

HB

259

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 11, 2000

FURTHER REFERRALS:

Date of Committee Action: 2/25/00

The FINANCE Committee considered:

HB 259

HOUSE BILL NO. 259

PUBLIC DEFENDER CHILDREN'S PROCEEDINGS

"An Act relating to a parent's eligibility to be represented by the public defender before and during the probable cause and temporary placement hearing that is held after the state takes emergency custody of a child."

recommends it be replaced

with the following committee substitute CS HB 259 (FIN)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) Doc

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Gene Theriault</u> Theriault	X			
<u>Gordon Wood</u> Mulder	X			
<u>Cor Bunde</u> Bunde			✓	
<u>Alan Guste</u> Austerman			✓	
<u>Ben Sussendor</u> Sussendor	X			
<u>Alfred Moses</u> Moses			✓	
<u>Alvin Davis</u> Davis			✓	
<u>William Williams</u> Williams			✓	
<u>Phil Phillips</u> Phillips			✓	

CHAIR'S SIGNATURE

Gene Theriault Gordon Wood

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 259(STA)

2000 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to a parent's eligibility to be represented by the public defender...."
 Sponsor: Representative Coghill
 Requestor: (H) FIN

Department Affected: Administration
 BRU: Legal and Advocacy Services
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 2000) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

Prepared by: Barbara Brink, Director
 Division: Public Defender Agency

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Robert Poe Jr.
 Agency: Department of Administration

Date: 2/18/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 259(STA)

ANALYSIS: (continued)

This bill would allow the Public Defender Agency to represent parents whose children have been taken into emergency custody by state social workers without the parents first having to go through a formal indigent screening process and appointment by the court.

The Public Defender Agency does not anticipate any fiscal impact from the legislation. We have to do the same amount of work in these cases anyway. If we can get started a little earlier, so much the better.

However, in predicting the lack of any fiscal impact, we are making the following assumptions. First, we assume that we will not be representing non-indigent people. Our lawyers can ask a few questions and get a pretty clear idea of whether someone is indigent or not. If people are able to hire their own lawyers, we can refer them to private attorneys. Therefore, we should not be getting additional clients—just people we would be representing anyway.

Second, we assume the words “may be represented” give us leeway as to whom we represent and the scope of the representation in these initial phases. We must be able to turn down requests for this type of immediate representation if we have a conflict of interest or for other legitimate reasons. In addition to conflicts of interest, we have to be careful that the Public Defender Agency takes the most serious case. For example, if a mother calls saying her children have been taken because her husband is accused of sexual abuse, we should make sure that we end up representing the husband, not her. The husband may end up being a defendant in an expensive criminal case. If we can represent him in both the Child in Need of Aid and criminal cases, we can save the expense of having another lawyer appointed through the Office of Public Advocacy in the criminal case. Finally, we have limited resources and cannot promise an immediate response in every case. If all our lawyers are in court hearings, we may have to delay taking intake calls and interviews.

1-LS1099\H
Lauterbach
2/24/00

Rq Coghill

CS FOR HOUSE BILL NO. 259()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES COGHILL, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to eligibility to be represented by the public defender before
2 and during the probable cause and temporary placement hearing that is held after
3 the state takes emergency custody of a child."

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

5 * **Section 1.** AS 18.85.100 is amended by adding a new subsection to read:

6 (e) Subject to other provisions of this subsection, a person who is the natural
7 parent, adoptive parent, or guardian of a child who is taken into emergency custody
8 of the state under AS 47.10.142 may be represented at public expense and without a
9 court order by an attorney employed by the Public Defender Agency in connection
10 with the hearing held under AS 47.10.142(d). Representation in connection with the
11 hearing may include investigation and other preparation before the hearing is held as
12 well as representation at the hearing. Continued representation of the person by the
13 Public Defender Agency after the hearing is held under AS 47.10.142(d) is contingent
14 on satisfaction of the eligibility requirements of (a) - (d) of this section, the issuance

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of an appropriate court order, and compliance with the applicable laws and court rules relating to court-appointed counsel employed at the public's expense. If a person who was represented by the Public Defender Agency at public expense without a court order in connection with a hearing held under AS 47.10.142(d) is not later determined to be eligible for court-appointed counsel at public expense under applicable laws and court rules, the court shall assess against the represented person the cost to the Public Defender Agency of providing the representation. In this subsection, "guardian" means a natural person who is legally appointed guardian of the person of a child.

* Sec. 2. AS 18.85.120(d) is amended to read:

(d) Except as provided in AS 18.85.100(e), as [AS] a condition of receiving services under this chapter, a person shall affirm indigency under oath to the court and execute a general waiver authorizing the release to the court of income information regarding any income source the person has had for a period of three years immediately preceding the person's first court appearance in connection with each cause. At the conclusion of all services by the public defender to the person, the court shall upon request release to the attorney general all information received under this subsection except information that might incriminate or tend to incriminate the person.