

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						
TOTAL OPERATING	151.2	151.2	151.2	107.6	107.6	107.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	151.2	151.2	151.2	107.6	107.6	107.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	151.2	151.2	151.2	107.6	107.6	107.6

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

Positions

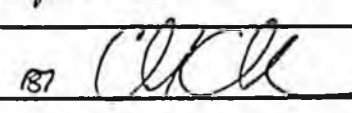
Full-Time	3	3	3	3	3	3
Part-Time	2	2	2			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, General Counsel 
 Agency: Alaska Court System

Phone: 264-8228
 Date: 04/06/98

Approved by: Stephanie J. Cole, Administrative Director 
 Agency: Alaska Court System

Date: 04/06/98

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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>		
	Operating Budget	Fiscal Note	<i>FY 98 Supple- mental*</i> <i>(Duplicates funding in operating & budget & FN request)</i>
Personal Services			
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 & master)</i>	40,600		24,700
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge & master)</i>	20,300	20,300	
In-Court Clerk, Fairbanks, 12A, PFT, 12 months <i>(support to judge & 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	
Total Personal Services	374,000	141,200	79,000
Travel		5,000	5,000
Supplies		5,000	
Equipment	12,600		
	\$ 386,600	\$ 151,200	\$ 84,000

* 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

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5/2/98

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 272(HES)

1 Page 2, line 4:

2 Delete "the"

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

4 Page 56, following line 23:

5 Insert new bill sections to read:

6 **** Sec. 70. COURT RULE CHANGE.** (a) AS 47.10.030(b) and 47.10.070(a), as
7 amended by secs. 25 and 27 of this Act, have the effect of amending Rules 3, 7, 10, 15, and
8 19, Alaska Child in Need of Aid Rules, by requiring foster parents and other specified
9 persons to have notice and allowing them an opportunity to be heard in child-in-need-of-aid
10 proceedings.

11 (b) Sections 25 and 27 of this Act take effect only if this section receives the two-
12 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
13 Alaska.

14 *** Sec. 71. COURT RULE CHANGE.** (a) AS 47.10.080(a), as amended by sec. 28 of this
15 Act, has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing
16 a timeframe for an adjudication hearing under AS 47.10.

17 (b) Section 28 of this Act takes effect only if this section receives the two-thirds
18 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

19 *** Sec. 72. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 29 of
20 this Act, has the effect of amending

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

23 (2) Rule 18(e), Alaska Child in Need of Aid Rules, by requiring the
24 Department of Health and Social Services to report quarterly, instead of annually, on its

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1 efforts to find a permanent placement for a child.

2 (b) The amendments made to AS 47.10.080(c)(3) by sec. 29 of this Act that change
3 the burden of proof for termination of parental rights and require quarterly reports take effect
4 only if this section receives the two-thirds majority vote of each house required by art. IV,
5 sec. 15, Constitution of the State of Alaska.

6 * **Sec. 73. COURT RULE CHANGE.** (a) To the extent that AS 47.10.080(c)(1) and (2)
7 are amended by sec. 29 of this Act to allow a child's guardian ad litem to petition for an
8 extension of the child's commitment or supervision, those provisions amend Rule 19(e),
9 Alaska Child in Need of Aid Rules, relating to petitions for extensions of commitment or
10 supervision of a child.

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

14 Renumber the following bill sections accordingly.

15 Page 56, line 30, through page 57, line 5:

16 Delete all material and insert:

17 ** **Sec. 75. COURT RULE CHANGE.** (a) AS 47.10.080(f), as amended by sec. 30 of
18 this Act, and AS 47.10.080(l), as amended by sec. 32 of this Act, have the effect of amending
19 Rule 19, Alaska Child in Need of Aid Rules, regarding reviews and hearings by the court in
20 child-in-need-of-aid proceedings.

21 (b) Sections 30 and 32 of this Act take effect only if this section receives the two-
22 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
23 Alaska.

24 * **Sec. 76. COURT RULE CHANGE.** (a) AS 47.10.086, as enacted in sec. 37 of this
25 Act, has the effect of amending

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

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

30 (b) AS 47.10.086, as enacted in sec. 37 of this Act, takes effect only if this section

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

3 * Sec. 77. COURT RULE CHANGE. (a) AS 47.10.088(j) and (k), as enacted in sec. 37
4 of this Act, have the effect of amending Rule 18, Alaska Child in Need of Aid Rules, by
5 requiring the court to

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

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

10 (b) AS 47.10.088(j) and (k), as enacted in sec. 37 of this Act, take effect only if this
11 section receives the two-thirds majority vote of each house required by art. IV, sec. 15,
12 Constitution of the State of Alaska.

13 * Sec. 78. COURT RULE CHANGE. (a) AS 47.10.092(a), as amended by sec. 38 of this
14 Act, amends Rule 22, Alaska Child in Need of Aid Rules, regarding disclosure of confidential
15 information pertaining to child-in-need-of-aid proceedings.

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

18 Renumber the following bill sections accordingly.

Child Protection Bill Comparison CSHB 272 (HES)

Statute	Governor's HB 375/SB 272	Statute	CS for SB 272
AS 11.41.100 (a) (2)	Murder One when 2 violent acts toward a child result in death	AS 11.41.100 (a) (2)	Deleted. In SB 218
AS 11.41.100 (a) (3)	Murder One when child dies during sex crime or kidnapping	AS 11.41.100 (a) (3)	Deleted. In SB 218
AS 11.41.110 (a) (5)	Murder Two when child dies and offender has a prior conviction for a violent crime against a child	AS 11.110 (a) (5)	Deleted. In SB 218
AS 11.41.130 (b)	Criminally Negligent Homicide is a B felony, rather than a C felony.	AS 11.41.130 (a)	Deleted per single subject rule. Same change in SB 218.
AS 11.41.300 (a)(1)(F)	Kidnapping includes restraint with sexual abuse of a minor or fear of sexual abuse.	AS 11.41.300 (a)(1)(F)	No change.
AS 11.41.300(d)	Kidnapping mitigated by release of victim without committing sexual assault or sexual abuse in first or second degree.	AS 11.41.300 (d)	No change.
AS 11.41.458	Creates felony indecent exposure for sex act in presence of a child	AS 11.41.458	Deleted. In SB 323.
AS 11.41.460	Misdemeanor indecent exposure amended to knowing exposure, rather than intentional exposure.	AS 11.41.460	Deleted. In SB 323.

**Child Protection Bill Comparison
CSHB 272 (HES)**

Statute	Governor's HB 375/SB 272	Statute	CS for SB 272
AS 11.51.100	Endangering the Welfare of a Child expanded to leaving children with persons known to be dangerous to children.	AS 11.51.100	Amended to apply to children younger than 16 years.
AS 11.51.110	Creates a violation for Endangering: caring for child under 6 while possessing drugs, incapacitated or unattended child.	AS 11.51.110	Amended to victims under age 10; children in places where drugs are kept; impaired caretaker has babysitter defense.
AS 11.51.115	Felony criminal nonsupport for: hiding assets and accumulating a \$10,000 debt.	AS 11.51.115	Deleted. Amendment possible in HB 344.
AS 11.51.120	Misdemeanor criminal nonsupport for failure to pay when ordered by an administrative agency or court.	AS 11.51.120	Deleted. Amendment possible in HB 344.
		AS 12.55.025(i)	Amends reference to AS 12.55.125(k) which adds (1) and maintains (2)
AS 12.55.125 (c)(2) (B)	Manslaughter minimum raised from 5 to 7 years when the victim is a child	AS 12.55.125 (c)(2)(B)	Deleted. In SB 218
AS 12.55.125 (k)	Can aggravate sentence for crim neg homicide when the victim is a child	AS 12.55.125 (k)	Deleted. In SB 218
		AS 12.55.155(c)(2)	Amendment to drug sentencing statutes aggravating sentence when offender was caring for a child.

**Child Protection Bill Comparison
CSHB 272 (HES)**

Statute	Governor's HB 375/SB 272	Statute	CS for SB 272
		AS 12.55.155(e)	Amends reference to AS 12.55.125(c)(2)(A).
AS 12.63.010 (a) and (b)	Tightens sex offender registration.	AS 12.63.010 (a) and (b)	Deleted per single subject rule. Same amendment in HB 252.
AS 12.65.005(a)-12.65.140	Creates child fatality review team in statute.	AS 12.65.005(a)-12.65.140	No change.
AS 14.20.020 (f); 14.20.030 (b)	No teaching certificates for sex offenders.	AS 14.20.020 (f) ; 14.20.030 (b)	Deleted. In SB 323.
AS 18.65.087 (a)	Allows DOC to register sex offenders.	AS 18.65.087 (a)	Deleted per single subject rule. Same amendment in HB 252.
AS 22.15.100	Changes "minor" to "child" to clarify CINA rather than JD status	AS 22.15.100	No change.
		AS 25.20.061-25.24.150(c)	Presumptions in custody/divorce cases added to original.
AS 33.30.012 (a)	Allows DOC to register sex offender prior to release and forward info to DPS.	AS 33.30.012 (a)	Deleted per single subject rule. Same amendment in HB 252.

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

Child Protection Bill Comparison
CSHB 272 (HES)

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

**Child Protection Bill Comparison
CSHB 272 (HES)**

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

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1998

272

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

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
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- 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

FISCAL NOTE

Bill Version: SB272
 (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						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

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)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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

Continued on next page ...

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

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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.

A M E N D M E N T

OFFERED IN THE SENATE

BY: _____

TO: CSSB 272(HES)

1 Page 2, line 4:

2 Delete "the"

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

4 Page 56, following line 23:

5 Insert new bill sections to read:

6 **"* Sec. 70. COURT RULE CHANGE.** (a) AS 47.10.030(b) and 47.10.070(a), as amended by
7 secs. 25 and 27 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska Child in
8 Need of Aid Rules, by requiring foster parents and other specified persons to have notice and
9 allowing them an opportunity to be heard in child-in-need-of-aid proceedings.

10 (b) Sections 25 and 27 of this Act take effect only if this section receives the two-thirds
11 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

12 *** Sec. 71. COURT RULE CHANGE.** (a) AS 47.10.080(a), as amended in sec. 28 of this Act,
13 has the effect of amending Rule 15, Alaska Child in Need of Aid Rules, by establishing a timeframe
14 for an adjudication hearing under AS 47.10.

15 (b) Section 28 of this Act takes effect only if this section receives the two-thirds majority
16 vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 *** Sec. 72. COURT RULE CHANGE.** (a) AS 47.10.080(c)(3), as amended by sec. 29 of this Act,

1 has the effect of amending

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

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

7 (b) The amendments made to AS 47.10.080(c)(3) by sec. 29 of this Act that change the
8 burden of proof for termination of parental rights and require quarterly reports take effect only if this
9 section receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
10 of the State of Alaska.

11 * Sec. 73. COURT RULE CHANGE. (a) To the extent that AS 47.10.080(c)(1) and (2) are
12 amended by sec. 29 of this Act to allow a child's guardian ad litem to petition for an extension of the
13 child's commitment or supervision, those provisions amend Rule 19(e), Alaska Child in Need of Aid
14 Rules, relating to petitions for extensions of commitment or supervision of a child.

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

18 Renumber the following bill sections accordingly.

19 Page 56, line 30, through page 57, line 5:

20 Delete all material.

1 Insert new bill sections to read:

2 **** Sec. 75. COURT RULE CHANGE.** (a) AS 47.10.080(f), as amended by sec. 30 of this Act,
3 and AS 47.10.080(l), as amended by sec. 32 of this Act, have the effect of amending Rule 19, Alaska
4 Child in Need of Aid Rules, regarding reviews and hearings by the court in child-in-need-of-aid
5 proceedings.

6 (b) Sections 30 and 32 of this Act take effect only if this section receives the two-thirds
7 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

8 *** Sec. 76. COURT RULE CHANGE.** (a) AS 47.10.086, enacted in sec. 37 of this Act, has the
9 effect of amending

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

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

13 (b) AS 47.10.086, enacted in sec. 37 of this Act, takes effect only if this section receives the
14 two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
15 Alaska.

16 *** Sec. 77. COURT RULE CHANGE.** (a) AS 47.10.088(j) and (k), enacted in sec. 37 of this Act,
17 have the effect of changing Rule 18, Alaska Child in Need of Aid Rules, by requiring the court

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

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

22 (b) AS 47.10.088(j) and (k), enacted in sec. 37 of this Act, take effect only if this section

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

3 * **Sec. 78. COURT RULE CHANGE.** (a) AS 47.10.092(a), as amended by sec. 38 of this Act,
4 amends Rule 22, Alaska Child in Need of Aid Rules, regarding disclosure of confidential
5 information pertaining to child-in-need-of-aid proceedings.

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

8 Renumber the following bill sections accordingly.

AMENDMENT

OFFERED IN THE SENATE

BY _____

TO: CSSB 272(HES)

1 Page 57, lines 6 - 9:

2 Delete all material and insert:

3 **"* Sec. 72. APPLICABILITY; CONSIDERATION OF EVIDENCE.** (a) Sections 3 - 7 of this Act
4 apply to offenses committed on or after the effective date of this Act.

5 (b) Sections 38 and 64 of this Act apply to conduct, an activity, or an action taken under
6 AS 47.10, 47.12, 47.17, and 47.35 regardless of whether the conduct, activity, or action occurred
7 before, on, or after the effective date of this Act.

8 (c) Except as provided in (a) and (b) of this section, this Act applies to

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

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

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

15 (d) The provisions of (c) of this section do not preclude consideration of evidence of conduct
16 or omission of any person that brings the child under the jurisdiction of AS 47.10 or 47.12."

(Non) Sponsor Statement for SB 272/HB 375

by Representative Fred Dyson

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

A. This bill does not...

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

B. What will happen if we pass this bill?

- We will have taken a very large step forward in protecting children.
- The goal is to provide direction to social workers that is as specific and clear as possible. Clear standards will help social workers make the right decisions.

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 troubled the courts and produced inconsistent protection of children.
- Provides for criminal checks for prospective caregivers.

SB 272 / HB 375 Overview (modified)

- ***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.
- ***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 physical or mental 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.

SB 272 / HB 375 Overview (modified)

- *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.

CSHB 375 "B" (SHES)	CSHB 375 "E" (wkdrft)	HB 375 "A" (Gov)	Subject	Statutes
1	1	1	Intent & Policy	
2	2	2	ANCSA Dividends	AS 10.06.961(a)
deleted/SB218	3	3	Murder One	AS 11.41.100(a)
deleted/SB218	4	4	Murder Two	AS 11.41.110(a)
5	5	6	Kidnapping	AS 11.41.300(a)
6	6	7	Kidnapping	AS 11.41.300(d)
deleted/SB323	7	8	Indecent Exposure One	AS 11.41.458
deleted/SB323	8	9	Indecent Exposure Two	AS 11.41.460
9	9	10	Endangering Welfare One	AS 11.51.100
10	10	11	Endangering Welfare Two	AS 11.51.110
deleted/SB218	11	none		AS 12.55.025(i)
deleted/SB218	12	13		AS 12.55.125(c)
deleted/SB218	13	14	Penalties for Crimes	AS 12.55.125(k)
14	14	none	Sentencing Factors	AS 12.55.155(c)(23)
deleted/SB218	15	none	Presumptive Term	AS 12.55.155(e)
16	16	17	Death Reporting	AS 12.65.005(a)
17	17	18	Fatality Team	AS 12.65.015
18	18	19	Records/Duties/ Confidentiality (Immunity)	AS 12.65.000
deleted/SB323	19	20	Teacher Certif. Revoked	AS 14.20.020(f)
deleted/SB323	20	21	Teacher Certif. Revoked	AS 14.20.030(b)
21	21	23	Functions/Powers District Judges/Magistrate	AS 22.15.100
22	22	none	Rebuttable Presumption	AS 25.20.061
23	23	none	Temp. Custody-DV Rlat'n	AS 25.20.070
24	24	none	Custody Rlat'd to Sec. 21	AS 25.20.090
25	25	none	Termination	AS 25.23.180(c)
26	26	none	Custody Rlat'd to Sec. 21	AS 25.24.150(c)
27	27	none	PFD Rlat'd to Sec. 21	AS 43.23.065(b)
28	28	1	Findings	AS 47.09.065
29	29	25	Adoption Compact	AS 47.05.090
30	30	26	Construction	AS 47.10.005
31	31	27	Jurisdiction	AS 47.10.010
32	32	28	Children in Need of Aid	AS 47.10.011
33	33	29		AS 47.10.020
34	34	30		AS 47.10.020(b)
35	35	none	Proceeding Notice	AS 47.10.030(b)
36	36	31		AS 47.10.050(a)
37	37	none	Foster Parents / Others Testify	AS 47.10.070(a)
38	38	33	Adjudication Hearing 120 days after probable cause	AS 47.10.080(a)

CSHB 375 "B" (SHES)	CSHB 375 "E" (wkdrft)	HB 375 "A" (Gov)	Subject	Statutes
39	39	34	Commitment	AS 47.10.080(c)
40	40	35		AS 47.10.080(f)
41	41	36	Appeal CINA	AS 47.10.080(i)
42	42	37	Permanency Hearing	AS 47.10.080(l)
43	43	38	CINA if Incarcerated	AS 47.10.080(o)
44	44	none	Visitation	AS 47.10.080
45	45	39	Best Interests of the Child	AS 47.10.082
46	46			
47	47	40	Reasonable Efforts / Termination	AS 47.10
48	48	41	Confidential / Privileged Information	AS 47.10.092(a)
49	49	42	Information Disclosure	AS 47.10.093(b)
50	50	43		AS 47.10.141(f)
51	51	none	Habitually Absent	AS 47.10.141(g)
52	52	45	Emergency Custody	AS 47.10.142(a)
53	53	46	Custdy of Child Runaway	AS 47.10.142(c)
54	54	none	Plan Review	AS 47.10.142(h)
55	55	53	Duty of Care	AS 47.10.960
56	56	47	Definition- Care	AS 47.10.990(1)
57	57	none	Definition-CINA	AS 47.10.990(2)
58	58	48	Definitions	AS 47.10.990
59	59	49	Information Disclosure	AS 47.12.310(b)
60	60	none	Foster Home Arrangements	AS 47.14.100(a)
61	61	none	Foster Care-DFYS	AS 47.14.100(d)
62	62	none	Foster Care-Relatives	AS 47.14.100(e)
63	63	none	Out of Home Care	AS 47.14.100
64	64	none	Review Panel-Review	AS 47.14.240(d)
65	65	none	Review Panel-Court	AS 47.14.240(h)
66	66	52	Multidisciplinary Child Protection Team	AS 47.14.300
67	67	54	Definition-CINA	AS 47.14.990(2)
68	68	55	Report of Harm	AS 47.17.020(a)
69	69	none	Reporting Requirements	AS 47.17.020
70	70	none		AS 47.17.030(d)
71	71	56	Investigation	AS 47.17.033
72	72	none	DV Appropriate Steps	AS 47.17.035(b)
73	73	57	Maltreatment	AS 47.17.290-8
74	74	58	Application Requirements	AS 47.35.017(b)
75	75	59	Foster Care Placement	AS 47.35.022
76	76	60	Placement / Emergency	AS 47.35.023(b)

CSHB 375 "B" (SHES)	CSHB 375 "E" (wkdrft)	HB 375 "A" (Gov)	Subject	Statutes
77	77	61	Notification	AS 47.35.047(b)
78	78	62	Definitions	AS 47.35.900
79	79	63	Repealed Statutes	AS 47.10.080(k) AS 47.10.990(7)
80-83	80-83	64-80	Court Rule Amendments Effective Date	various