. 4, involved reliance on the information generated by the workload measurement model.

We encourage DFYS management to retain the workload measurement model and take measures to reevaluate and revamp how it measures caseloads. The agency should, as funding permits, conduct new time studies that would serve as a basis for assigning updated, accurate time allotments to various casework tasks. The agency should seek input from both line social workers and supervisory line management in order to assure a revised model is useful and relevant to their needs.

## AUDITOR COMMENTS

The child protection responsibilities of the Division of Family and Youth Services (DFYS) are extensive in both scope and impact. Statutorily DFYS is charged with investigating each report of harm it receives that is subject to its jurisdiction. Similar to most public protection statutes the mission of DFYS is stated in very absolutist terms. Due primarily to overall financial constraints, very few public protection agencies, including DFYS have been provided the funding necessary to meet the strict statutory standards.

DFYS, again like many other public protection agencies has to prioritize the use of its resources among the competing demands for its services. From our fieldwork and analysis of the agency's workload compared to current staffing, we have concluded more resources are needed. Particularly, additional social workers and the staff providing direct support to those positions are warranted. It is important to note, our support for 30 - 40 additional positions is not intended to fund the division to meet the absolute standard established in the statutes.

These extra positions may also prove to be needed for only the next three to five years. Clearly some past management decisions - such as carrying an excess of funded but unfilled social worker positions have contributed to the agency's backlog of work. Further, as reflected in our findings and recommendations, we believe the agency must improve its management tools. These would include an updated and relevant workload measurement model, and an improved management information system. Once these tools are available DFYS should conduct an evaluation of overall staff level, as well as the balance between line, management, and administrative staff.

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DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

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PHONE: (907) 465-3030  
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April 1, 1998

Honorable Randy Phillips  
Chairman  
Legislative Budget and Audit Committee  
State Capitol, Room 103  
Juneau, Alaska 99801

RECEIVED  
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LEGISLATIVE AUDIT

Dear Senator Phillips:

Although I received only this morning the preliminary report of the just completed special audit of the Division of Family and Youth Services (DFYS) I agreed to record a brief response to the recommendations in order to expedite release of the final report tomorrow morning. Obviously, no detailed analysis and response can be prepared in that time. However, recognizing the urgency Committee members feel I agreed to this abbreviated response time.

The audit confirms two key conclusions reached last fall by the Governor's Child Protection Review Team and in other reviews of our child protection system: 1) that additional staff are needed in DFYS to meet the agency's statutory mandate to investigate reports of child abuse and neglect and intervene to protect children; and 2) changes are needed in Alaska's laws to enable child protection to occur earlier and to speed the process of placing children in safe, permanent homes.

I understand that the decision to depart from normal audit procedures and speed the audit of DFYS was prompted by a desire to gain information that will help ensure well-informed legislative decisions on budget requests and child protection legislation currently being considered. I hope the results of this audit will prompt speedy and favorable action on these matters this session.

As you consider these issues, please keep in mind that DFYS does not work in isolation - Alaska's child protection system involves many different agencies. Improving that system - be it through additional resources or statute changes - will require focusing on more than just DFYS.

My brief response to the substance of the draft recommendations is as follows.

Recommendation No. 1

The legislature should consider authorizing and funding additional social worker positions in order for the Division of Family and Youth Services (DFYS) within the Department of Health and Social Services (DHSS) to better meet the agency's statutory mandates.

I agree with auditors that additional staff is required to meet the Department's statutory responsibilities. Last year, DFYS was unable to investigate more than 3,700 reports of harm. That inability left many children at risk. Understaffing also contributed to early case closures, an inability to meet agency casework standards, and delays in taking action required to place children in safe, permanent homes.

As auditors pointed out, the inability to investigate and intervene results in problems becoming chronic and more severe and increases the difficulty and costs of later interventions. Auditors also noted that staff increases requested in the Governor's FY 99 budget represent a conservative estimate of staffing needs and were developed based on methodology known to underestimate actual time required to perform work. I would also point out that the staffing request is far below the additional 75 social workers needed to meet best practice standards as illustrated in the attached briefing paper prepared by the Child Welfare League of America.

Recommendation No. 2

If the Legislature appropriates additional funding for child protection services for FY 99, the commissioner of DHSS should report the effects of those increases to the Legislature.

I believe it is appropriate for the Department to track, analyze, and report on the impact of any additional resources made available to address critical problems identified in Alaska's child protection system. It is important to understand, however, that any new positions authorized in FY 99 will have limited impact by the February 1, 1999 date proposed for such a report. Positions will be phased in over the year and we will not be able to implement a zero tolerance policy - responding to all reports of harm until all positions are filled. Measures of the impact of new staff in achieving desired outcomes for children will truly be meaningful only in the longer term. Similarly, the impact of prevention efforts can only truly be measured in the long term. However, with recognition of these limits, I agree a status report is appropriate.

Recommendation No. 3

The legislature should consider amending relevant child protection statutes in order to provide a basis for better and more consistent casework.

The need for substantial revision of Alaska's child protection laws is clear. I agree with auditors that our laws should be strengthened to allow earlier intervention, shorten delays in placing children in permanent homes, and comply with key elements of new federal law.

Legislation proposed by Governor Knowles is designed specifically to accomplish these needed changes. HB 375 and SB 272 address the weaknesses in our current law, focus our efforts squarely on the best interests of children, and force earlier action by both agencies and parents to resolve conditions that place children at risk or to provide them with safe, permanent alternative homes. These bills would also ensure compliance with the landmark federal Adoption and Safe Families Act of 1997. Under that law, in Alaska, approximately \$10 million in Title IV-E funding hinges upon these statutory changes aimed at improving and speeding child protection.

Recommendation No. 4

The DHSS director of administrative services should ensure Retirement Incentive Program expenditures are paid in accordance with legislative appropriations.

I believe the Department followed both the law and established precedent in liquidating our obligation to employees under the Retirement Incentive Program. It is clear that when eligible employees elect to retire under this program an obligation for the Department is established. The law does not prohibit departments from paying all RIP obligations in a single year and our actions in doing so followed established precedent. The issue of when an obligation begins is open to interpretation and the RIP program is a unique circumstance, leaving room for reasonable disagreement.

By paying full RIP costs in FY 97, we were able increase our ability to fund positions in FY 98 and 99 – avoiding forced vacancies in up to six positions in those years. We felt it would be prudent to meet our obligation early if possible and assure our ability to use future appropriations to fill positions in the following years – rather than maintaining vacancies to fund RIP costs.

Recommendation No. 5

The director of DFYS should develop and implement a consistent policy regarding when ROHs can be left uninvestigated.

I agree with auditors that there should be clear management direction establishing priorities for assigning staff resources to respond to reports of harm when there are short-term conditions that require triage measures on a limited basis. I also agree that this direction should be consistently communicated and followed statewide.

At the same time, I believe it is critical to make a distinction between establishing priorities for short-term delays in response and a systematic policy that leaves some credible reports without the needed response. A delayed response will certainly be necessary in some limited circumstances. However, a policy that systematically leaves reports without a response is unacceptable. I believe auditors agree and acknowledge this in recommending additional staff. I agree, however, that clear direction and consistency is necessary to guide staff in the inevitable circumstances when staff illness or turnover make it impossible to respond to all reports as

quickly as they should be. I also believe that revised criteria to provide guidance in establishing priorities should be developed.

Recommendation No. 6

The director of DFYS should continue efforts to develop an integrated professional development and training program in conjunction with the University of Alaska and pursuance of Title IV-E funding.

I agree entirely that establishing a comprehensive training program is essential to achieving the outcomes we desire in our child protection system. I also agree that doing so in partnership with the University of Alaska provides an opportunity to institutionalize the program, maximize the use of federal funds to support the effort, and to develop an integrated program for professional development.

Recommendation No. 7

The director of the Division of Family and Youth Services (DFYS) should ensure accurate and timely entry of child protection case information into their management information system.

Auditors emphasized the importance of accurate and timely management information and the need to address time constraints, training and definition issues which affect the information used by DFYS to manage, evaluate and plan its programs and services. I agree. We have identified these same issues and are taking actions to address them and continue to pursue development of improved technology to make the agency's management information system a more valuable tool for caseworkers, supervisors, managers, and policy makers.

Recommendation No. 8

The director of DFYS should develop a more updated, accurate, and relevant workload measurement model.

Auditors, like agency staff, noted shortcomings in DFYS workload measurement model that systematically under-report the actual workload of the agency. I agree with auditors that the system must be revised or replaced so that it provides an accurate and reliable method of measuring the agency's workload so that resources can be deployed effectively and resource needs assessed accurately.

Honorable Randy Phillips

April 1, 1998

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Despite the tight time constraints under which this audit was handled, we appreciated the flexibility and cooperation shown by the staff of the Legislative Audit Division. Likewise, we have worked hard to make ourselves – and any pertinent information – available to the auditors. Nevertheless, as I have expressed, I am concerned about the departure from normal audit processes and the fact that an audit report was planned for release essentially without time for agency analysis and response. I hope the process employed in this instance does not set a precedent for future departures from long established standard practice.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Perdue".

Karen Perdue  
Commissioner

## Alaska DHSS Division of Family and Youth Services Briefing Paper

### Introduction

The Department requested that the Child Welfare League of America's Center for Consultation and Professional Development complete an independent analysis of Alaska child welfare workload, staff levels, and related issues.

Federal and state statutes require the assessment and investigation of all reports of harm involving children, and appropriate action and services to protect them. This includes necessary family intervention and services, treatment for the children, and temporary or permanent care outside the family if required.

### I. The Responsibilities of a Child Welfare Worker

Child Welfare staff are required to work toward achievement of the following Child Welfare Client Outcomes. The worker activities listed are examples of some of the actions and services required in support of each outcome, but are not intended to be complete.

#### A. CHILD SAFETY

The worker must determine:

- Whether there is sufficient evidence of risk to warrant investigation.
- Whether the child is in imminent risk requiring protective custody.
- Whether the child can be safely cared for in the family home.
- What services or actions would be required to protect the child.
- Whether the authority and intervention of the court is required.

The worker must initiate actions and services based upon the assessment.

#### B. PERMANENT FAMILY FOR THE CHILD

The worker must:

- Determine whether the parent(s) are able to make adequate progress to ensure the child's safety in the home.
- Make needed services available to the parents.
- Find a family who will meet the child's needs.
- Determine the long-term best interest for the child.
- Regularly reassess the case plan for adequacy and progress toward goals.

### **C. CULTURAL CONTINUITY FOR THE CHILD**

**The social worker must:**

- Determine Tribal affiliation if a Native child.
- Ensure the child can remain within his own community.
- Locate relatives or alternate families who can continue important religious and cultural traditions for the child.
- Otherwise ensure that the child's cultural needs are addressed.

### **D. CHILD AND FAMILY WELL-BEING**

**The worker must:**

- Complete a comprehensive social history and assessment to determine child and family needs.
- Ensure that appropriate services are provided, including managed referrals.
- If child is in out-of-home care, ensure the placement is in proximity to the parental home to allow for regular visitation and family involvement.
- Maintain regular contact with the child and family to ensure progress on meeting child's developmental needs.

## II. The Impact of Workload Size on Child Welfare Service Delivery and Client Outcomes

CWLA National Standards for Abused and Neglected Children state that "caseloads should be maintained at reasonable levels. Any significant increase in caseload size raises the risks to children, may result in poor social work, and can lead to social worker burnout." In general, higher caseloads result in poorer quality casework which results in higher levels of risk and a lesser likelihood of permanence for children.

A 1998 study of New York State child welfare services concluded that high workload (above CWLA standards) resulted in incomplete and delayed completion of child abuse investigations, inability to regularly monitor clients, inability to provide legally-required field visits, and failure to ensure that required case plans were completed in a timely manner. In addition, the study concluded that caseworkers under these conditions are at risk of burn-out and of engaging in sub-standard child welfare practices. But most importantly, children's safety and well-being are subsequently at risk as a result of caseworker's high caseloads.

A child welfare case record review in Indiana (1991) showed serious endangerment of children resulting in their re-entry into foster care, due to high worker and supervisor caseloads and frequent staff turnover.

The Katz Study (1990), completed in Washington and Idaho, showed that timely case resolution and permanency for children occurred when caseloads were reduced to no more than 10 children per worker.

The Institute for Family Self-Sufficiency (1994) published a review of studies related to caseload standards in human services. Conclusions from those studies are:

- That there is a direct relationship between the amount of caseworker contact with clients, and the degree of success the clients had in reaching expected outcomes.
- That excessive caseloads adversely affect front-line workers' interactions with clients; that they tend to become more reactive and less proactive, and spend a higher proportion of their time documenting client activities at the expense of client contact.
- That with higher caseloads, staff tend to "cut corners, ignore problems, nominally comply with responsibilities, and in some cases, provide no services at all to clients."

There can be no question that workloads in excess of the CWLA standards create inefficiency in meeting the Department's legal mandates, result in unacceptable delays in addressing the needs of children and families, and place children at substantially greater risk of harm.

### III. Child Welfare Workloads: A National Perspective

#### CWLA National Standards

The Child Welfare League of America's caseload standards, presented in its National Standards for Child Welfare (1993), consist of recommended ratios of clients to direct service staff based on the field consensus of what constitutes best practice. Development of these standards is based on an examination of current practices and their underlying assumptions, a survey of professional literature and standards developed by others, study of the most recent scientific findings of social work and related fields, and a review by a committee of experts in each service area.

CWLA caseload standards listed in the table below apply to three broad areas of child welfare services.

| Child Welfare Service:       | CWLA Caseload Standard:         |
|------------------------------|---------------------------------|
| Intake/Investigation         | 12 new investigations per month |
| In-Home Services             | 17 families                     |
| Children in Out-of-Home Care | 12-15 children                  |

When the standards are individualized to a particular office, county or state, they are adjusted by a number of factors that impact a caseworker's actual workload. These factors include variables such as the caseworker's actual assigned functions, the size of the geographic area covered and the availability of foster homes, parent aides and other resources.

#### A National Look at Child Welfare Caseloads

Direct comparisons of state caseloads may be misleading because job descriptions and other factors vary widely from state to state. As mentioned above, a more accurate comparison would be based on actual workloads, but such statistics are not available nationwide.

In comparing average 1995 caseload sizes in 15 states, CWLA found that the median state caseload size was 29% to 35% above the CWLA caseload standard. In some state and county child welfare systems studied by CWLA, the average caseload size was 50% to 75% higher than the CWLA caseload standard.

#### IV. Alaska Child Welfare Caseloads

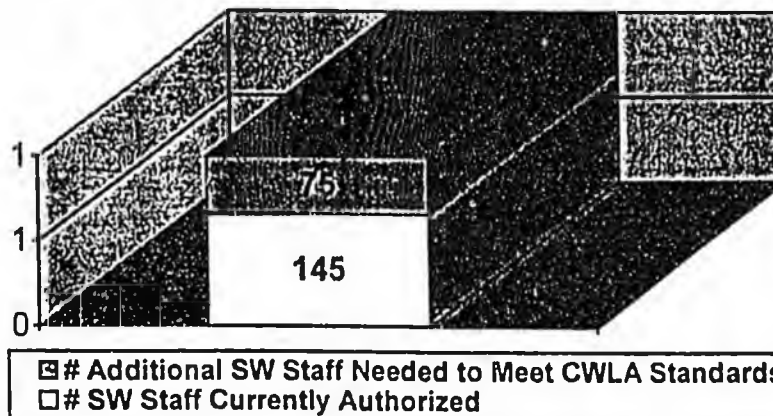
##### Current Caseload Data

Since many Alaska DFYS social workers provide two or three Child Welfare services, a statewide analysis of caseload can only be accomplished through examining aggregate statewide data. By applying CWLA caseload standards for each child welfare service to the total number of cases of that type statewide, we arrived at the number of social workers needed statewide to meet CWLA standards for each child welfare service. As shown in the table below, these numbers were added to determine that 210 social workers are needed statewide to meet CWLA standards for all child welfare services.

| <b>Application of CWLA Caseload Standards to Statewide Alaska DFYS Child Welfare Caseloads in January, 1998</b> |  |  |
|---|--|--|
|   | <i># of Cases Statewide in January, 1998</i> | <i>Estimated # of SW's Needed Statewide to Meet CWLA Standards</i> |
| <i>Child Welfare Services:</i>  |  |  |
| Intake/Investigation:<br>Currently Investigated   | # New Investigations<br>711                  | Divided by 12<br>59.3  |
| Intake/Investigation:<br>Currently "Workload Adjusted"  | # Reports of Harm<br>242                     | Divided by 12<br>20.2  |
| In-Home Services  | # Family Cases<br>510                        | Divided by 17<br>30  |
| Out-of Home Care Services   | # Child Cases<br>1507                        | Divided by 15<br>100.5   |
| Estimated Total # of SW's Needed Statewide to Meet CWLA Standards for All Child Welfare Services                |  | <b>210</b>   |

Since 145 social worker positions are currently authorized statewide, an estimated 52% increase for a total of 75 additional positions is needed to meet CWLA caseload standards, as shown in the following chart.

**Alaska DFYS Needs an Estimated Total of 210 Social Work Staff Statewide to Meet CWLA Caseload Standards**



However, the workload standard must be adjusted by factors unique to the environment in which the work is being done. These factors include:

- The specific assigned functions and time requirements for each task.
- The individual competencies of each social worker, including both skills and experience.
- **The extent of the geographic area served and the availability of transportation.**
- The amount of time a social worker is expected to spend on community activities.
- **The availability of foster homes, in-home parent aides and other services.**
- The intensity of service an agency and the community consider appropriate.
- The number of other agencies or services involved in a family situation.
- The amount of time allocated to a social worker for agency activities such as staff meetings, staff and professional development, and administrative functions.

The need for 75 additional positions is actually a conservative estimate, since Alaska caseload standards should be smaller due to the large geographic areas covered by social workers in many rural areas, the transportation challenges, and the inadequate numbers of foster homes, parent aides and other resources.

That is, higher numbers of social work staff will be required to directly provide services which are not otherwise available in communities.

The problem is further exacerbated if a significant number of authorized positions are unfilled.

#### **The Impact on Alaska Child Welfare Service Delivery and on Client Outcomes:**

- "Workload adjust" resulted from dramatic increases in the numbers of Reports of Harm without the comparable increases in staff required to respond.
- High caseload size likely contributes to the fact that Alaska in 1995 had the highest rate in the country of removal of children from their family homes. (CWLA Stat Book, 1997).
- It is virtually certain that high workload is a significant factor in child deaths and other serious incidents involving children who are known to the department.
- It is virtually certain that the findings and concerns identified in recent studies of Alaska child welfare cases are at least partially the result of unreasonable staff workloads.

#### **V. Recommendations**

1. Fill all currently authorized child welfare positions.
2. Authorize a minimum of 75 more child welfare social work staff.
3. Or, as an alternative, authorize a combination of additional social work staff, together with contracts with community-based organizations for response to lower risk reports of harm, for an added total capacity equivalent to at least 75 additional staff.
4. Authorize the accompanying support staff required of at least 75 additional social workers: supervisors, clerical support, and social services assistants.
5. Complete an updated workload accounting study to determine the actual time required for social workers to perform key functions in the Alaska environment. It appears that the measures developed in the original Alaska workload accounting method some years ago under-represent

what these tasks require today. This would be consistent with generally accepted professional experience that current child welfare cases are more complicated, the investigative techniques and requirements more sophisticated, and the documentation requirements more stringent. A new study on time required to investigate reports of harm not involving placement, and involving placement, would verify whether these time allocations of workload accounting should be increased.

6. Examine the range of caseload sizes between offices, and put in place staff allocation methods that allow administrators to adjust staffing to result in workload equity.
7. Analyze staff recruitment, hiring and retention practices, including the importance of staff development and support.
8. Explore models for improved response:
  - Pilot a triple-tracking system for CPS intake and assessment. In a triple-track system, the child protection agency coordinates with law enforcement to investigate the most heinous child abuse reports, those that appear to involve criminal conduct that should be prosecuted. The child protection agency (without law enforcement) handles reports of serious, but non-criminal, child abuse and neglect. And community-based organizations respond to reports that do not involve clear abuse; these would be reports of general neglect or of concern regarding child nurturance.
  - Explore the use of paraprofessionals
9. Develop plan to end workload adjusting practice through the implementation of the above recommendations.
10. Re-examine and modify workload adjust criteria until which time the practice can be discontinued.
11. Examine the entire child welfare system to develop strategies to improve policies, casework decision-making, staff training, resource availability, quality assurance and other factors that also significantly impact client outcomes.

## VI. References

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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



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April 1, 1998

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the department's response addressed to Senator Phillips. In response to Recommendation No. 4, where we take exception with how the department utilized personal services authorizations to pay for retirement incentive program (RIP) for multiple years, the agency responded:

*"...the Department followed both the law and established precedent in liquidating our obligation to employees under the Retirement Incentive Program. It is clear that when eligible employees elect to retire under this program an obligation for the Department is established. The law does not prohibit departments from paying all RIP obligations in a single year and our actions in doing so followed established precedent."*

While we acknowledge the legislation which established the current RIP did not expressly prohibit the payment of participating employer costs out of a single year's appropriation, at the same time it specifically did not provide any allowance for participating agencies to do so. Absent such specific statutory provision, our view remains as it was stated in the report – an agency's operating appropriation, established based on a projected year's worth of activity, should only be used to fund the operations of the current operating cycle.

Sincerely,

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA  
Legislative Auditor