

HB

252

Amended

CS FOR HOUSE BILL NO. 252(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/25/02

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES COGHILL, Dyson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the construction of certain statutes relating to children; relating to
2 the scope of duty and standard of care for persons who provide services to certain
3 children and families; relating to intensive family preservation services; and providing
4 for an effective date."

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

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 **LEGISLATIVE INTENT.** By the amendment of AS 47.10.005 in sec. 2 of this Act,
9 the legislature intends to express its recognition that parents possess inherent, individual right
10 to direct and control the education and upbringing of their children.

11 * **Sec. 2.** AS 47.10.005 is amended to read:

12 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be
13 liberally construed to the end that a child coming within the jurisdiction of the court
14 under this chapter may receive the care, guidance, treatment, and control that will

best interests of the child, including

1 promote the ^{best interests of the child,} ~~welfare~~ ^{including} ~~and~~ the parents' participation in the child's
2 upbringing.

3 * Sec. 3. AS 47.10.086(a) is amended to read:

4 (a) Except as provided in (b) and (c) of this section, the department shall make
5 timely, reasonable efforts to provide family support services to the child and to the
6 parents or guardian of the child that are designed to prevent out-of-home placement of
7 the child or to enable the safe return of the child to the family home, when appropriate,
8 if the child is in an out-of-home placement. Within appropriations identified by the
9 department for the specific purpose of intensive family preservation services, the
10 department shall also offer intensive family preservation services when those
11 services are available and the child's safety in the home can be maintained during
12 the time the services are provided. The department's duty to make reasonable
13 efforts under this subsection to provide family support services includes the duty to

14 (1) identify family support services that will assist the parent or
15 guardian in remedying the conduct or conditions in the home that made the child a
16 child in need of aid;

17 (2) actively offer the parent or guardian, and refer the parent or
18 guardian to, the family support services identified under (1) of this subsection; the
19 department shall refer the parent or guardian to community-based family support
20 services whenever community-based services are available and desired by the parent
21 or guardian; and

22 (3) document the department's actions that are taken under [(1) AND
23 (2) OF] this subsection; the documentation required under this paragraph must
24 include

25 (A) documentation about whether intensive family
26 preservation services were appropriate, offered, used, or available to the
27 family; and

28 (B) if intensive family preservation services were
29 appropriate or offered to the family, enumeration of the reasons specific
30 to the case explaining why intensive family preservation services were
31 appropriate or offered.

1 * **Sec. 4.** AS 47.10.086(b) is amended to read:

2 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(l)
3 that a parent or guardian has not sufficiently remedied the parent's or guardian's
4 conduct or the conditions in the home despite reasonable efforts made by the
5 department in accordance with this section, the court may conclude that continuation
6 of reasonable efforts of the type described in (a) of this section are not in the best
7 interests of the child. The department shall then make reasonable efforts to place the
8 child in a timely manner in accordance with the permanent plan and to complete
9 whatever steps are necessary to finalize the permanent placement of the child. If the
10 court concludes that continuation of reasonable efforts of the type described in
11 (a) of this section are not in the best interests of the child and intensive family
12 preservation services were not provided in the case, the court shall enumerate in
13 the record the reasons the services were not provided.

14 * **Sec. 5.** AS 47.10.142(b) is amended to read:

15 (b) The department shall offer available counseling services and intensive
16 family preservation services to the person having legal custody of a minor described
17 in AS 47.10.141 and to the members of the minor's household if it determines that
18 counseling services or intensive family preservation services would be appropriate
19 in the situation. If, after assessing the situation, offering available [COUNSELING]
20 services to the legal custodian and the minor's household, and furnishing appropriate
21 social services to the minor, the department considers it necessary, the department
22 may take emergency custody of the minor.

23 * **Sec. 6.** AS 47.10 is amended by adding new sections to read:

24 **Article 3A. Intensive Family Preservation Services.**

25 **Sec. 47.10.500. Statewide program.** Subject to AS 47.10.510 and 47.10.520,
26 the department shall, within appropriations available for intensive family preservation
27 services, develop and implement intensive family preservation services systematically
28 and over time, with the ultimate goal of providing intensive family preservation
29 services on a statewide basis. The department may provide the services directly or
30 through contracts with private nonprofit providers.

31 **Sec. 47.10.510. Standards for providers.** The department shall develop

1 measurable standards that must be met by a provider before a contract may be
2 awarded to, or renewed with, the provider under AS 47.10.500.

3 **Sec. 47.10.520. Eligibility for services.** (a) The department may provide
4 intensive family preservation services to a child, the child's family, and other
5 appropriate nonfamily members only if

6 (1) there are no other available means that will prevent out-of-home
7 placement of the child or make it possible to immediately return the child to the child's
8 home; and

9 (2) the child has been placed in out-of-home care or is at actual,
10 imminent risk of out-of-home placement due to

11 (A) child abuse or neglect;

12 (B) a serious threat of substantial harm to the child's health,
13 safety, or welfare; or

14 (C) any other factor that could lead to out-of-home placement.

15 (b) The department need not provide services to an otherwise eligible family if

16 (1) services are not available in the community in which the family
17 resides;

18 (2) services cannot be provided because the program is filled to
19 capacity;

20 (3) the family refuses the services;

21 (4) the child's case plan does not include reunification of the child and
22 family; or

23 (5) the safety of a child, a family member, or a person providing the
24 services would be threatened.

25 **Sec. 47.10 530. Solicitation of funding sources.** The department shall solicit
26 federal and private resources that may be available to fund intensive family
27 preservation services.

28 **Sec. 47.10.590. Definition.** In AS 47.10.500 - 47.10.590, "intensive family
29 preservation services" and "services" mean intensive family preservation services, as
30 defined in AS 47.10.990.

31 * **Sec. 7.** AS 47.10.960 is amended to read:

Amendment #1

1 Sec. 47.10.960. ~~Civil liability~~ DUTY AND STANDARD OF CARE ~~not~~
2 ~~created. Failure to comply with a provision of this title or a regulation adopted~~
3 ~~under this title is not a basis for civil liability, but may be the basis for employee~~
4 ~~discipline or administrative action authorized by law~~ [NOTHING IN THIS TITLE
5 ~~CREATES A~~ ^{THE} DUTY OR STANDARD OF CARE FOR SERVICES TO CHILDREN
6 AND THEIR FAMILIES BEING SERVED UNDER AS 47.10~~7~~ ^{is derived from}

7 * Sec. 8. AS 47.10.990 is amended by adding a new paragraph to read: ^{common law.}

8 (28) "intensive family preservation services" means services provided
9 to a family with a child who is in an out-of-home placement or is at imminent risk of
10 out-of-home placement that

11 (A) are designed to address problems creating the need for out-
12 of-home placement by assisting the family to improve parental and household
13 management competence, solve day-to-day practical problems that contribute
14 to family stress, identify the factors that created the risk of out-of-home
15 placement, and participate in the development of the family's case plan so as to
16 improve parental performance and enhance functioning of the family unit; and

17 (B) have the following characteristics:

- 18 (i) are offered at the family's option;
- 19 (ii) are provided in the family's home;
- 20 (iii) are available 24 hours a day and seven days a

21 week;

22 (iv) are provided within 24 hours of initial contact for
23 assistance;

24 (v) are provided on a time-limited basis by a single case
25 worker whose caseload is congruent with ~~the~~ ^{delete} intensive family
26 preservation services standards established by the Child Welfare
27 League of America; caseloads ~~should~~ ^{shall} be kept low to allow for the
28 necessary intense level of interaction with the family, and the services
29 ~~should~~ ^{shall} be most intensive at the time of crisis; and

30 (vi) may, in appropriate instances and subject to
31 available appropriations, include monetary assistance for special needs

Amendment #2

1 of the family, such as to obtain food, shelter, or clothing or to purchase
 2 other goods or services that will enhance the effectiveness of other
 3 services offered to help preserve the family.

4 * Sec. 9. AS 47.17.030(d) is amended to read:

5 (d) Before the department or a local government health or social services
 6 agency may seek the termination of parental rights under AS 47.10, it shall offer
 7 protective social services and pursue all other reasonable means of protecting the
 8 child. The department or agency shall also consider the eligibility of the child
 9 and family for intensive family preservation services under AS 47.10.500 -
 10 47.10.590.

11 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 STUDY. (a) The Department of Health and Social Services shall conduct a study in
 14 at least one region of the state in order to

15 (1) develop a valid and reliable process for accurately identifying clients who
 16 are eligible for intensive family preservation services;

17 (2) collect data on which to base projections of service needs, budget requests,
 18 and long-range planning related to intensive family preservation services;

19 (3) develop regional and statewide projections of needs for intensive family
 20 preservation services;

21 (4) develop a cost estimate for implementation and expansion of intensive
 22 family preservation services on a statewide basis;

23 (5) develop a long-range plan and time frame for ultimately making intensive
 24 family preservation services available to all eligible families; and

25 (6) collect data regarding the number of children in foster care, group care,
 26 institutional care, and other out-of-home care due to medical needs, mental health needs,
 27 developmental disabilities, and juvenile offenses and to assess the feasibility of expanding
 28 intensive family preservation services eligibility to include all of these children.

29 (b) By November 30, 2004, the Department of Health and Social Services shall
 30 submit a report to the governor describing the study required under this section and including
 31 the department's conclusions and recommendations that are based on the study. The

1 department shall notify the legislature that the report is available.

2 (c) In this section, "intensive family preservation services" has the meaning given in
3 AS 47.10.990.

4 * **Sec. 11.** Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

5 * **Sec. 12.** Sections 3 - 6 and 8 - 10 of this Act take effect July 1, 2002.

ALASKA STATE HOUSE OF REPRESENTATIVES



Interim Address:

119 N. Cushman, Suite 211
Fairbanks, AK 99701
(907)-456-5081
Fax# (907)-456-8245

Session Contact:

(907)-465-3719
FAX# (907)-465-3258
**State Capitol
Room 102**

REPRESENTATIVE JOHN COGHILL

HB 252 STANDARD OF CARE FOR CINA SERVICES

Sponsor Statement

The two most important goals of HB 252 is to create a standard of care for services offered by DFYS and to keep families together. We must continue our work of balancing child protection with family preservation during government intervention. Parents are held to a standard of care by our state with the threat of loosing parental rights if they fail in meeting these standards.

Failing to properly care for children is not just a parental issue. Our State Division of Youth Services also is made up of humans that from time to time may fail in a standard of caring. Therefore HB 252 is requiring that a standard of care be instituted within our State so that each department employee is held to at least the same standard of care that we require of parents in Alaska. Currently under AS 47.10.960 there is no duty or standard of care imposed department employees. The lack of a standard of care obscures the fiduciary duty of the State to the parents and children for which they are making these decisions

HB 252 is introduced with the purpose of recognizing parents in their God given role to raise their children as they see fit. This bill also recognizes that parents fail in varying degrees and the Division of Youth Services is called upon to protect the children while trying to preserve the family. Therefore we are adding the parent's participation in the event of a child coming under court jurisdiction. This legislation also directs DFYS to offer Intensive Family Preservation Services to families who are able to and want to learn the skills necessary to remain together and change the conditions that would mandate the placement of their children. These services would be provided at the family's option and would consist of an intensive short-term intervention to help the family work through the crisis and stabilize. By remaining intact and safe, families can grow strong and overcome their problems together.

The bill also asks for a study to determine a plan for providing statewide services. The study would also include recommendations on solicitation of federal funds and redirection of state funds in order to provide the services and realize a cost-savings.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1102
Deliveries to: 129 6th St., Rm. 329


MEMORANDUM

February 22, 2002

SUBJECT: CSHB 252(HES) (Work Order No. 22-LS0454\P)

TO: Representative Fred Dyson
Attn: Jason

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is the CS you requested.

By way of legal advice, I have two comments to make about the language the committee added in sec. 8 of the CS to AS 47.10.990(28)(B)(v).

The first comment is about the reference to the Child Welfare League of America on page 5, lines 25-26, of this CS. Ordinarily, the contents of a statute may not depend on the actions and policies of a private body. That would constitute excessive delegation of legislative power because it would give a private group the power to change a state law. It may be that the requirement in this language that the caseloads merely be "congruent" with the private body's standards (and not exactly the same as the private body's standards) will save this statute from being unconstitutional. However, a good argument could be made that even requiring only congruency or consistency is an excessive delegation of legislative power.

My second comment about this language concerns the two uses of the word "should" at lines 27 and 29 on page 5. Ordinarily, a law does not use the term "should." Laws set duties and requirements. The use of the term "should" is more appropriate for a resolution or for a bill section of temporary law that explains the legislature's intent about something. If you really want caseloads to be kept low and to be most intensive at the time of crisis, "shall" is the word to use in place of "should." If this is truly just intent language and not intended to carry the force of law, then I advise that the two clauses simply be deleted as being non-statutory in nature.

If I may be of further assistance, please advise.

TML:med
02-194.med

Enclosure

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 252 (HES)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: RELATING TO CONSTRUCTION OF THE CINA STATUTES AND SCOPE OF DUTY FOR SOCIAL WORKERS BRU: Family and Youth Services
Component: FYS Management
Sponsor: COGHILL
Requestor: HOUSE (HES) Component Number: 2306

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	80.0	50.0	50.0			
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	80.0	50.0	50.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
---------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	80.0	50.0	50.0			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--do not abbreviate)						
TOTAL	80.0	50.0	50.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: _____

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The intent of this proposed legislation appears to be one that is in line with the department's desire to provide support to families who can benefit from it, and to improve safety and well being of children. Intensive Family Preservation services are provided in many communities across the nation. These programs work intensely with a small number of families, for a short period of time, to help the family through a threatening time of crisis. Intensive Family Preservation services can be beneficial in preventing children from entering protective custody, and in reducing the amount of time children spend in protective custody. These services have limits in their appropriateness and effectiveness.

Currently, DFYS receives federal and state funds to provide family support, family preservation and time

Prepared by: Theresa Tanoury, Director Phone 465-3191
Division: Family & Youth Services Date/Time 02/22/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 02/22/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CS HB 252 (HES)

ANALYSIS CONTINUATION

ANALYSIS CONTINUED:

limited family reunification services. These funds are disbursed through the grant process to 26 agencies in communities throughout Alaska.

The legislation obligates the division to consider using Intensive Family Preservation services when and where available; and it allows the division to determine the appropriateness of the services.

The legislation also states an expectation that the department will research and pursue outside funding to develop these services. The detailed prospective study (which includes development and training), data analysis, and projection process will need to be completed by an outside source with specific expertise. This fiscal note is for the expected cost of this process. Funding to cover the cost of this process is requested for three years. Cost covers expenses related to the required study. Since the CS HB252 allows phase in of these services to occur, the department will spend first year funding on developing and training for intensive family preservation services.

Cost Comparison: Intensive Family Preservation Services vs. Out-of-Home Care

"One of the most unusual and exciting things about family preservation is that it is largely self-financing. One reason states can expand and institutionalize the program is that a good portion of it can be funded with money states are already spending on out-of-home care." - Frank Farrow, Director of Children's Services Policy at the Center for the Study of Social Policy

	IFPS Cost	Foster Care	Residential Treatment	Psychiatric Hospital
Alaska		\$8000-17,520 per child per year	\$25,285-84,680 per child per year	\$100,000+ per child per year
Washington ¹	\$2556 per child	\$8000-36,000 per child per year	\$48,000-120,000 per child per year	\$110,000+ per child per year
Missouri ²	\$3200 per family	\$8000 per child per year	\$40,000+ per child per year	
Michigan	\$4500 per family	\$12,000 per child per year		\$100,000+ per child per year
New York City	\$3000 per family	\$20,000 per child per year		
North Carolina ³	\$5284 per family	\$7055 average per child per placement	\$20,862 average per child per placement	\$28,862 per child placed in Youth Corrections facilities

Federal funding sources for IFPS:

- PL96-272 Adoption Assistance and Child Welfare Act
- Title IV-A Emergency Assistance
- Title IV-B of the Social Security Act
- Title IV-C of the Social Security Act
- Title IV-E of the Social Security Act
- Title XX of the Social Security Act
- National Child Abuse and Neglect state grants
- Medicaid, Title XIX of the Social Security Act

¹ Washington figures from the Behavioral Sciences Institute, Federal Way, WA (2001)

² Figures for Missouri, Michigan and New York City found in: Barthel, Joan, For Children's Sake: The Promise of Family Preservation, The Winchell Company, Philadelphia, PA: 1992.

³ These figures are from a study done in FY '97 in North Carolina (see attached documents)

Cost-Effectiveness. Cost/Benefit Analysis

Children At Risk of Out-Of-Home Placement at Intake.

Potential Placement Type	Number of Children At Risk	Number of Children Placed
DSS Foster Care	697	45
Juvenile Justice	110	8
Mental Health	93	11
Developmental Disabilities	5	0
Substance Abuse Services	27	1
Private Placement	35	6
Totals	967	74

Estimated Potential and Actual Costs of Placements, SFY '97

Estimated Potential Placement Costs				Estimated Actual Placement Costs		
Placement Type	Number of Children At Risk	Placement Costs	Total	Number of Children Placed	Costs	Total
DSS FC	697	\$7,055	\$4,917,335	45	\$7,055	\$317,475
MH/DD/SAS	160	20,819	3,331,040	18	20,819	374,742
Juv. Just.	110	28,862	3,174,820	8	28,862	230,896
Column Totals	967		\$11,423,195	71*		\$923,113

* This number is less than 74 because 3 children who had been "placed" were "on runaway".

Cost-effectiveness and cost/benefit statistics for the IFPS program during SFY '97:

- 967 children were at imminent risk of removal, at a total potential placement cost of \$11,423,195;
- 71 children were actually placed in various, known placements at an estimated cost of \$923,113;
- IFPS diverted an estimated maximum of \$10,500,082 from placement costs; a cost savings of 92%;
- if the cost of operating the IFPS program (\$3,059,494) are subtracted from the gross savings (\$10,500,082), a net savings of \$7,440,588 results;
- the cost/benefit ratio of IFPS for SFY '97 is \$3.43; that is, for every dollar spent providing IFPS, \$3.43 is not being spent on placement services for imminent risk children;
- the cost of delivering IFPS in SFY '97 was \$3,164 per imminent risk child. and \$5,284 per family;
- had all 967 children been placed as originally indicated, the placement cost per child would have been \$11,813, and the families would not have received any services as part of these expenditures.

Determining the Fiscal Break-Even Point of the IFPS Program: Cost and Cost-Savings Resulting from Different Levels of Placement Prevention

Placement Prevention Rates	Cost of Providing IFPS in SFY '97	Placement Costs Avoided	Net Additional Cost or Cost Savings
100 %	\$3,059,494	\$11,423,195	\$8,363,701 savings
92 %	3,059,494	10,500,082	7,440,588 savings
90 %	3,059,494	10,280,875	7,221,381 savings
80 %	3,059,494	9,138,556	6,079,062 savings
70 %	3,059,494	7,996,237	4,936,743 savings
60 %	3,059,494	6,853,917	3,794,423 savings
50 %	3,059,494	5,711,598	2,652,104 savings
40 %	3,059,494	4,569,278	1,509,784 savings
30 %	3,059,494	3,426,959	367,465 savings
26.7832 %	3,059,494	3,059,497	3 savings
20 %	3,059,494	2,284,639	<774,855> add'l cost
10 %	3,059,494	1,142,320	<1,917,174> add'l cost
0 %	3,059,494	0	<3,059,494> add'l cost

This table is adapted from a method developed by the Center for the Study of Social Policy (CSSP, Working Paper FP-6, 1989).

The two shaded rows of data from the Table illustrate that the "fiscal break-even point" for IFPS occurs at about the 27% (26.7832%) placement prevention rate, whereas the IFPS program actually performed at a 92% placement prevention rate. This yields a range of more than 60% within which program critics can argue about the cost-effectiveness of the program and the cost/benefit produced. However, the data clearly demonstrate that the program is *very cost-effective*, and results in a very high cost/benefit ratio.