

HB

259

SENATE COMMITTEE REPORT

DATE: 3/6/00

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

CS FOR HOUSE BILL NO. 259(FIN)

"An Act relating to 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."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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>Rick Halford</i>	✓	<i>Jeffrey's Boyer</i>	X		
CHAIR: <i>Christ Taylor</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>ADMINISTRATION</i>	<i>2/8</i>	✓	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. CSHB 259 (STA)

Revision Date: January 27, 2000
Title: "An Act relating to a parent's eligibility to be represented by the public defender..."
Sponsor: Representative Coqhill
Requestor: (H) STA

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 99) 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: January 27, 2000

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

Date: January 27, 2000

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 259 (STA)

2000 LEGISLATIVE SESSION

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 indigency screening process and appointment by the court.

The Public Defender Agency does not anticipate any fiscal impact from this legislation if it is amended so that we are not obligated to represent non-indigent parents. 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 the bill will be amended so we do not represent 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.

Second, we assume the words "may be represented" give us leeway as to whom we represent and the scope of the representation. 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.

ALASKA STATE HOUSE OF REPRESENTATIVES

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Room 416

REPRESENTATIVE JOHN COGHILL

HB 259 PUBLIC DEFENDERS FOR 48 HOUR HEARING SPONSOR STATEMENT

Pursuant to AS 47.10.142 (4)(d) after DFYS takes physical custody of a child, the court must immediately hold a hearing at which the court shall determine whether probable cause exists to deem the child a "Child In Need of Assistance" (CINA). The public defender's office would welcome the statutory change to allow them to legally provide assistance in an area they feel is necessary.

When a child is removed from the family home, the effects can be traumatic; so much so that the parents are unaware of what has just happened, why it has happened, and what should be done next. The common situation is that the parents are distraught because their child has been removed by the state and feel intimidated by the judicial process for CINA determinations. They don't even know they can ask the judge for a continuance to seek legal advice.

Under current law a person does not qualify for assistance from the public defender's office until indigence is determined. Many parents go to court not knowing their rights or the process because they can not find legal assistance in time for the 48-hour hearing. This legislation allows any parent or guardian to get legal assistance from the Public Defender's office for the 48-hour CINA hearing regardless of whether or not they are indigent. The best case scenario in many cases will mean an end to the case and the child is returned to the parents. In other cases, a continuance would be issued to allow the parents to provide additional information to the court that the caseworker and the Attorney General's office have not provided.

If, after the court has reviewed the evidence, it rules the child is a CINA during the 48 hour hearing, the parents would then apply for further assistance from the public defender's office and their qualification would be determined by whether or not they were indigent.

While some may argue this legislation will result in added expenses to the State, this legislation could actually reduce the cost of CINA cases in Alaska. By providing all the information in a professional manner at the first hearing of determination, the number of children in state custody for 90 days to six months then returned to their family will be reduced. This means a reduction in foster care, caseworker, and health care costs, as well as, long-term public defender, guardian ad litem, and AG expenses.

Representative John_Coghill@LEGIS.state.ak.us

Sponsor Statement

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110630

JUNEAU, ALASKA 99811-0630

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MEMORANDUM

DATE: December 27, 1999

TO: Elmer Lindstrom
Special Assistant to the Commissioner

FROM: Roger P. Withington
Research Analyst

SUBJECT: Children Returned Home

Per your request of December 23, 1999, I have calculated, from PROBER[®], for all of the children who were released from DFYS custody and returned to their parents during FY1999, the length of time these children spent in continuous DFYS custody. This information is provided in the following table.

Length of Time In Custody Episode	Number of Children
2 Days or Less	50
3 to 90 Days	56
91 to 182 Days	45
6 Months to 1 Year	56
1 - 2 Years	75
2 - 3 Years	44
3 - 4 Years	20
4 + Years	30
Total	376

I urge you to use caution when interpreting these numbers. The DFYS has a chronic and ongoing problem with field staff entering accurate information into PROBER[®] with respect to releases from custody.

If I may be of further assistance, please feel free to contact me.

Children Returned
Home

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**LEGISLATIVE AFFAIRS AGENCY
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Juneau, Alaska 99801-2105*

Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

House State Affairs, January 25, 2000, 8:05 a.m.

House Finance, February 25, 2000, 1:45 p.m.