

HB

346

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 9, 2006

FURTHER REFERRALS: Judiciary

Date of Committee Action: April 9, 2006

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 346

HOUSE BILL NO. 346

CHILD ABUSE INVESTIGATIONS

"An Act relating to child abuse investigations and training."

Recommends it be replaced with HCS or CS for HB 346 (HES)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
HSS				x

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>Vic Holmgren</i>	<i>Vic Holmgren</i>	x			
<i>Berta Gardner</i>	<i>Gardner</i>	x			
<i>Paul R. Leaton</i>	<i>Leaton</i>			x	
<i>Rogay Wilson</i>	<i>Wilson</i>	x			
Chair: <i>Rogay Wilson</i>		x			
Chair:					

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 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 5, 2006

SUBJECT: CSHB 346(HES) (Work Order No. 24-LS1335F)

TO: Representative Peggy Wilson
Attn: Linda Miller

FROM: Jean M. Mischel
Legislative Counsel

Attached is the CS you requested incorporating two amendments. Amendment #1, changing "may not" to "shall not" in sec. 47.17.033(1) is inconsistent with the drafting manual requirements (see page 62 of the *Manual of Legislative Drafting*) and has no substantive effect. The phrase, "may not" is a prohibition and is not, as the drafter of the amendment appears to believe, permissive. I suggest that this change be deleted in subsequent versions of the bill.

If I may be of further assistance, please advise.

JMM:med
06-279.med

Enclosure

AMENDMENT #1

OFFERED IN THE HOUSE HEALTH,
EDUCATION AND SOCIAL
SERVICES COMMITTEE

BY Rep. Gatto
DATE 4/04/06

TO: Work Draft CS for HB 346 () Version G

1 Page 2, line 2,

Delete "may" and insert "shall"

AMENDMENT #2

OFFERED IN THE HOUSE
TO: HB 346

BY REPRESENTATIVE CISSNA

1 Page 1, line 1, following "Act":

2 Insert "relating to intensive family preservation and reunification services;"

3

4 Page 1, following line 2:

5 Insert new bill sections to read:

6 **** Section 1.** AS 47.10.080(*l*) is amended to read:

7 (*l*) Within 12 months after the date a child enters foster care as calculated
8 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and
9 permanent plan developed in the hearing are governed by the following provisions:

10 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
11 this section are also entitled to be heard at the hearing held under this subsection:

12 (2) when establishing the permanent plan for the child, the court shall
13 make appropriate written findings, including findings related to whether

14 (A) and when the child should be returned to the parent or
15 guardian;

16 (B) the child should be placed for adoption or legal
17 guardianship and whether a petition for termination of parental rights should be
18 filed by the department; and

19 (C) the child should be placed in another planned, permanent
20 living arrangement and what steps are necessary to achieve the new
21 arrangement;

22 (3) if the court is unable to make a finding required under (2) of this
23 subsection, the court shall hold another hearing within a reasonable period of time;

1 (4) in addition to the findings required by (2) of this subsection, the
2 court shall also make appropriate written findings related to

3 (A) whether the department has made the reasonable efforts
4 required under AS 47.10.086 to offer appropriate family support services,
5 available intensive family preservation services, or intensive family
6 reunification services to remedy the parent's or guardian's conduct or
7 conditions in the home that made the child a child in need of aid under this
8 chapter;

9 (B) whether the parent or guardian has made substantial
10 progress to remedy the parent's or guardian's conduct or conditions in the home
11 that made the child a child in need of aid under this chapter;

12 (C) if the permanent plan is for the child to remain in out-of-
13 home care [OUT-OF-HOME-CARE], whether the child's out-of-home
14 placement continues to be appropriate and in the best interests of the child; and

15 (D) whether the department has made reasonable efforts to
16 finalize the permanent plan for the child;

17 (5) the court shall hold a hearing to review the permanent plan at least
18 annually until successful implementation of the plan; if the plan approved by the court
19 changes after the hearing, the department shall promptly apply to the court for another
20 permanency hearing, and the court shall conduct the hearing within 30 days after
21 application by the department.

22 * Sec. 2. AS 47.10.086(a) is amended to read:

23 (a) Except as provided in (b) and (c) of this section, the department shall make
24 timely, reasonable efforts to provide family support services to the child and to the
25 parents or guardian of the child that are designed to prevent out-of-home placement of
26 the child or to enable the safe return of the child to the family home, when appropriate,
27 if the child is in an out-of-home placement. Within appropriations available for the
28 purpose, the department shall also make reasonable efforts to refer a child for
29 intensive family preservation services, or intensive family reunification services,
30 or both, when those services are available and, if the child is in the home, the
31 child's safety in the home can be maintained during the time the services are

1 provided. The department's duty to make reasonable efforts under this subsection to
2 provide family support services includes the duty to

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

6 (2) actively offer the parent or guardian, and refer the parent or
7 guardian to, the family support services identified under (1) of this subsection; the
8 department shall refer the parent or guardian to community-based family support
9 services whenever community-based services are available and desired by the parent
10 or guardian; and

11 (3) document the department's actions that are taken under [(1) AND
12 (2) OF] this subsection, including whether intensive family preservation services
13 or intensive family reunification services, or both, were appropriate, offered,
14 used, or available."

15

16 Page 1, line 3:

17 Delete "Section 1"

18 Insert "Sec. 3"

Alaska State Legislature

**Session Address:**

Alaska State Capitol
Juneau, AK 99801
Phone: (907) 465-2679
1-800-505-2678
Fax: (907) 465-4822

Interim Address:

600 E. Railroad Avenue
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

Representative.Mark.Neuman@legis.state.ak.us

Representative Mark A. Neuman

District 15

Sponsor Statement

House Bill 346

On June 25, 2003, the "Child Abuse Prevention Treatment Act " (CAPTA) was signed into law in our nation's capital. This act requires states to implement two provisions for protecting families during the child investigative process. Provisions of this act require states to ensure they have:

(xvii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xviii) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

This bill ensures that as a state we are in compliance with CAPTA. It is important that the training of child protective services personnel ensures that they are knowledgeable in best practices for promoting collaboration with families and that they are fully aware of the extent and limits of their legal authority and the legal rights of parents while carrying out such investigations.

24-LS1335G
Mischel
3/27/06

CS FOR HOUSE BILL NO. 346()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES NEUMAN AND LYNN, Chenault

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to child abuse investigations and training."**

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

3 *** Section 1.** AS 47.17.033 is amended by adding new subsections to read:

4 (j) The training required under (c) of this section must address the
5 constitutional and statutory rights of children and families that apply throughout the
6 investigation and department intervention. The training must inform department
7 representatives of the applicable legal duties to protect the rights and safety of a child
8 and the child's family.

9 (k) During a joint investigation by the department and a law enforcement
10 agency, the department shall coordinate an investigation of child abuse or neglect with
11 the law enforcement agency to ensure that the possibility of a criminal charge is not
12 compromised.

13 (l) Unless a law enforcement official prohibits or restricts notification under
14 (k) of this section, at the time of initial contact with a person alleged to have
15 committed child abuse or neglect, the department shall notify the person of the

1
2

specific complaint or allegation made against the person, except that the identity of the complainant may not be revealed.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB346-DHSS-OCS-03-24-06
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 RDU Children's Services
 Component Children's Services Training

Revision Date/Time (Note if correction): _____

Title RELATING TO CHILD ABUSE
INVESTIGATIONS AND TRAINING

Sponsor NEUMAN

Requester HOUSE (HES)

Component No. 2667

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
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						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Office of Children's Services (OCS) has determined that the mandatory front line worker training program already addresses constitutional and statutory rights of children and families throughout any investigation or intervention as required by this bill.

Prepared by: Tammv Sandoval, Deputy Commissioner
 Division Office of Children's Services
 Approved by: Karleen Jackson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3191
 Date/Time 01/26/2006
 Date 03/24/2006