

HB

409

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 409(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES DYSON, Kookesh

A BILL

FOR AN ACT ENTITLED

1 "An Act prescribing the rights of grandparents related to hearings on petitions
2 to adjudicate a minor as a child in need of aid; and amending Rules 3, 7, 10,
3 15, and 19, Alaska Child in Need of Aid Rules."

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

5 * Section 1. AS 47.10.030(b) is amended to read:

6 (b) In all cases under this chapter, the child, each parent, the tribe, foster
7 parent or other out-of-home care provider, guardian, and guardian ad litem of the child
8 and, subject to (d) of this section, each grandparent of the child shall be given
9 notice adequate to give actual notice of the proceedings and the possibility of
10 termination of parental rights and responsibilities, taking into account education and
11 language differences that are known or reasonably ascertainable by the petitioner or
12 the department. The notice of the hearing must contain all names by which the child
13 has been identified. Notice shall be given in the manner appropriate under rules of
14 civil procedure for the service of process in a civil action under Alaska law or in any

1 manner the court by order directs. Proof of the giving of the notice shall be filed with
2 the court before the petition is heard. The court may also subpoena the parent of the
3 child, or any other person whose testimony may be necessary at the hearing. A
4 subpoena or other process may be served by a person authorized by law to make the
5 service, and, where personal service cannot be made, the court may direct that service
6 of process be in a manner appropriate under rules of civil procedure for the service of
7 process in a civil action under Alaska law or in any manner the court directs.

8 * Sec. 2. AS 47.10.030 is amended by adding a new subsection to read:

9 (d) The first notice that shall be given to a grandparent under (b) of this
10 section must be for the first hearing that occurs in a child's case, except that if the first
11 hearing is conducted under AS 47.10.142(d), then the first notice that shall be given
12 to a grandparent under (b) of this section must be for the first hearing that occurs after
13 the hearing held under AS 47.10.142(d). Except for the first notice that is provided
14 to a grandparent, a notice of any other proceeding in the same case shall be provided
15 to a grandparent of the child only if the grandparent has requested in writing that the
16 department give notice of further proceedings in the case to the grandparent. A notice
17 provided under this subsection must, in accordance with (b) of this section, be
18 adequate to give actual notice of the proceedings.

19 * Sec. 3. AS 47.10.070(a) is amended to read:

20 (a) The court may conduct the hearing on the petition in an informal manner.
21 The court shall give notice of the hearing to the department, and it may send a
22 representative to the hearing. The court shall also transmit a copy of the petition to
23 the department. The department shall send notice of the hearing to the persons for
24 whom notice is required under AS 47.10.030(b) and to each grandparent of the child
25 who has requested notice under AS 47.10.030(d). The department and the persons
26 to whom the department must send notice of the hearing are entitled to be heard at the
27 hearing. However, the court may limit the presence of the foster parent or other out-
28 of-home care provider and of any grandparent of the child to the time during which
29 the person's testimony is being given if it is (1) in the best interest of the child; or (2)
30 necessary to protect the privacy interests of the parties and will not be detrimental to
31 the child. The public shall be excluded from the hearing, but the court, in its

1 discretion, may permit individuals to attend a hearing if their attendance is compatible
2 with the best interests of the child.

3 * Sec. 4. AS 47.10.080(f) is amended to read:

4 (f) A child found to be a child in need of aid is a ward of the state while
5 committed to the department or the department has the power to supervise the child's
6 actions. For an order made under (c)(1) of this section, the court shall hold a
7 permanency hearing as required by (l) of this section and at least annually thereafter
8 during the continuation of foster care to determine if continued placement, as it is
9 being provided, is in the best interest of the child. The department, the child, and the
10 child's parents, guardian, and guardian ad litem are entitled, when good cause is
11 shown, to a permanency hearing on application. If the application is granted, the court
12 shall afford these persons and their counsel reasonable advance notice and hold a
13 permanency hearing where these persons and their counsel shall be afforded an
14 opportunity to be heard. The persons entitled to notice under AS 47.10.030(b) and the
15 grandparents of the child who have requested notice under AS 47.10.030(d) are
16 entitled to notice of a permanency hearing under this subsection and are also entitled
17 to be heard at the hearing. The child shall be afforded the opportunity to be present
18 and to be heard at the permanency hearing. After the permanency hearing, the court
19 shall make the written findings that are required under (l) of this section. The court
20 shall review an order made under (c)(2) of this section at least annually to determine
21 if continued supervision, as it is being provided, is in the best interest of the child; this
22 review is not considered to be a permanency hearing and is not governed by the
23 provisions of this subsection that relate to permanency hearings.

24 * Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section
25 to read:

26 **INDIRECT COURT RULE CHANGE.** (a) AS 47.10.030, as amended by secs. 1 and
27 2 of this Act, AS 47.10.070(a), as amended by sec. 3 of this Act, and AS 47.10.080(f), as
28 amended by sec. 4 of this Act, have the effect of amending Rules 3, 7, 10, 15, and 19, Alaska
29 Child in Need of Aid Rules, by requiring that grandparents be given notice of and an
30 opportunity to be heard at certain child-in-need-of-aid proceedings.

31 (b) Sections 1 - 4 of this Act take effect only if this section receives the two-thirds

1 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSSSHB 409 (HES)

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Prescribing the rights of grandparents in CINA BRU: Front Line Social Workers
proceedings. Component: Front Line Social Workers
 Sponsor: Rep. Dyson, Rep. Kookesh COMPONENT SERIAL NO. 2305
 Requestor: House (HES) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
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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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This bill will have no fiscal impact on the Department if enacted.

Prepared by: Theresa Tanoury, Director Phone: 465-3191
 Division: Family & Youth Services Date/Time: 4/12/00 11:46 AM

Approved by Commissioner: Karen Perdue, Commissioner Date: _____
 Agency: Department of Health & Social Services

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Sponsor Statement for CSSSHB 409

HB 409 is a modest step towards recognizing a grandparent's interest in being involved in a process that affects their grandchildren. If a grandparent requests to be part of the process, HB 409 requires the department to notify them of upcoming custody hearings and provides grandparents with the opportunity to be heard at child in need of aid and delinquency hearings.

Over the past couple of sessions the legislature has focused considerable effort on making our child protection and custody procedures more open, responsive and, hopefully more responsible. We have given foster parents more input and the right to be heard in treatment and placement decisions and we have encouraged more efficient placement procedures.

We believe this bill will result in more informed decisions about the treatment and placement of Alaska's abused and neglected children. Additionally we believe this measure will increase the likelihood of children being placed with relatives who may not have otherwise been located, much less considered.

There will be cases where a grandparent is not a suitable option for child placement, but ideally, this bill will encourage the department, and parents, to consider grandparents more frequently as a the preferred placement option for children in need.

Please feel free to contact my office with questions or concerns.

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. SSHB 409

Revision Date/Time (Note if correction): _____
 Title: Prescribing the rights of grandparents in CINA proceedings.
 Sponsor: Rep. Dyson
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Front Line Social Workers
 Component: Front Line Social Workers
 COMPONENT SERIAL NO. 2305
 See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	84.4	84.4	84.4	84.4	84.4	84.4
TRAVEL						
CONTRACTUAL	16.6	16.6	16.6	16.6	16.6	16.6
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	11.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	112.9	101.9	101.9	101.9	101.9	101.9

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	112.9	101.9	101.9	101.9	101.9	101.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	112.9	101.9	101.9	101.9	101.9	101.9

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
FULL-TIME	2	2	2	2	2	2
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

This bill requires that each grandparent of a child for whom a child in need of aid action is filed must be given notice of the first hearing (unless the first proceeding is an emergency custody hearing pursuant to AS 47.10.142, in which case the grandparent must receive notice only of the first hearing after the emergency custody hearing). After the initial notice is made to grandparents, notice to them of subsequent proceedings (including the permanency hearing) is required only if they request such notice. As persons entitled to notice, the grandparents will have the right to be heard at the hearing on the petition, although the court may limit their presence if it is in the best interest of the child or if it is necessary to protect the privacy interests of the parties and it will not be detrimental to the child.

The cost of implementing this bill is based on the assumption that approximately 600 petitions are filed every year, and those petitions name at least 800 children. Of the 200 children who are part of sibling-filings, the estimate is that three-quarters of those have at least one set of different grandparents (based on the high incidence of siblings with only one parent in common). This means that an estimated total of 2,700 grandparents must be identified, located, and noticed.

Prepared by: Theresa Tanoury, Director *[Signature]* Phone: 465-3191
 Division: Family & Youth Services *[Signature]* Date/Time: 3/3/00 3:10 PM
 Approved by Commissioner: Karen Perdue, Commissioner *[Signature]* Date: 3/17/00
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

Assuming that three-quarters of those grandparents will be located through the usual relative-search efforts, the department is faced with the possibility that extensive research efforts may be necessary for as many as 675 grandparents, and that publication costs will be incurred for a few of those. Research efforts include phone calls, letters, searches of public assistance records, in effect skip tracing. The fiscal impact is calculated on the assumption that 3 additional hours of effort (by an employee in an SSA position) will be adequate to successfully locate a little more than half of those grandparents (350 of them) but locating the remaining 325 will require 8 hours of effort. A relatively small number might require notice via publication; the assumption is that no more than 25 notices would be necessary (at an average cost of \$287.00 per notice).

These estimates make no attempt to factor in deceased grandparents or unidentified fathers (which would reduce research costs and publication requirements). These estimates also do not assume factors which will "increase" the number of grandparents, even though there is a significant likelihood that more than four grandparents might be entitled to notice for certain children - for example, children who have been adopted but who have retained contact with their birth grandparents, children with grandparents by marriage ("stepgrandparents"), psychological grandparents, cultural and adopted grandparents, etc.

Expenditure Analysis:

	Annual Cost FY01	Annual Cost FY02 - 06
Personal Services 71000:		
SSA III Range 12A Located in Fairbanks:	42.9	42.9
SSA III Range 12A Located in Anchorage:	<u>41.5</u>	<u>41.5</u>
Sub-total Personal Services:	84.4	84.4
Contractual Services:		
Legal Notification - Newspaper Advertisements	7.2	7.2
Telephone (monthly basic & long distance)	3.1	3.1
Lease space (based on 130 SQFT per employee @ \$2.00 per SQFT)	<u>6.2</u>	<u>6.2</u>
Sub-total Contractual Services:	16.6	16.6
Supplies:		
Office supplies: (\$.5 per person per year)	1.0	1.0
Equipment: (for new positions)		
Computers (\$3.0 per person)	6.0	
Telephones/communication equipment: (\$.5 per person)	1.0	
Desk & office chairs (\$2.0 per person)	<u>4.0</u>	
Subtotal Equipment:	11.0	
Total	<u>112.9</u>	<u>101.9</u>

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 23, 2000

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/11/00

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SSHB 409

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 409

GRANDPARENTS' RIGHTS REGARDING CINA

"An Act prescribing the rights of grandparents related to hearings on petitions to adjudicate a minor as a child in need of aid and to the testimony of grandparents at those hearings; and amending Rules 3, 7, 10, 15, 17(e), and 19, Alaska Child in Need of Aid Rules."

recommends it be replaced with the following committee substitute CS SS HB 409 CHES 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: (Dep/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
	<input checked="" type="checkbox"/>			
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CHAIR'S SIGNATURE

4/11/00