

HB

53

SENATE COMMITTEE REPORT

DATE: 5/4/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(FIN)

PB 53 CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN

"An Act relating to child-in-need-of-aid proceedings; amending the construction of statutes pertaining to children in need of aid; relating to guardianships; relating to the confidentiality of investigations, court hearings, court records, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to proceedings regarding voluntary relinquishment and termination of a parent and child relationship, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements; reestablishing and relating to a state citizens' review panel; amending the obligation of a public agency to disclose agency information pertaining to a child in need of aid; relating to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities; relating to reports of harm and to adoptions and foster care; relating to consent for the medication of children in state custody; prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption; modifying adoption and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

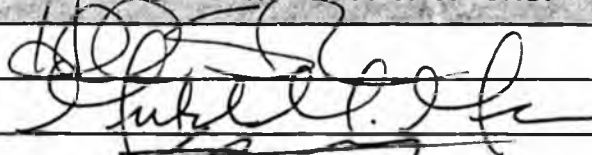

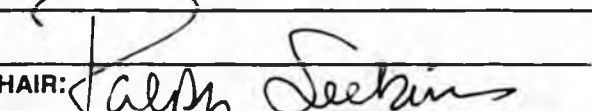
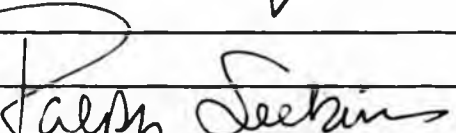
NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
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PREVIOUS FISCAL NOTE(S):

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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | No REC | AMEND |
|--------------------------------------------------------------------------------------------|---------|-------------|--------|-------|
|  | X | | | |
|  | X | | | |
|  | X | | | |
| CHAIR:  | ✓ | | | |

SCS CSSSHB 53(HSS)

Family Rights Act



Senator Ralph Seekins, Chairman
Senate Judiciary Committee

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

FAMILY RIGHTS ACT

CSSSHB 53(HESS)
Sponsor Statement

My belief that children belong to their parents and that families should be preserved was why I ran for office the first time in 1998. To protect vulnerable children the government requires parents to raise their children by certain standards, and I believe government should be held to those high standards when they take children into their custody. Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

HB 53 is an omnibus bill that does many things. It deletes language from the law that implies there is no duty and standard of care for social workers making decisions for children in state custody. I believe the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 953 P.2d 871 (Alaska 1998) does create a duty to children in state custody and believe there is a civil liability for wrongdoing.

HB 53 is a consolidation of legislation introduced or proposed by Governor Murkowski, Representative Rokeberg, Representative McGuire, and myself. I wanted to consolidate the bills so we didn't come up with four bills that wanted to accomplish the same things in different ways and ended by creating chaos in the system.

The bill creates a transparent process by making confidential information currently unavailable accessible to certain people, and making court proceedings open to the public. When a person attends a CINA hearing the court issues an order for confidentiality outlining what information can be revealed to the public and what the sidebars are. If a person violates the court order they are subject to sanctions that include being barred from any further CINA proceedings.

An additional safeguard to transparency and due process is the re-establishment of a state review panel that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS.

This legislation also strengthens the rights of adult family members (including grandparents), especially those who have already been instrumental in raising the child. Many times when parents run awry of OCS, grandparents or other adult relatives get placement of the child. If parental rights are terminated, those raising the child should have preference for

adoption. Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Other adult family members and grandparents also gain accessibility to information and hearings in CINA cases through this legislation.

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to have been sexually abused. This creates accountability in interviewing and protects the child from multiple interrogations. It requires mandatory videotaping of suspected victims of sexual abuse. The bill also defines CAC's in state statute for the first time.

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

As Amended by Senate HESS Committee 5/4/05

SCS CSSSHB 53(JUD)

24-LS0251\W

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/29/05

Referred: Today's Calendar

Sponsor(s): REPRESENTATIVES COGHILL, Ramras, Rokeberg, Kelly, McGuire, Lynn, Anderson, Holm, Neuman, LeDoux

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to child-in-need-of-aid proceedings; amending the construction of
2 statutes pertaining to children in need of aid; relating to guardianships; relating to the
3 confidentiality of investigations, court hearings, court records, and public agency
4 records and information in child-in-need-of-aid matters and certain child protection
5 matters, to immunity regarding disclosure of information in child-in-need-of-aid matters
6 and certain child protection matters, to proceedings regarding voluntary relinquishment
7 and termination of a parent and child relationship, to eligibility for permanent fund
8 dividends for certain children in the custody of the state, and to juvenile delinquency
9 proceedings and placements; reestablishing and relating to a state citizens' review panel;
10 amending the obligation of a public agency to disclose agency information pertaining to
11 a child in need of aid; relating to disclosure of confidential or privileged information
12 about children and families involved with children's services within the Department of

1 **Health and Social Services to officials for review or use in official capacities; relating to**
 2 **reports of harm and to adoptions and foster care; relating to consent for the medication**
 3 **of children in state custody; prescribing the rights of family members related to child-in-**
 4 **need-of-aid cases and establishing a familial priority for adoption; modifying adoption**
 5 **and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and**
 6 **13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules**
 7 **of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; and providing**
 8 **for an effective date."**

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

10 * **Section 1.** AS 13.26.055 is amended to read:

11 **Sec. 13.26.055. Court appointment of guardian of minor; qualifications;**
 12 **priority of minor's nominee and adult family member.** The court may appoint as
 13 guardian any **adult** [PERSON] whose appointment would be in the best interests of
 14 the minor **and is consistent with a priority given to an adult family member**. The
 15 court shall appoint a person nominated by the minor, if the minor is 14 years of age or
 16 older, unless the court finds the appointment contrary to the best interests of the minor.
 17 **In this section, "adult family member" has the meaning given in AS 47.10.990.**

18 * **Sec. 2.** AS 13.26 is amended by adding a new section to read:

19 **Sec. 13.26.064. Guardianship after voluntary relinquishment; procedure.**
 20 In addition to the applicable procedures under this chapter, a guardianship decree and
 21 review of a guardianship decree are governed by the procedures established under
 22 AS 25.23.180 and, for a child-in-need-of-aid, AS 47.10.089, pertaining to voluntary
 23 relinquishment of parental rights and retaining of parental privileges in a guardianship
 24 decree.

25 * **Sec. 3.** AS 25.23 is amended by adding a new section to read:

26 **Sec. 25.23.127. Adult family member preference to adopt.** Taking into
 27 consideration a child's stated preference under AS 25.23.125(a) and consent given
 28 under AS 25.23.040(a)(5), and unless the court finds that a petition to adopt the child

1 by an adult family member is contrary to the best interest of the child, the court shall
2 grant a petition to adopt a child by an adult family member who has had physical
3 custody of the child for at least 12 consecutive months before the parental rights to the
4 child have been terminated. In this section, "adult family member" has the meaning
5 given in AS 47.10.990.

6 * Sec. 4. AS 25.23.180 is amended by adding new subsections to read:

7 (j) In a relinquishment of parental rights executed under (a) of this section, a
8 parent may retain privileges with respect to the child, including the ability to have
9 future contact, communication, and visitation with the child. A retained privilege
10 must be stated in writing with specificity. Not less than 10 days after the
11 relinquishment is signed, the court may enter an order terminating parental rights if the
12 court finds that termination of parental rights under the terms of the agreement is in
13 the child's best interest. If a parent has retained one or more privileges, the court shall
14 incorporate the retained privileges into the termination order with a recommendation
15 that the retained privileges be incorporated in an adoption or legal guardianship
16 decree.

17 (k) A voluntary relinquishment may not be withdrawn and a termination order
18 may not be vacated on the ground that a retained privilege has been withheld from the
19 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
20 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
21 Procedure.

22 (l) After a termination order is entered, a person who has voluntarily
23 relinquished parental rights under this section may request a review hearing, upon a
24 showing of good cause, to seek enforcement or modification of or to vacate a privilege
25 retained in the termination order. The court may modify, enforce, or vacate the
26 retained privilege if the court finds, by clear and convincing evidence, that it is in the
27 best interest of the child to do so.

28 (m) After a termination order is entered and before the entry of an adoption or
29 legal guardianship decree, a prospective adoptive parent or a guardian of a child who
30 is the subject of an adoption decree may request, after providing notice as specified
31 under this subsection, that the court decline to incorporate a privilege retained in a

1 termination order and recommended for incorporation in an adoption or guardianship
 2 decree under (j) of this section. The request made under this subsection may only be
 3 considered by the court after providing at least 20 days' notice by certified mail to the
 4 last known address of the person who has voluntarily relinquished parental rights to
 5 the child. The notice under this subsection must describe the request and explain that
 6 the recipient of the notice may submit a written statement under penalty of perjury to
 7 the court that the recipient either agrees with or opposes the request. The notice must
 8 also include the deadline for submitting the statement and the mailing address of the
 9 court. The court may decline to incorporate a retained privilege if the person who
 10 retained the privilege agrees with the request or if the court finds that it is in the child's
 11 best interest.

12 (n) A person who relinquished parental rights is entitled to the appointment of
 13 an attorney if a hearing is requested under (l) or (m) of this section to the same extent
 14 as if the parent's rights had not been terminated in a child-in-need-of-aid proceeding.

15 * Sec. 5. AS 43.23.005(f) is amended to read:

16 (f) The [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]
 17 commissioner may waive the requirement of (a)(4) of this section for an individual
 18 absent from the state

19 (1) in a time of national military emergency under military orders
 20 while serving in the armed forces of the United States, or for the spouse and
 21 dependents of that individual; or

22 (2) while in the custody of the Department of Health and Social
 23 Services in accordance with a court order under AS 47.10 or AS 47.12 and placed
 24 outside of the state by the Department of Health and Social Services for purposes
 25 of medical or behavioral treatment.

26 * Sec. 6. AS 47.10.005 is amended to read:

27 Sec. 47.10.005 Construction. The provisions of this chapter shall be
 28 liberally construed to

29 (1) achieve the end that a child coming within the jurisdiction of the
 30 court under this chapter may receive the care, guidance, treatment, and control that
 31 will promote the child's welfare and the parents' participation in the upbringing of

1 the child to the fullest extent consistent with the child's best interests; and

2 (2) follow the findings set out in AS 47.05.065.

3 * Sec. 7. AS 47.10.020(a) is amended to read:

4 (a) Whenever circumstances subject a child to the jurisdiction of the court
5 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency
6 to make a preliminary inquiry and report for the information of the court to determine
7 whether the best interests of the child require that further action be taken. The court
8 shall make the appointment on its own motion or at the request of a person or
9 agency having knowledge of the child's circumstances. If, under this subsection,
10 the court appoints a person or agency to make a preliminary inquiry and to report to it,
11 or if the department is conducting an investigation of a report of child abuse or
12 neglect, the court may issue any orders necessary to aid the person, the agency,
13 or the department in its investigation or in making the preliminary inquiry and
14 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the
15 court may

16 (1) close the matter without a court hearing;

17 (2) determine whether the best interests of the child require that further
18 action be taken; or

19 (3) authorize the person or agency having knowledge of the facts of the
20 case to file with the court a petition setting out the facts.

21 * Sec. 8. AS 47.10.020 is amended by adding a new subsection to read:

22 (e) Nothing in this section requires the department to obtain authorization
23 from the court before

24 (1) conducting an investigation of a report of child abuse or neglect; or

25 (2) filing a petition.

26 * Sec. 9. AS 47.10.070(a) is amended to read:

27 (a) The court may conduct the hearing on the petition in an informal manner.
28 The court shall give notice of the hearing to the department, and it may send a
29 representative to the hearing. The court shall also transmit a copy of the petition to the
30 department. The department shall send notice of the hearing to the persons for whom
31 notice is required under AS 47.10.030(b) and to each grandparent of the child entitled

1 to notice under AS 47.10.030(d). The department and the persons to whom the
 2 department must send notice of the hearing are entitled to be heard at the hearing.
 3 Except as provided in (c) of this section, and unless prohibited by federal or state
 4 law, court order, or court rule, a hearing is open to the public [HOWEVER, THE
 5 COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER
 6 OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE
 7 CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING
 8 GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2)
 9 NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES
 10 AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE
 11 EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION,
 12 MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR
 13 ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE
 14 CHILD].

15 * Sec. 10. AS 47.10.070 is amended by adding new subsections to read:

16 (c) Except as provided in (e) of this section, the following hearings in child-in-
 17 need-of-aid cases are closed to the public:

18 (1) the initial court hearing after the filing of a petition to commence
 19 the child-in-need-of-aid case;

20 (2) a hearing following the initial hearing in which a parent, child, or
 21 other party to the case is present but has not had an opportunity to obtain legal
 22 representation;

23 (3) a hearing, or a part of a hearing, for which the court issues a written
 24 order finding that allowing the hearing, or part of the hearing, to be open to the public
 25 would reasonably be expected to

26 (A) stigmatize or be emotionally damaging to a child;

27 (B) inhibit a child's testimony in that hearing;

28 (C) disclose matters otherwise required to be kept confidential
 29 by state or federal statute or regulation, court order, or court rule; or

30 (D) interfere with a criminal investigation or proceeding or a
 31 criminal defendant's right to a fair trial in a criminal proceeding; before ruling

1 on a request under this subparagraph, the court shall give notice and an
2 opportunity to be heard to the state or a municipal agency that is assigned to
3 the criminal investigation or to the prosecuting attorney.

4 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not
5 closed under (c) of this section, the court shall hear in camera any information offered
6 regarding the location, or readily leading to the location, of a parent, child, or other
7 party to the case who is a victim of domestic violence or whose safety or welfare may
8 be endangered by public release of the information. Access to testimony heard in
9 camera under this subsection is limited to the court and authorized court personnel.

10 (e) The grandparents of the child and an out-of-home care provider may attend
11 hearings that are otherwise closed to the public under (c) of this section. However, the
12 court shall limit the presence of these persons in a hearing closed to the public to the
13 time during which the person's testimony is being given if the court determines that
14 the limitation is necessary under (c)(3) of this section.

15 (f) Notwithstanding any other provision of this chapter, a person attending a
16 hearing open to the public may not disclose a name, picture, or other information that
17 would readily lead to the identification of a child who is the subject of the child-in-
18 need-of-aid case. At the beginning of the hearing, the court shall issue an order
19 specifying the restrictions necessary to comply with this subsection. If a person
20 violates the order, the court may impose any appropriate sanction, including contempt
21 and closure of any further hearings to the person.

22 * Sec. 11. AS 47.10.080(c) is amended to read:

23 (c) If the court finds that the child is a child in need of aid, the court shall

24 (1) order the child committed to the department for placement in an
25 appropriate setting for a period of time not to exceed two years or in any event **not to**
26 **extend** past the date the child becomes 19 years of age, except that the department or
27 the child's guardian ad litem may petition for and the court may grant in a hearing

28 (A) one-year extensions of commitment that do not extend
29 beyond the child's 19th birthday if the extension is in the best interests of the
30 child; and

31 (B) an additional one-year period of state custody past [AGE]

1 19 years of age if the continued state custody is in the best interests of the
2 person and the person consents to it;

3 (2) order the child released to a parent, adult family member
4 [RELATIVE], or guardian of the child or to another suitable person, and, in
5 appropriate cases, order the parent, adult family member [RELATIVE], guardian, or
6 other person to provide medical or other care and treatment; if the court releases the
7 child, it shall direct the department to supervise the care and treatment given to the
8 child, but the court may dispense with the department's supervision if the court finds
9 that the adult to whom the child is released will adequately care for the child without
10 supervision; the department's supervision may not exceed two years or in any event
11 extend past the date the child reaches [AGE] 19 years of age, except that the
12 department or the child's guardian ad litem may petition for and the court may grant in
13 a hearing

14 (A) one-year extensions of supervision that do not extend
15 beyond the child's 19th birthday if the extensions are in the best interests of the
16 child; and

17 (B) an additional one-year period of supervision past [AGE] 19
18 years of age if the continued supervision is in the best interests of the person
19 and the person consents to it; or

20 (3) order, under the grounds specified in (o) of this section or
21 AS 47.10.088, the termination of parental rights and responsibilities of one or both
22 parents and commit the child to the custody of the department, and the department
23 shall report quarterly to the court on efforts being made to find a permanent placement
24 for the child.

25 * Sec. 12. AS 47.10.080(i) is amended to read:

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

29 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of
30 this section are also entitled to be heard at the hearing held under this subsection;

31 (2) when establishing the permanent plan for the child, the court shall

1 make appropriate written findings, including findings related to whether

2 (A) and when the child should be returned to the parent or
3 guardian;

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

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

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

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

14 (A) whether the department has made the reasonable efforts
15 required under AS 47.10.086 to offer appropriate family support services to
16 remedy the parent's or guardian's conduct or conditions in the home that made
17 the child a child in need of aid under this chapter;

18 (B) whether the parent or guardian has made substantial
19 progress to remedy the parent's or guardian's conduct or conditions in the home
20 that made the child a child in need of aid under this chapter; [AND]

21 (C) if the permanent plan is for the child to remain in out-of-
22 home-care, whether the child's out-of-home placement continues to be
23 appropriate and in the best interests of the child; and

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

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

31 * Sec. 13. AS 47.10.080(p) is amended to read:

1 (p) If a child is removed from the parental home, the department shall provide
 2 reasonable visitation between the child and the child's parents, guardian, and family.
 3 When determining what constitutes reasonable visitation with a family member, the
 4 department shall consider the nature and quality of the relationship that existed
 5 between the child and the family member before the child was committed to the
 6 custody of the department. The court may require the department to file a visitation
 7 plan with the court. The department may deny visitation to the parents, guardian, or
 8 family members if there is clear and convincing evidence that visits are not in the
 9 child's best interests. **If the department denies visitation to a parent or family**
 10 **member of a child, the department shall inform the parent or family member of a**
 11 **reason for the denial and of the parent's or adult family member's right to**
 12 **request a review hearing as an interested person.** A parent, adult family member,
 13 or guardian who is denied visitation may request a review hearing. **A non-party**
 14 **adult family member requesting a review hearing under this subsection is not**
 15 **eligible for publicly appointed legal counsel.**

16 * Sec. 14. AS 47.10.080 is amended by adding new subsections to read:

17 (t) The court may not terminate parental rights solely on the basis that the
 18 parent did not complete treatment required of the parent by the department for
 19 reunification with the child if the treatment required was unavailable to the parent and
 20 the department did not provide the treatment.

21 (u) For a child who is placed in foster care, when the department finds that it
 22 is in the best interest of a child and that the foster family will not be placed in undue
 23 risk of harm, the department shall require foster parents to provide regular
 24 opportunities for visitation with the child by the parents of the child and encourage
 25 foster parents to serve as mentors for facilitating family reunification.

26 (v) A hearing conducted under this section is open to the public unless an
 27 exception provided in AS 47.10.070(c) applies to make the hearing closed to the
 28 public or unless prohibited by federal or state statute or regulation.

29 * Sec. 15. AS 47.10.084(c) is amended to read:

30 (c) When there has been transfer of legal custody or appointment of a guardian
 31 and parental rights have not been terminated by court decree, the parents shall have

1 residual rights and responsibilities. These residual rights and responsibilities of the
 2 parent include, but are not limited to, the right and responsibility of reasonable
 3 visitation, consent to adoption, consent to marriage, consent to military enlistment,
 4 consent to major medical treatment except in cases of emergency or cases falling
 5 under AS 25.20.025, and the responsibility for support, except if by court order any
 6 residual right and responsibility has been delegated to a guardian under (b) of this
 7 section. In this subsection, "major medical treatment" includes the
 8 administration of medication used to treat a mental health disorder.

9 * Sec. 16. AS 47.10.088(i) is amended to read:

10 (i) The department shall concurrently identify, recruit, process, and approve a
 11 qualified person or family for an adoption whenever a petition to terminate a parent's
 12 rights to a child is filed. Before identifying a placement of the child in an adoptive
 13 home, the department shall attempt to locate all living adult family members of
 14 the child and, if an adult family member expresses an interest in adopting the
 15 child, investigate the adult family member's ability to care for the child. The
 16 department shall provide to all adult family members of the child located by the
 17 department written notice of the adult family members' rights under this chapter
 18 and of the procedures necessary to gain custody of the child, but the
 19 department's obligation to provide written notice under this subsection does not
 20 apply to a parent of the child whose parental rights are being or have been
 21 terminated or to an adult family member who is known by the department to be
 22 ineligible for a foster care license under AS 47.35.019 or 47.35.021. If an adult
 23 family member of the child requests that the department approve the adult
 24 family member for an adoption, the department shall approve the request unless
 25 there is good cause not to approve the adoption. If the court issues an order to
 26 terminate under (j) of this section, the department shall report within 30 days on the
 27 efforts being made to recruit a permanent placement for the child if a permanent
 28 placement was not approved at the time of the trial under (j) of this section. The
 29 report must document recruitment efforts made for the child.

30 * Sec. 17. AS 47.10 is amended by adding a new section to read:

31 Sec. 47.10.089. **Voluntary relinquishment of parental rights and**

1 **responsibilities.** (a) When a child is committed to the custody of the department
2 under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a
3 parent with respect to the child, including parental rights to control the child, to
4 withhold consent to an adoption, or to receive notice of a hearing on a petition for
5 adoption, may be voluntarily relinquished to the department and the relationship of
6 parent and child terminated in a proceeding as provided under this section.

7 (b) A voluntary relinquishment must be in writing and signed by a parent,
8 regardless of the age of the parent, in the presence of a representative of the
9 department or in the presence of a court of competent jurisdiction with the knowledge
10 and approval of the department. A copy of the signed relinquishment shall be given to
11 the parent.

12 (c) A voluntary relinquishment may be withdrawn within 10 days after it is
13 signed. The relinquishment is invalid unless the relinquishment contains the right of
14 withdrawal as specified under this subsection.

15 (d) A parent may retain privileges with respect to the child, including the
16 ability to have future contact, communication, and visitation with the child in a
17 voluntary relinquishment executed under this section. A retained privilege must be in
18 writing and stated with specificity.

19 (e) Not less than 30 days after a voluntary relinquishment is signed, the court
20 shall enter an order terminating parental rights if the court determines that termination
21 of parental rights under the terms of the relinquishment is in the child's best interest.
22 If a parent has retained one or more privileges under (d) of this section, the court shall
23 incorporate the retained privileges in the termination order with a recommendation
24 that the retained privileges be incorporated in an adoption or legal guardianship
25 decree.

26 (f) A voluntary relinquishment may not be withdrawn and a termination order
27 may not be vacated on the ground that a retained privilege has been withheld from the
28 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
29 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
30 Procedure.

31 (g) After a termination order is entered, a person who has voluntarily

1 relinquished parental rights under this section may request a review hearing, upon a
2 showing of good cause, to seek enforcement or modification of or to vacate a privilege
3 retained in the termination order. The court may modify, enforce, or vacate the
4 retained privilege if the court finds, by clear and convincing evidence, that it is in the
5 best interest of the child to do so.

6 (h) After a termination order is entered and before the entry of an adoption or
7 legal guardianship decree, a person who voluntarily relinquished parental rights to a
8 child under this section may request a review hearing, upon a showing of good cause,
9 to vacate the termination order and reinstate parental rights relating to that child. A
10 court shall vacate a termination order if the person shows, by clear and convincing
11 evidence, that reinstatement of parental rights is in the best interest of the child and
12 that the person is rehabilitated and capable of providing the care and guidance that will
13 serve the moral, emotional, mental, and physical welfare of the child.

14 (i) A person who relinquished parental rights is entitled to the appointment of
15 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same
16 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
17 proceeding.

18 (j) After a termination order is entered and before the entry of an adoption or
19 legal guardianship decree, a prospective adoptive parent or a guardian of a child who
20 is the subject of the adoption or guardianship decree may request, after providing
21 notice as specified under this subsection, that the court decline to incorporate a
22 privilege retained in a termination order and recommended for incorporation in an
23 adoption or guardianship decree under (c) of this section. The request made under this
24 subsection may only be considered by the court after providing at least 20 days' notice
25 by certified mail to the last known address of the person who has voluntarily
26 relinquished parental rights to the child. The notice under this subsection must
27 describe the request and explain that the recipient of the notice may submit a written
28 statement under penalty of perjury to the court that the recipient either agrees with or
29 opposes the request. The notice must also include the deadline for submitting the
30 statement and the mailing address of the court. The court may decline to incorporate a
31 retained privilege if the person who retained the privilege agrees with the request or if

1 the court finds that it is in the child's best interest.

2 * Sec. 18. AS 47.10.090(c) is amended to read:

3 (c) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
 4 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]
 5 18th birthday, within 30 days after [OF] the date on which the court releases
 6 jurisdiction over the child [MINOR], the court shall order all the court's official
 7 records pertaining to that child [MINOR] in a proceeding under this chapter sealed. A
 8 person may not use these sealed records unless authorized by order of [FOR ANY
 9 PURPOSE EXCEPT THAT] the court upon a finding of [MAY ORDER THEIR
 10 USE FOR] good cause [SHOWN].

11 * Sec. 19. AS 47.10.090(d) is amended to read:

12 (d) The name or picture of a child [MINOR] under the jurisdiction of the court
 13 may not be made public in connection with the child's [MINOR'S] status as a child in
 14 need of aid unless authorized by order of the court or unless to implement the
 15 permanency plan for a child after all parental rights of custody have been
 16 terminated. This subsection does not prohibit the release of aggregate
 17 information for statistical or other informational purposes if the identity of any
 18 particular person is not revealed by the release.

19 * Sec. 20. AS 47.10.092(a) is amended to read:

20 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
 21 a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose
 22 confidential or privileged information about the child or the child's family, including
 23 information that has been lawfully obtained from agency or court files, to the
 24 governor, the lieutenant governor, a legislator, the ombudsman appointed under
 25 AS 24.55, the attorney general, and the commissioner [COMMISSIONERS] of health
 26 and social services, administration, or public safety, or an employee of these persons,
 27 for review or use in their official capacities. The Department of Health and Social
 28 Services and the Department of Administration [DEPARTMENT] shall disclose
 29 additional confidential or privileged information, excluding privileged attorney-
 30 client information, and make copies of documents available for inspection about the
 31 child or the child's family to these state officials or employees for review or use in

1 their official capacities upon request of the official or employee and submission of
 2 satisfactory evidence that a parent or legal guardian of the child has requested the state
 3 official's assistance in the case as part of the official's duties. A person to whom
 4 disclosure is made under this section may not disclose confidential or privileged
 5 information about the child or the child's family to a person not authorized to receive
 6 it.

7 * Sec. 21. AS 47.10.092 is amended by adding new subsections to read:

8 (d) The obligations under (a) of this section remain in effect throughout the
 9 period that the child is in the custody of the department, including after the parent's
 10 parental rights have been terminated with respect to the child, unless the child's parent
 11 or legal guardian who made the disclosure under (a) of this section subsequently files
 12 a notice with the Department of Health and Social Services that the assistance of the
 13 state official or employee is no longer requested.

14 (e) The Department of Health and Social Services shall notify an official
 15 identified under (a) of this section of the opportunity for a parent to file a grievance
 16 under AS 47.10.098 when the official is denied access to all or part of a requested
 17 record.

18 * Sec. 22. AS 47.10.093(a) is amended to read:

19 (a) Except as permitted [SPECIFIED] in AS 47.10.092 and in (b) - (g) and
 20 (k) - (n) [(b) - (g)] of this section, all information and social records pertaining to a
 21 child [MINOR] who is subject to this chapter or AS 47.17 prepared by or in the
 22 possession of a federal, state, or municipal agency or employee in the discharge of the
 23 agency's or employee's official duty are privileged and may not be disclosed directly
 24 or indirectly to anyone without a court order.

25 * Sec. 23. AS 47.10.093(b) is amended to read:

26 (b) A state or municipal agency or employee shall disclose appropriate
 27 confidential information regarding a case to

28 (1) a guardian ad litem appointed by the court;

29 (2) a person or an agency requested by the department or the child's
 30 legal custodian to provide consultation or services for a child who is subject to the
 31 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of

1 the consultation or services;

2 (3) an out-of-home care provider [FOSTER PARENTS OR
3 RELATIVES WITH WHOM THE CHILD IS PLACED BY THE DEPARTMENT]
4 as [MAY BE] necessary to enable the out-of-home care provider [FOSTER
5 PARENTS OR RELATIVES] to provide appropriate care to [FOR] the child [WHO
6 IS THE SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE
7 SUBJECT OF THE CASE], and to protect the safety and property of family members
8 and visitors of the out-of-home care provider [FOSTER PARENTS OR
9 RELATIVES];

10 (4) a school official [OFFICIALS] as [MAY BE] necessary to enable
11 the school to provide appropriate counseling and support services to a [THE] child
12 who is the subject of the case, to protect the safety of the child [WHO IS THE
13 SUBJECT OF THE CASE], and to protect the safety of school students and staff;

14 (5) a governmental agency as [MAY BE] necessary to obtain that
15 agency's assistance for the department in its investigation or to obtain physical custody
16 of a child;

17 (6) a law enforcement agency of this state or another jurisdiction as
18 [MAY BE] necessary for the protection of any child or for actions by that agency to
19 protect the public safety;

20 (7) a member [MEMBERS] of a multidisciplinary child protection
21 team created under AS 47.14.300 as [MAY BE] necessary for the performance of the
22 member's [THEIR] duties;

23 (8) the state medical examiner under AS 12.65 as [MAY BE]
24 necessary for the performance of the duties of the state medical examiner;

25 (9) a person who has made a report of harm as required by
26 AS 47.17.020 to inform the person that the investigation was completed and of action
27 taken to protect the child who was the subject of the report; [AND]

28 (10) the child support services agency established in AS 25.27.010 as
29 [MAY BE] necessary to establish and collect child support for a child who is a child in
30 need of aid under this chapter;

31 (11) a parent, guardian, or caregiver of a child or an entity

1 responsible for ensuring the safety of children as necessary to protect the safety
 2 of a child; and

3 (12) a review panel established by the department, the legislature,
 4 or the governor for the purpose of reviewing the actions taken by the department
 5 in a specific case.

6 * Sec. 24. AS 47.10.093(c) is repealed and reenacted to read:

7 (c) A state or municipal law enforcement agency shall disclose information
 8 regarding a case that is needed by the person or agency charged with making a
 9 preliminary investigation for the information of the court under AS 47.10.020.

10 * Sec. 25. AS 47.10.093(f) is amended to read:

11 (f) The department may release to a person with a legitimate interest
 12 confidential information relating to children [MINORS] not subject to the
 13 jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT
 14 REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND
 15 IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

16 * Sec. 26. AS 47.10.093(g) is amended to read:

17 (g) The department and affected law enforcement agencies shall work with
 18 school districts and private schools to develop procedures for the disclosure of
 19 confidential information to a school official [OFFICIALS] under (b)(4) of this
 20 section. The procedures must provide a method for informing the principal or the
 21 principal's designee of the school that the student attends as soon as it is reasonably
 22 practicable.

23 * Sec. 27. AS 47.10.093 is amended by adding new subsections to read:

24 (k) The Department of Health and Social Services and the Department of
 25 Administration may disclose to the public, upon request, confidential information, as
 26 set out in (l) of this section, when

27 (1) the parent or guardian of a child who is the subject of a report of
 28 harm under AS 47.17 has made a public disclosure concerning the department's
 29 involvement with the family;

30 (2) the alleged perpetrator named in a report of harm under AS 47.17
 31 has been charged with a crime concerning the alleged abuse or neglect; or

1 (3) a report of harm under AS 47.17 has resulted in the fatality or near
2 fatality of that child.

3 (l) The type of information that may be publicly disclosed under (k) of this
4 section is information related to the determination, if any, made by the department
5 regarding the validity of a report of harm under AS 47.17 and the department's
6 activities arising from the department's investigation of the report. The department
7 ~~may~~ ^{shall} (1) may withhold disclosure of the child's name, picture, or other
8 information that would readily lead to the identification of the child if the department ^{#2}
9 determines that the disclosure would be contrary to the best interests of the child, the
10 child's siblings, or other children in the child's household; or

11 (2) ~~after~~ ^{shall} consultation with a prosecuting attorney ~~may~~ ^{shall} withhold
12 disclosure of information that would reasonably be expected to interfere with a
13 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a
14 criminal proceeding.

15 (m) Except for a disclosure made under (k) of this section, a person to whom
16 disclosure is made under this section may not disclose confidential information about
17 the child or the child's family to a person not authorized to receive it.

18 (n) The Department of Health and Social Services and the Department of
19 Administration ~~may~~ ^{shall} adopt regulations to implement and interpret the duties of the
20 respective department under this section, including regulations governing the release
21 of confidential information and identifying a sufficient legitimate interest under (f) of
22 this section.

23 (o) A person may not bring an action for damages against the state, the
24 commissioner, or the commissioner's designee based on the disclosure or
25 nondisclosure of information under (k) of this section except for civil damages
26 resulting from gross negligence or reckless or intentional misconduct.

27 * Sec. 28. AS 47.10 is amended by adding a new section to read:

28 **Sec. 47.10.098. Grievance procedure.** (a) The department shall develop, in
29 regulation, a grievance procedure for a parent to file a complaint based on

30 (1) the application of a department policy or procedure under this
31 chapter;

1 (2) compliance with this chapter or a regulation adopted under this
2 chapter; or

3 (3) an act or failure to act by the department under this chapter.

4 (b) The department shall prepare and distribute to each parent of a child who
5 is under the jurisdiction of the department a written copy of the grievance procedure
6 developed under (a) of this section.

7 * Sec. 29. AS 47.10.960 is repealed and reenacted to read:

8 **Sec. 47.10.960. Civil liability.** Failure to comply with a provision of this title
9 does not constitute a basis for civil liability for damages.

10 * Sec. 30. AS 47.10.990(16) is amended to read:

11 (16) "mental health professional" has the meaning given in
12 AS 47.30.915, except that, if the child is placed in another state by the
13 department, "mental health professional" also includes a professional listed in
14 the definition of "mental health professional" in AS 47.30.915 who is not licensed
15 to practice by a board of this state but is licensed by a corresponding licensing
16 authority to practice in the state in which the child is placed;

17 * Sec. 31. AS 47.10.990 is amended by adding new paragraphs to read:

18 (28) "adult family member" means a person who is 18 years of age or
19 older and who is

20 (A) related to the child as the child's grandparent, aunt, uncle,
21 ~~legal guardian~~, or sibling; or

22 (B) the child's sibling's legal guardian or parent;

23 (29) "family member" means a person of any age who is

24 (A) related to the child as the child's grandparent, aunt, uncle,
25 ~~legal guardian~~, or sibling; or

26 (B) the child's sibling's legal guardian or parent;

27 (30) "near fatality" means physical injury or other harm, as certified by
28 a physician, caused by an act or omission that created a substantial risk of death;

29 (31) "out-of-home care provider" means a foster parent or relative
30 other than a parent with whom the child is placed.

31 * Sec. 32. AS 47.12.990(10) is amended to read:

1 (10) "mental health professional" has the meaning given in
 2 AS 47.30.915, except that, if the minor is placed in another state by the
 3 department, "mental health professional" also includes a professional listed in
 4 the definition of "mental health professional" in AS 47.30.915 who is not licensed
 5 to practice by a board of this state but is licensed by a corresponding licensing
 6 authority to practice in the state in which the minor is placed;

7 * Sec. 33. AS 47.14.100(a) is amended to read:

8 (a) Subject to (e), (f), and (i) - (m) [(i) - (l)] of this section, the department
 9 shall arrange for the care of every child committed to its custody by placing the child
 10 in a foster home or in the care of an agency or institution providing care for children
 11 inside or outside the state. The department may place a child in a suitable family
 12 home, with or without compensation, and may place a child released to it, in writing
 13 verified by the parent, or guardian or other person having legal custody, for adoptive
 14 purposes, in a home for adoption in accordance with existing law.

15 * Sec. 34. AS 47.14.100(e) is repealed and reenacted to read:

16 (e) When a child is removed from a parent's home, the department shall place
 17 the child, in the absence of a showing of good cause to the contrary,

18 (1) in the least restrictive setting that most closely approximates a
 19 family and that meets the child's special needs, if any;

20 (2) within reasonable proximity to the child's home taking into
 21 account any special needs of the child and the preferences of the child or parent;

22 (3) with, in the following order of preference,

23 (A) an adult family member;

24 (B) a family friend who meets the foster care licensing
 25 requirements established by the department;

26 (C) a licensed foster home that is not an adult family member
 27 or family friend;

28 (D) an institution for children that has a program suitable to
 29 meet the child's needs.

30 * Sec. 35. AS 47.14.100(f) is amended to read:

31 (f) If an adult family member [A BLOOD RELATIVE] of the child

1 specified under (e) of this section exists and agrees that the child should be placed
 2 elsewhere, before placement elsewhere, the department shall fully communicate the
 3 nature of the placement proceedings to the adult family member [RELATIVE].
 4 Communication under this subsection shall be made in the adult family member's
 5 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION
 6 OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR
 7 ADOPTIVE PURPOSES.]

8 * Sec. 36. AS 47.14.100(j) is amended to read:

9 (j) For the purpose of determining whether the home of a relative meets the
 10 requirements for placement of a child under (e) of this section or under
 11 AS 47.10.088(i), the department shall conduct a criminal background check from state
 12 and national criminal justice information available under AS 12.62. The department
 13 may conduct a fingerprint background check on any member of the relative's
 14 household who is 16 [12] years of age or older when the relative requests placement of
 15 the child. For the purposes of obtaining criminal justice information under this
 16 subsection, the department is a criminal justice agency conducting a criminal justice
 17 activity under AS 12.62.

18 * Sec. 37. AS 47.14.100 is amended by adding a new subsection to read:

19 (m) Prima facie evidence of good cause not to place a child with an adult
 20 family member or family friend under AS 47.10.088(i) or under (e) of this section
 21 includes grounds for denial of a foster care license under AS 47.35.019 or 47.35.021.
 22 Prima facie evidence of good cause not to place a child with an adult family member
 23 or adult family friend does not include poverty or inadequate or crowded housing. If
 24 the department denies a request for placement with an adult family member or a
 25 family friend, the department shall inform the adult family member or family friend of
 26 the basis for the denial and the right to request a hearing to review the decision. A
 27 non-party adult family member or family friend requesting a review hearing under
 28 AS 47.10.088(i) or under (e) of this section is not eligible for publicly appointed legal
 29 counsel.

30 * Sec. 38. AS 47.14 is amended by adding a new section to article 3 to read:

31 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within

1 the department a Citizen Review Panel. The panel shall be composed of volunteer
2 members who are broadly representative of the state, including members who have
3 expertise in the prevention and treatment of child abuse and neglect.

4 (b) The panel shall meet not less than once every three months. Meetings may
5 take place telephonically.

6 * **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 to read:

7 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate
8 the extent to which the department is effectively discharging its child protection
9 responsibilities under

10 (1) the state plan submitted to the United States Department of Health
11 and Human Services under 42 U.S.C. 5106a(b);

12 (2) child protection standards under federal and state laws; and

13 (3) any other criteria that the panel considers important to ensuring the
14 protection of children, including the level and efficiency of coordination of foster care
15 and adoption programs in the state and a review of child fatalities and near fatalities.

16 (b) In carrying out the responsibilities under (a) of this section, the state panel
17 shall examine the policies, procedures, and practices of the department, and, where
18 appropriate, evaluate specific cases of child abuse or neglect.

19 (c) The commissioner shall, by regulation, establish policies and procedures
20 necessary to carrying out the duties of the state panel under this section.

21 * **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 read:

22 **Sec. 47.14.225. Cooperation with state panel.** (a) The department shall
23 provide the panel access to information on child abuse or neglect cases that is
24 necessary for the panel to carry out its duties under AS 47.14.215.

25 (b) The department shall serve as staff to the state panel as requested by the
26 panel members.

27 * **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

28 **Sec. 47.14.235. Confidentiality.** (a) A person attending a meeting of the
29 state panel or a member or staff of the state panel may not make any disclosure related
30 to information obtained during a review by the state panel unless authorized under
31 AS 47.10.092 or 47.10.093.

1 (b) Meetings of the state panel are subject to AS 44.62.310 and 44.62.312.

2 * Sec. 42. AS 47.14 is amended by adding a new section to article 3 to read:

3 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public
4 outreach and gather public comment on current department procedures and practices
5 involving children and family services.

6 * Sec. 43. AS 47.14 is amended by adding a new section to article 3 to read:

7 **Sec. 47.14.255. Report.** (a) The state panel shall prepare and make available
8 to the governor, the legislature, and to the public an annual report containing a
9 summary of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and
10 recommendations for the improvement of child protection services in the state.

11 (b) Not later than six months after the date on which the report is released
12 under (a) of this section, the department shall submit a written response to the report.
13 The department's response must include a description of whether and how the
14 department will incorporate the recommendations of the panel, where appropriate.

15 * Sec. 44. AS 47.14 is amended by adding a new section to article 3 to read:

16 **Sec. 47.14.265. Civil penalty for violation of AS 47.14.235.** A violation
17 under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

18 * Sec. 45. AS 47.14 is amended by adding a new section to article 3 to read:

19 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who
20 furnishes services to or advises the state panel is not liable for damages or other relief
21 in an action involving the performance or failure to perform a duty or other activity of
22 the state panel.

23 * Sec. 46. AS 47.14 is amended by adding a new section to article 3 to read:

24 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

25 (1) "adult family member" has the meaning given in AS 47.10.990;

26 (2) "near fatality" has the meaning given in AS 47.10.990;

27 (3) "state panel" means the Citizen Review Panel established under
28 AS 47.14.205.

29 * Sec. 47. AS 47.17.025 is amended by adding a new subsection to read:

30 (c) Within 20 days after receiving a report of harm, whether or not the matter
31 is referred to a local government agency, the department shall notify the person who

1 made the report and who made a request to be notified, about the status of the
2 investigation, without disclosing any confidential information.

3 * Sec. 48. AS 47.17.027(a) is amended to read:

4 (a) If the department or a law enforcement agency provides written
5 certification to the child's school officials that (1) there is reasonable cause to suspect
6 that the child has been abused or neglected by a person responsible for the child's
7 welfare or as a result of conditions created by a person responsible for the child's
8 welfare; (2) an interview at school is a necessary part of an investigation to determine
9 whether the child has been abused or neglected; and (3) the interview at school is in
10 the best interests of the child, school officials shall permit the child to be interviewed
11 at school by the department or a law enforcement agency before notification of, or
12 receiving permission from, the child's parent, guardian, or custodian. A school official
13 shall be present during an interview at the school unless the child objects or the
14 department or law enforcement agency determines that the presence of the school
15 official will interfere with the investigation. The interview shall be conducted as
16 required under AS 47.17.033. Immediately after conducting an interview authorized
17 under this section, and after informing the child of the intention to notify the child's
18 parent, guardian, or custodian, the department or agency shall make every reasonable
19 effort to notify the child's parent, guardian, or custodian that the interview occurred
20 unless it appears to the department or agency that notifying the child's parent,
21 guardian, or custodian would endanger the child.

22 * Sec. 49. AS 47.17.033 is amended by adding new subsections to read:

23 (c) An investigation by the department of child abuse or neglect reported
24 under this chapter shall be conducted by a person trained to conduct a child abuse and
25 neglect investigation and without subjecting a child to more than one interview about
26 the abuse or neglect except when new information is obtained that requires further
27 information from the child.

28 (d) An interview of a child conducted as a result of a report of harm may be
29 audiotaped or videotaped. If an interview of a child concerns a report of sexual abuse
30 of the child by a parent or caretaker of the child, the interview shall be videotaped,
31 unless videotaping the interview is not feasible or will, in the opinion of the

1 investigating agency, result in trauma to the child.

2 (e) An interview of a child that is audiotaped or videotaped under (d) of this
3 section shall be conducted

4 (1) by a person trained and competent to conduct the interview;

5 (2) if available, at a child advocacy center; and

6 (3) by a person who is a party to a memorandum of understanding with
7 the department to conduct the interview or who is employed by an agency that is
8 authorized to conduct investigations.

9 (f) An interview of a child may not be videotaped more than one time unless
10 the interviewer or the investigating agency determines that one or more additional
11 interviews are necessary to complete an investigation. If additional interviews are
12 necessary, the additional interviews shall be conducted, to the extent possible, by the
13 same interviewer who conducted the initial interview of the child.

14 (g) A recorded interview of a child shall be preserved in the manner and for a
15 period provided by law for maintaining evidence and records of a public agency.

16 (h) A recorded interview of a child is subject to disclosure under the
17 applicable court rules for discovery in a civil or criminal case.

18 (i) In this section, "child advocacy center" means a facility operated with a
19 child-focused, community partnership committed to a multidisciplinary team approach
20 that includes representatives from law enforcement, child protection, criminal
21 prosecution, victim advocacy, and the medical and mental health fields who
22 collaborate and assist in investigating allegations of sexual or other abuse and neglect
23 of children.

24 * Sec. 50. AS 47.18.300(a) is amended to read:

25 (a) The department, in coordination with local public and private agencies,
26 shall design, develop, and implement a foster care transition program to provide
27 support and services to individuals who

28 (1) reach or have reached the age of 16 or older while in state foster
29 care and have not yet reached 23 years of age [THE AGE OF 21]; and

30 (2) meet other eligibility criteria established by the department under
31 (b) of this section.

1 * Sec. 51. The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of
4 Aid Rules of Procedure, is amended to read:

5 (c) **Presence of Grandparent or Foster Parent.** A grandparent of a child
6 and the foster parent or other out-of-home care provider are [IS] entitled to be heard
7 at any hearing at which the person is present. However, the court may limit the
8 presence of these persons in a hearing that has been closed to the public under
9 (f)(2) of this rule [THE FOSTER PARENT OR CARE PROVIDER] to the time
10 during which the person's testimony is being given if the court determines that such
11 a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule [IT
12 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO
13 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE
14 DETRIMENTAL TO THE CHILD].

15 * Sec. 52. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of
18 Aid Rules of Procedure, is repealed and reenacted to read:

19 (f) **General Public Access to Hearings.**

20 (1) Except as provided in (2) of this paragraph, and unless prohibited
21 by federal or state statute or regulation, court order, or other court rule, hearings are
22 open to the public.

23 (2) The following hearings are closed to the public:

24 (A) the initial court hearing after the filing of a petition that
25 begins the child-in-need-of-aid case;

26 (B) a hearing following the initial hearing in which a parent,
27 child, or other party to the case is present but has not had an opportunity to
28 obtain legal representation;

29 (C) a hearing, or a part of a hearing, for which the court issues
30 a written order finding that allowing the hearing, or part of the hearing, to be
31 open to the public would reasonably be expected to stigmatize or be

1 emotionally damaging to a child; inhibit a child's testimony in the hearing;
 2 disclose matters otherwise required to be kept confidential by state or federal
 3 statute or regulation, court order, or court rule; or interfere with a criminal
 4 investigation or proceeding or a criminal defendant's right to a fair trial in a
 5 criminal proceeding.

6 (3) Before ruling on a request under (2)(C) of this paragraph
 7 concerning potential interference with a criminal investigation or proceeding, the court
 8 shall give notice and an opportunity to be heard to the state or a municipal agency that
 9 is assigned to the criminal investigation or to the prosecuting attorney.

10 (4) If the court closes a hearing to the public under (2)(C) of this
 11 paragraph, the court shall close only the portions of the hearing necessary to prevent
 12 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
 13 is open to the public, the court shall hear in camera any information offered regarding
 14 the location, or readily leading to the location, of a parent, child, or other party to the
 15 case who is a victim of domestic violence. ^{or whose safety or welfare may be endangered by} Access to testimony heard in camera under ^{public release}
 16 this subparagraph is limited to the court and authorized court personnel. ^{of information}

17 (5) Notwithstanding any other provision of this rule, the court shall
 18 issue an order to prohibit all persons in a hearing open to the public from disclosing to
 19 any person a name, picture, or other information that would readily lead to the
 20 identification of a child who is the subject of the proceeding. If a person violates the
 21 order, the court may impose any appropriate sanction, including contempt and closure
 22 of any further hearings in the proceeding to the person.

23 (6) A party to the proceeding may move the court to close to the public
 24 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this
 25 paragraph. A member of the public may request in writing to be served with a motion
 26 filed under this subparagraph. If such a request has been filed in advance of the filing
 27 of the motion, the party filing the motion must also serve the member of the public
 28 who requested notice under this subparagraph. The court may waive the service
 29 required under this subparagraph to a member of the public if a motion to close the
 30 hearing, or part of the hearing, is made under this subparagraph immediately before or
 31 during the hearing and the court finds that

1 (A) the need for closure was not reasonably foreseeable
2 sufficiently in advance of the hearing to allow for notice;

3 (B) there is good cause not to delay the hearing in order to
4 achieve notice, taking into consideration the age of the child and the potential
5 adverse effect that a delay could have on the child; and

6 (C) whatever notice is practicable under the circumstances has
7 occurred.

8 * Sec. 53. The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need
11 of Aid Rules of Procedure, is amended to read:

12 (f) **Additional Findings.** In addition to the findings required under paragraph
13 (e), the court shall also make written findings related to

14 (1) whether the Department has made reasonable efforts required
15 under AS 47.10.086 or, in the case of an Indian child, whether the Department has
16 made active efforts to provide remedial services and rehabilitative programs as
17 required by 25 U.S.C. Sec. 1912(d);

18 (2) whether the parent or guardian has made substantial progress to
19 remedy the parent's or guardian's conduct or conditions in the home that made the
20 child a child in need of aid; [AND]

21 (3) if the permanent plan is for the child to remain in out-of-home care,
22 whether the child's out-of-home placement continues to be appropriate and in the best
23 interests of the child; and

24 (4) whether the Department has made reasonable efforts to finalize
25 the permanent plan for the child.

26 * Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in
29 Need of Aid Rules of Procedure, is amended to read:

30 (d) **Relinquishment.**

31 (1) Notwithstanding other provisions of this rule, the court may

1 terminate parental rights after a voluntary relinquishment pursuant to AS 47.10.089
 2 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the
 3 requirements set forth in 25 U.S.C. § 1913(c).

4 * Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to
 5 read:

6 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need
 7 of Aid Rules of Procedure, is amended to read:

8 (c) **Child's Name or Picture.** The name or picture of a child who is the
 9 subject of a CINA proceeding may not be made available to the public unless
 10 authorized by court order accompanied by a written statement reciting the
 11 circumstances which support such authorization, or unless to implement the
 12 permanency plan for the child after all parental rights of custody have been
 13 terminated.

14 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
 15 read:

16 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,
 17 is amended to read:

18 (a) **Form.** A consent or relinquishment must be in writing and must include:

- 19 (1) notice of the person's right to withdraw the consent or
 20 relinquishment as provided by paragraphs (g) and (h) of this rule;
 21 (2) the address and telephone number of the court in which the
 22 adoption or relinquishment proceeding has or is expected to be filed;
 23 (3) a statement of the right to counsel as stated in Rule 8;
 24 (4) a statement concerning whether or not any visitation rights or
 25 other parental privileges are sought to be retained after the adoption;
 26 (5) if a consent, the information required in AS 25.23.060; and
 27 (6) if signed by a parent, a statement of whether the parent is a minor.

28 * Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to
 29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,
 31 is amended to read:

1 (g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

2 The parent of a non-Indian child may withdraw a consent or relinquishment by
 3 notifying in writing the court, or the person or agency obtaining the consent or
 4 relinquishment, within 10 days of the birth or signing of the consent or
 5 relinquishment, whichever is later. Notification is timely if received or postmarked on
 6 or before the last day of this time period. The parent may move the court to permit
 7 withdrawal of the consent or relinquishment after the 10 day period pursuant to
 8 AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a
 9 relinquishment.

10 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption
 13 Rules, is amended to read:

14 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be
 15 entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089.
 16 The court shall enter findings of fact which must include a statement concerning
 17 whether visitation rights are being allowed under AS 25.23.130(c) or other privileges
 18 are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit
 19 for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in
 20 the presence of the court, findings also must be entered as to whether the parent
 21 understood the consequences of the relinquishment, and whether the relinquishment
 22 was voluntarily signed.

23 In the case of a voluntary relinquishment of parental rights to an Indian child,
 24 the court shall make additional findings concerning whether any notice required by
 25 Rule 10(c) was timely given; whether the relinquishment was voluntary and in
 26 compliance with the requirements of 25 U.S.C. Section 1913, and whether the child's
 27 placement complies with the preferences set out in 25 U.S.C. Section 1915 or good
 28 cause exists for deviation from the placement preference.

29 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 INDIRECT COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 2 of

1 this Act, amends Rules 14 and 15, Alaska Rules of Probate Procedure, by providing that
2 retained privileges be set out in the guardianship decree and by providing additional
3 procedures related to a voluntary relinquishment of parental rights.

4 (b) AS 25.23.180(j) - (n) and AS 47.10.089, added by secs. 4 and 17 of this Act,
5 amend Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set out
6 in the relinquishment form and order and by providing additional procedures related to the
7 relinquishment.

8 (c) AS 25.23.180(k) - (n) and AS 47.10.089(g), (h), and (j), added by secs. 4 and 17
9 of this Act, amend Rule 13, Alaska Adoption Rules, by authorizing review hearings for
10 voluntary relinquishments.

11 (d) AS 47.10.080(l), as amended by sec. 12 of this Act, amends Rule 17.2(f), Alaska
12 Child in Need of Aid Rules of Procedure, by modifying the grounds for review of a
13 permanent plan.

14 (e) AS 47.10.089, added by sec. 17 of this Act, amends Rule 18, Alaska Child in
15 Need of Aid Rules of Procedure, by providing that a relinquishment be in writing, allowing
16 for the withdrawal of the relinquishment, allowing for the retention of certain privileges, and
17 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

18 * Sec. 60. The uncoded law of the State of Alaska is amended by adding a new section to
19 read:

20 INDIRECT COURT RULE AMENDMENT. (a) Sections 9 and 10 of this Act, and
21 AS 47.10.080(v), enacted by sec. 14 of this Act, have the effect of changing Rule 3, Alaska
22 Child in Need of Aid Rules of Procedure, by allowing members of the public to attend cou.
23 hearings except in certain circumstances.

24 (b) Sections 19 and 22 - 27 of this Act have the effect of changing Rule 22, Alaska
25 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential
26 information pertaining to a child, including a child's name or picture to be made public in
27 certain circumstances.

28 * Sec. 61. The uncoded law of the State of Alaska is amended by adding a new section to
29 read:

30 APPLICABILITY. (a) The amendments to Rule 3, Alaska Child in Need of Aid
31 Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted

1 on or after the effective date of secs. 51 and 52 of this Act.

2 (b) Sections 9 - 11, 14, 18, 19, 22 - 27, 51, 52, and 55 of this Act apply to all
3 proceedings and hearings conducted on or after the effective date of those sections.

4 (c) Sections 9, 10, 14, and 19 - 27 of this Act apply to all information, records, and
5 files created on or after the effective date of those sections; however, if a file contains
6 information and records that were created before the effective date of secs. 9, 10, 14, and 19 -
7 27 of this Act, that information and those records retain the confidentiality that they had under
8 the law on the day before the effective date of secs. 9, 10, 14, and 19 - 27 of this Act.

9 * Sec. 62. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 TRANSITION: REGULATIONS. The Department of Health and Social Services
12 may proceed to adopt regulations necessary to implement the changes made by this Act. The
13 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
14 effective date of the relevant statutory change.

15 * Sec. 63. The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
18 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to
19 "Involuntary termination of parental rights and responsibilities."

20 * Sec. 64. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of
23 Aid Rules of Procedure, made by secs. 51 and 52 of this Act, take effect only if secs. 51 and
24 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
25 Constitution of the State of Alaska.

26 (b) Section 12 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as
27 amended by sec. 53 of this Act, take effect only if sec. 53 and sec. 59(d) of this Act receive
28 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the
29 State of Alaska.

30 (c) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 54 of this
31 Act, takes effect only if sec. 54 of this Act receives the two-thirds majority vote of each house

1 required by art. IV, sec. 15, Constitution of the State of Alaska.

2 (d) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,
3 made by sec. 55 of this Act take effect only if sec. 55 of this Act receives the two-thirds
4 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

5 (e) Sections 9 and 10 of this Act, AS 47.10.080(v), enacted by sec. 14 of this Act, and
6 secs. 19 and 22 - 27 of this Act, take effect only if secs. 51, 52, 53, and 60 of this Act receive
7 the two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the
8 State of Alaska.

9 (f) Rule 9(a), Alaska Adoption Rules, as amended by sec. 56 of this Act, takes effect
10 only if sec. 56 of this Act receives the two-thirds majority vote of each house required by art.
11 IV, sec. 15, Constitution of the State of Alaska.

12 (g) Rule 9(g), Alaska Adoption Rules, as amended by sec. 57 of this Act, takes effect
13 only if sec. 57 of this Act receives the two-thirds majority vote of each house required by art.
14 IV, sec. 15, Constitution of the State of Alaska.

15 (h) Rule 13(a), Alaska Adoption Rules, as amended by sec. 58 of this Act, takes effect
16 only if sec. 58 of this Act receives the two-thirds majority vote of each house required by art.
17 IV, sec. 15, Constitution of the State of Alaska.

18 (i) AS 13.26.064, added by sec. 2 of this Act, AS 25.23.180(j) - (n), added by sec. 4
19 of this Act, and AS 47.10.089, added by sec. 17 of this Act, take effect only if sec. 59(a) and
20 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
21 Constitution of the State of Alaska.

22 * Sec. 65. If, under sec. 64 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(v), enacted
23 by sec. 14 of this Act, and secs. 19 and 22 - 27 of this Act take effect, they take effect July 1,
24 2005.

25 * Sec. 66. Except as provided in sec. 65 of this Act, this Act takes effect immediately under
26 AS 01.10.070(c).

AMENDMENT #1

OFFERED IN THE SENATE HESS

BY SENATOR ELTON

TO: HB 53 Version W

1 Page 18, line 19:

2 Delete: "may"

3 Insert: "shall"

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Adopting regulations to carry out disclosure statutes is mandatory, not permissive.

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A M E N D M E N T # 2

OFFERED IN THE SENATE HESS

BY SENATOR DYSON

TO: HB 53 Version W

1 Page 19, lines 20-21 and lines 24-25, following "uncle,"

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3 Delete "legal guardian"

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Deleted by request of Department of Law since persons in this definition should be "family". The legal guardian already is a party to the case.

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AMENDMENT #3

OFFERED IN THE SENATE HESS

BY SENATOR GREEN

TO: HB 53 Version W

1 Page 27, line 15, following "violence,":

2 Insert: "or whose safety or welfare may be endangered by public release of
3 information"

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Brings the language for the court rule change for in camera proceedings in alignment with the language in Section 10 that addresses in camera proceedings.

FAMILY RIGHTS ACT
SCS CSSSHB 53(JUD)

*****CONSOLIDATION OF BILLS*****

HB 53 is a consolidation of legislation introduced or proposed by Governor Murkowski, Representative Rokeberg, Representative McGuire, and myself. I wanted to consolidate the bills so we didn't come up with four or five bills that wanted to accomplish the same things in different ways and ended up creating chaos in the system.

This bill is an excellent example of why the committee process is so important to debate the policy issues of our state. Four committees in the House have in whole or in part scrutinized this bill. Probably half of this body has contributed language to this bill.

*****ELIMINATES NO DUTY LANGUAGE*****

It eliminates from the law language that implies there is no duty and standard of care for social workers making decisions for children in state custody. I believe the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 153 P.2d 871 (Alaska 1998) does create a duty to children in state custody and believe there is a civil liability for wrongdoing. (Sec. 29) Coghill

*****STRENGTHENS FAMILIES*****

This legislation also strengthens the rights of adult family members (including grandparents), especially those who have already been instrumental in raising the child. Many times when parents run away from OCS, grandparents or other adult relatives get placement of the child. If parental rights are terminated, those raising the child should have preference for adoption. (Sec. 3) Coghill

Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Other adult family members and grandparents also gain accessibility to information and hearings in CINA cases through this legislation. (Sec. 10) Governor

It provides for the least restrictive placement in close proximity of the parents for reunification purposes. The preference for placement is: (Sec. 33) Coghill

1. an adult family member
2. a family friend
3. a licensed foster home
4. an institution

It requires OCS to do everything possible to provide parental and family visitation for children and if OCS denies visitation they must provide a reason. The family members will be informed of their right to a hearing if denied. (Sec. 13) Rokeberg

HB 53 puts into statute provisions that allow for a voluntary relinquishment of parental rights that carries with it a right to retain certain parental rights such as visitation or the ability to contact the child at a later date. OCS currently allows for voluntary relinquishment but the court has said OCS does not have statutory authority to do it. (Sec. 4 and Sec. 17) Governor

It establishes that poverty is not a reason to deny placement with relatives.
(Sec. 37) Department of Law Amendment

It established that parental rights cannot be terminated solely on the basis that the parent did not get treatment is the treatment was not available and OCS did not provide treatment. (Sec. 14) Coghill

We encourage OCS to provide the training for foster parents to become mentors to encourage family reunification without placing foster homes at risk.
(Sec. 14) Coghill

HB 53 amends the definition of "major medical treatment to include medication used to treat a diagnosed mental health disorder. (Sec. 15) Governor

*****MAKE THE PROCESS TRANSPARENT*****

The bill creates a transparent process by making currently unavailable confidential information currently available to certain people and making court proceedings open to the public. (Sec. 9) Governor

There are sideboards for such proceedings: (Sec. 10) Governor

1. If a child could be stigmatized or emotionally damaged
2. If it would interfere with a criminal investigation
3. If disclosure would violate state or federal law

When a person attends a CINA hearing the court issues an order for confidentiality outlining what information can be revealed to the public and what the sidebars are. The Finance Committee strengthened sanctions if a person violates the court order. Now those persons are subject to sanctions that include being barred from any future CINA proceedings regardless of who the parties are. (Sec. 10) Governor

A grievance process is established in law and the department is required to provide to each parent a copy of the grievance procedures. (Sec.

28) Coghill

An additional safeguard to transparency and due process is the establishment of a state review panel that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS. The panel will be subject to the Open Meetings Act and will have the ability to meet in executive session. (Sec. 38 - 44) Coghill

It enacts provisions that would allow OCS to disclose confidential information to the public under certain circumstances: (Sec. 27) Governor

1. When the parents have disclosed confidential information about OCS's involvement in a case to the public.
2. When the perpetrator has been charged with a crime
3. When a report of harm has resulted in a death or near fatality

*****VIDEOTAPING & CAC'S*****

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to be children in need of aid (CINA). This creates accountability in interviewing and protects the child from multiple interrogations. It requires mandatory videotaping of suspected victims of sexual abuse.

(Sec. 49) Coghill

The bill defines Child Advocacy Centers in state statute. The definition is language agreed upon by the Department of Law, OCS, and the Child Advocacy Centers. (Sec. 49) Coghill

Established criteria for schools to follow when a child is to be interviewed and directs OCS to work with law enforcement and schools in establishing procedures for interviewing. (Sec. 26) Governor

*****RESPONSIVE TO THE PUBLIC*****

It requires OCS to within 20 days respond to a voluntary reporter whether or not OCS has opened a case. (Sec. 47) Rokeberg

Requires OCS to work with legislative offices and the Ombudsman's Office when dealing with constituent cases. (Sec. 20) Rokeberg

Provides that legislative offices can remain a non-party participant of a case even when the parental rights have been terminated. (Sec. 21) Coghill

*****CONCLUSION*****

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

Sectional for CSSHB 53(FIN)

Section 1. Amends Title 13, Article 2 "Guardians of Minors" to add as a qualification for the court to appoint a guardian if an adult family member applies for guardianship, unless the court finds that appointment would not be in the best interest of the child.

Sec. 2. This section adds language to Title 13.26 (Guardians of Minors) bridging guardianship placement with voluntary relinquishment language in adoption (Sec. 5) and CINA (Sec. 20) sections of Version C.

Sec. 3. Gives preference to an adult family member who has cared for a child for twelve consecutive months or more to adopt the child(ren) unless the court finds there is good cause not to grant the adoption.

Sec. 4. Adds a new section to CINA law that allows for voluntary relinquishment of parental rights while retaining privileges for future contact, communication, and visitation with a child. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order—"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

HB 17 Rokeberg Placement with Relatives

HB 114 Governor Voluntary Relinquishment
Indirect Rule Change
Rules 14 and 15, Rules of Probate Procedure

HB 53 Coghill Relative Preference for Adoption

HB 114 Governor Voluntary Relinquishment

Direct Rule Change:

Rule 9(a) Alaska Adoption Rules Sec. 54

Rule 13(a) Alaska Adoption Rules Sec. 56

Indirect Rule Change:

Rules 9 and 14, Alaska Adoption Rules

Finally it provides that a prospective adoptive parent may, after a termination order is entered, before the entry of an adoption or legal guardianship decree, and after notification of the biological parent if required, request that the court decline incorporation of a retained privilege in the adoption decree.

Sec. 5. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

Sec. 6. Intent language for the Family Rights Act.

Sec. 7. This section allows the court to, on its own motion, appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

Sec. 8. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

Sec. 9. Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

Sec. 10. Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

If an open hearing could stigmatize or emotionally harm the child, inhibit a child's testimony, interfere with a criminal investigation, or disclose information protected as confidential by state or federal law, the hearing can be closed.

HB 114 Governor Protection of Child's Dividend

HB 53 Coghill Parent's Participation in the Upbringing of the Child

HB 114 Governor Improving the Process

HB 114 Governor Improving the Process

HB 113 Governor Open the Process

Direct Rule Change
Rule 3 Alaska CINA Rules of Procedure Sec. 50

HB 113 Governor Open the Process
Direct Rule Change
Rule 3(f) Alaska CINA Rules of Procedure
Sec. 50

Grandparents, foster parents, or other out-of-home care providers may attend hearings otherwise closed to the public but may be limited in their participation in the hearing.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing. An amendment in House Finance would permit the court to bar a violator or the court restrictions from all future hearings regardless of who the parties are.

Finally, this section clarifies that the right of an adult family member to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of an adult family member under Title 47.

Sec. 11. Legal has added some cleanup language to this section, including replacing the word "relative" with "adult family member".

Sec. 12. Provides that the court shall make one additional finding in the permanency plan, that being that the department has made reasonable efforts to finalize the permanent plan. It is needed to satisfy federal requirements for foster care reimbursement.

Sec. 13. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial. New language by Department of Law clarifies that a non-party adult family member would not qualify for publicly appointed legal counsel.

Sec. 14. Amends AS 47.10.80 (Judgments and Orders) to add three provisions:

(i) The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

(ii) Requires foster parents to provide regular

Indirect Rule Change

Rule 3 Alaska CINA Rules of Procedure Sec. 50

LAA Legal Language Cleanup

Request of Department of Law to comply with federal law.

Direct Rule Change

Rule 3(c) Alaska CINA Rule of Procedure Sec. 49

Rule 17.2(f) Alaska CINA Rules Sec. 51

HB 17 Rokeberg Family Visitation

HB 53 Coghill Family Preservation

HB 53 Coghill Family Preservation

with family and to encourage foster parents to serve as mentors for facilitating family reunification.

(f) It opens adjudication hearings to the public unless an exception in Section 12 applies.

Sec. 15. The section amends the residual rights section of Title 47.10 to include language that defines "major medical treatment" to include "medication used to treat a diagnosed mental health disorder".

Sec. 16. Provides that before OCS can approve placement of a child for adoption, the department must attempt to locate all living adult family members. The department must provide written notice to all located family members of their right to adopt and those reason by which the department can deny adoption. Adult family members who have had parental rights terminated or are ineligible for foster care licensing do not have to be notified.

Sec. 17. Section 20 adds a new section to CINA statutes to provide for relinquishment of parental rights. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

It provides that parents can retain some privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order—"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

HB 113 Governor Open the Process

HB 53 Governor Family Preservation

HB 17 Rokeberg Placement with Relatives

HB 114 Governor Voluntary Relinquishment

Direct Rule Change:

Rule 9(g) Alaska Adoption Rules Sec. 55

Rule 13(a) Alaska Adoption Rules Sec. 56

Rule 18(d)(1) Alaska CINA Rules Sec. 52

Indirect Rule Change:

Rules 9 and 14, Alaska Adoption Rules

Rule 18 Alaska CINA Rules

Sec. 18. Language clean up to statute providing for files of a child in custody being sealed when the child turns 18.

Sec. 19. Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

Sec. 20. Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. To obtain additional privileged information from Department of Health & Social Services or OPA or the public defender, a Disclosure of Information Release Form must be completed by a parent. Also attorney-client privileged would be protected.

Sec. 21. This section now provides that as long as the child is in state custody, disclosure to certain officials will stay in effect, unless a parent or legal guardian says it is not longer needed.

Additionally, in this section, the department will now be required to notify a state official or employee of the opportunity to file a grievance.

Sec. 22. Provides that unless information and records are available through the changes in law in HB 53, information and records of government agencies are confidential and cannot be disclosed without a court order.

Sec. 23. Language clean up to replace "foster parents" with "a foster parent" and "relatives" to "out-of-home care provider". Also disclosure of confidential agency records is expanded to include a caregiver, an entity responsible for ensuring the safety of children, and the citizen's review panel. The department is added language to subsection (12) to extend the authority to establish a review panel to the governor and the legislature. The House Finance added guardians ad litem back into this category and clarified that caregivers include parents or guardians.

HB 113 Governor Improving the Process

HB 113 Governor Improving the Process
Direct Rule Change
Rule 22(c) Alaska CINA Rules of Procedure
Sec. 53

Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

HB 114 Rokeberg Family Preservation

HB 53 Coghill Improving the Process

HB 113 Governor

HB 113 Governor Improving the Process
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

Sec. 24. Language cleanup by legislative legal where four former subsections were repealed in 1996 and by one provision remained, which is disclosing to a person charged with making a preliminary investigation.

Sec. 25. Clarifies that information made available to party with interest is confidential information. The regulatory language is deleted because it has been added to Section 30.

Sec. 26. The section directs OCS to work with law enforcement agencies in assisting schools, both public and private, in developing procedures for disclosure of confidential information to schools in an expedited timeline as possible.

Sec. 27. The purposes for which confidential agency records can be disclosed to the public have been expanded to include public officials, but additionally, when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child. The agencies allowed to disclose confidential information have been expanded to include not only Health and Social Services, but also the Department of Administration.

The department may withhold disclosure of child's name, picture or other information that would readily identify the child if it determines it is in the best interest of the child or other children in the household. The department can also withhold information if it would interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial.

This section acknowledges that the person receiving confidential information has a fiduciary responsibility to keep the information confidential.

Gives Department of Health & Social Services and Department of Administration authority to promulgate regulations.

LAA Legal

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Language cleanup

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

Sec. 28. New language to this section establishes in statute a grievance process but leaves the ability to set policies and procedures to the regulatory process.

Sec. 29. Provides that failure to comply with a provision of this title [AS 47] does not constitute a basis for civil liability for damages and does nothing to change the Alaska Supreme Court's opinion that OCS has a duty to children in state custody.

Sec. 30. Defines "mental health professional" in CINA statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 31. Defines "adult family members", "family members", and "near fatality" in CINA statutes. House Finance amended the definition of "adult family member" to include a sibling's parent or legal guardian.

Sec. 32. Defines "mental health professional" in delinquent minor statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 33. Provides priorities for placement of a child when removed from the parent's home. Placement must be the least restrictive and in close proximity to parents to allow for reunification planning. Preferences for placement would be an adult family member, a family friend, a licensed foster home, or lastly, an institution with a program suitable for the child.

Sec. 34. Provides that when a child is placed in a home other than a home of a relative, the department must fully disclose to the relative the nature of the placement.

Sec. 35. Expands the requirement of OCS fully communicating information about placement of the child elsewhere to not only the parents, but also to adult family members.

HB 53 Coghill Improving the Process

HB 53 Coghill Accountability

HB 114 Governor Improving the Process

HB 114 & LAA Legal

HB 114 Governor Improving the Process

HB 53 Coghill Family Preservation

HB 17 Rokeberg Improving the Process

HB 17 Rokeberg Improving the Process

Sec. 36. Provides that criminal background checks are required for both temporary placements and adoptive placements including finger print background check on anyone residing at the home who is 16 or older.

Sec. 37. Established that poverty is not a Prima facie evidence (a fact presumed to be true unless disproved by evidence to the contrary) to deny placement and if a person is denied placement they are to be informed of the reason and told that they have a right to a hearing but not to legal counsel. o

Sec. 38. Creates a State Citizens Review Panel consisting of volunteers who are broadly representative of the state.

Sec. 39. Duties of the panel are to examine policies, procedures, and practices of state and local agencies in making or investigating a ROH; evaluate specific cases; and report annually to the governor all of their activities.

Sec. 40. Directs Department of Health & Social Services to cooperate with and provide records to the state panel to facilitate timely review of plans for children under the jurisdiction of the panel. The department shall serve as staff to the panel.

Sec. 41. Instructs the members of the panel, panel staff, and attendees of panel meetings not disclose to ANYONE records or other information containing personally identifying or other information made confidential under state or federal law about a child or witnesses involved in a case under review by the panel. It also clarifies that the panel would be covered by the Open Meetings Act and would have the ability to call executive sessions.

Sec. 42. Directs the panel to conduct public outreach and gather information on the department's current procedures and practices.

Department of Law amendment

Department of Law amendment

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Sec. 43. Directs the department to prepare an annual report and provide it to the governor. It also requires the department to submit a written response to the report to the governor within six months of the date the report is submitted to the governor.

Sec. 44 Imposes a civil penalty for violating the confidentiality clauses for up to \$2,500 per violation.

Sec. 45. Creates immunity for state panel members and persons provided support to the panel.

Sec. 46. Defines "adult family member", "state panel" as the Citizen Review Panel and "near fatality" in Title 47.14, Juvenile Programs and Institutions by reference to AS 47.10.990.

Sec. 47. Requires OCS to notify a person who has made a ROH with a status report within 20 days.

Sec. 48. Amends duties of school officials to direct schools to conduct interviews of children as provided with trained interviewers and being videotaped or audiotaped.

Sec. 49. Creates standards for interviewing CINA children requiring audio or videotaping and requiring interviewers to be trained and competent to conduct the interview. It also limits interviews to one unless it is determined that an additional interview is necessary. The House Finance Committee discussed "may" versus "shall" for videotaping. They agreed to be permissive for many Reports of Harm, but if the report of harm is that involved a report of sexual abuse, the interview "shall" be videotaped, unless the interview is not feasible or will result in trauma to the child.

Since HB 53 encourages OCS to utilize child advocacy centers, the House Finance Committee added a subsection to this section that created a definition for child advocacy centers.

Sec. 50. Amends Title 47.18, "Foster Care Transition Program" to provide for a transition plan for children who have reached the age of sixteen but have not reached the age of 23. Formerly the age limit was 21.

HB 53 Coghill Improving the Process

HB 53 Coghill Due Process

HB 53 Coghill Improving the process

HB 53 Coghill Improving the process

HB 17 Rokeberg Improving the process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Department of Law

Sec. 51. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 52. Repeals CINA Rule 3(f), General Public Excluded, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 53. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 54. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 55. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 56. Rule change for voluntary relinquishment with other parental privileges.

Sec. 57. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 58. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 59. Various indirect rule change provisions.

Sec. 60. Indirect rule changes for disclosure of confidential information.

Sec. 61. Applicability.

Sec. 62. Transition language to implement changes through regulation.

Sec. 63. Revisor's instructions.

Sec. 64. Conditional Effect.

Sec. 65-66. Effective dates.

Court Rules Changes Due to Legislation

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

FOR IMMEDIATE RELEASE: May 4, 2005

CONTACT: Representative John Coghill (907) 465-3719

House Passes Legislation to Protect Alaska's Families

(JUNEAU) – The Alaska House of Representatives has passed legislation to protect Alaska's families. House Bill 53, an omnibus bill compiling pieces of legislation related to family rights, passed the House unanimously.

Sponsored by Representative John Coghill (R-North Pole), HB 53 is co-sponsored by two other Fairbanks legislators, Representatives Mike Kelly (R-Fairbanks) and Jay Ramras (R-Fairbanks), as well as, two Anchorage legislators, Representatives Lesil McGuire (R-Anchorage) and Norman Rokeberg (R-Anchorage). The bill also includes voluntary relinquishment provisions and opening court proceedings proposed by Governor Murkowski.

Representative McGuire praised this legislation as it passed the House floor. "This bill leaves one of the strongest legacies of this legislature by putting the families, their rights and responsibilities first and striking the appropriate balance between protecting Alaska's children, respecting the rule of law and affording families the opportunity for continued relationships wherever possible," she said.

HB 53 would make the child-in-need-of-aid process transparent by making confidential information currently unavailable accessible to certain people and making court proceedings open to the public. The legislation would also strengthen the rights of grandparents in Alaska, especially if they have been instrumental in the raising of a child or children. This bill would give grandparents, relatives or family friends consideration for placement of a child if parental rights are terminated.

"Preserving and protecting Alaska's families has always been one of my priorities. I believe that this bill does just that," said Representative Coghill.

HB 53 now moves to the Senate where Senator Fred Dyson (R-Eagle River) will carry the bill. "The House has done excellent work on this bill. I think it was genius to combine 3-4 bills on the subject of protecting children."

HB 53 is scheduled for the Senate Health, Education and Social Services Committee later this week.

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State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

FOR IMMEDIATE RELEASE: April 1, 2005
Contact: Sherry Hill (907) 465-1618

Media advisory:
DHSS, Law and Representatives Coghill and Rokeberg to discuss omnibus child protection legislation with media

DHSS Commissioner Gilbertson, Rep. Coghill, Rep. Rokeberg to discuss HB53 and answer questions

(Juneau, Alaska) – Department of Health and Social Services Commissioner Joel Gilbertson, Representative John Coghill, Representative Rokeberg, and representatives from the Office of Children's Services and the Department of Law will discuss omnibus child protection legislation developed collaboratively. The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be referred to the House Judiciary committee next. The omnibus legislation combines the original HB 53 sponsored by Representative Coghill; HB 17, sponsored by Representative Rokeberg, and HB113 and HB114, both sponsored by Governor Murkowski.

HB53 is a child protection omnibus bill. The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to share more information with the public about department actions surrounding certain child abuse and neglect cases. The legislation will make court proceedings open to the public, and allows the department to provide confidential information to schools and certain public officials.

The legislation gives parents the right to a jury trial in proceedings to terminate their parental rights. The legislation also strengthens the rights of adult family members for placement preference for children removed from parental care, and adoption preference for those who have already been instrumental in raising the child.

WHO: Alaska Health and Social Services Commissioner Joel Gilbertson, House Majority Leader John Coghill, Representative Rokeberg

WHAT: Omnibus child protection legislation: HB53

WHEN: Tuesday, April 5, 2005, from noon to 1 p.m.

WHERE: Governor's Conference Room, Third floor, Alaska State Capitol in Juneau
Videoconference from the Anchorage Governor's Conference Room, Atwood Building, 17th floor

Reporters outside of Juneau can participate by calling the teleconference line at 1-907-315-6338,
XXXX#

-- 30 --

State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
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Family Rights Act
House Bill 53 Confidentiality Issues

April 5, 2005

The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be heard in the House Judiciary committee next.

The omnibus legislation combines the original HB 53 sponsored by Representative John Coghill; HB 17, sponsored by Representative Norman Rokeberg; and HB 113 and HB 114, both sponsored by Governor Frank H. Murkowski.

HB 53 is an omnibus child protection bill. HB113 focuses on confidentiality in child protection cases, and these sections are important to the Department of Health and Social Services and Governor Murkowski.

The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to respond to inquiries about department actions surrounding certain child abuse and neglect cases.

This legislation would change two key areas in the confidentiality statutes: Child-In-Need-Of-Aid, or CINA, court hearings would be open to the public except in certain circumstances. Presently, they are closed to the public.

- The Department would be able to publicly respond to inquiries surrounding child abuse and neglect cases, disclosing agency actions in CINA proceedings under three circumstances, if:
 - a parent has discussed their OCS case with the media,
 - an alleged perpetrator has been criminally charged with a crime relating to the abuse or neglect of a child under their care, or
 - a report of harm has resulted in the fatality or near fatality of a child.

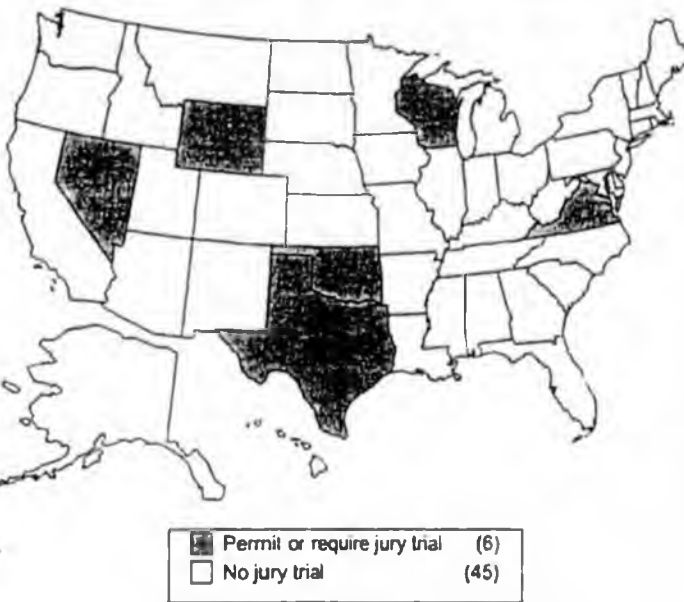
The proposed legislation would protect the child's privacy while providing for some disclosure of OCS actions regarding the case.

Contact: Sherry Hill (907) 465-1618
Jeff Kasper, (907) 465-8194

Jury Trial in Termination of Parental Rights Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Termination of Parental Rights Cases



As of the end of 2003, the following 6 states (Nevada, Oklahoma, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in termination of parental rights cases. In Virginia, the jury is called an "advisory jury."

The other 45 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in termination of parental rights cases.

In 2002, legislation was introduced in Utah to give a parent the right to a jury trial in termination of parental rights cases, but this legislation failed to pass.

Currently the state of Arizona is considering having jury trials in termination of parental rights cases.

Oklahoma is the only state that claims a constitutional right to a jury trial in termination of parental rights cases. In 1987, the Oklahoma Supreme Court held that "parental rights are too precious to be terminated without the full panoply of protections afforded by the Oklahoma Constitution."

While the state high court said that it knew that "the best interest and welfare of the child is the primary consideration," it also knew that "this goal is best achieved by full compliance with the law. Insofar as the constitutional right to jury trial exists, it cannot be abrogated arbitrarily by a court."

There are three basic arguments found in case law against such a constitutional right. Two of these arguments make due process claims for a

jury trial in termination of parental rights cases. The third argument is the argument from history.

State courts that have addressed the issue hold that the constitutional right to a jury trial is not implicit in the concept of due process. Rather, the due process requirement in termination of parental rights proceedings is fundamental fairness. These courts have found that implicit in the *McKeiver* holding is the finding that a jury trial is not a fundamental concept of due process.

The second due process argument that the state courts have looked at is that a parent in a termination of parental rights case is entitled to a jury trial because parents have a fundamental constitutional right to raise their children and that right must be safeguarded by allowing a right to a jury trial.

In cases that make this due process argument, the court must balance three sometimes-competing interests. The first right is the fundamental right of the child to have the court and/or the parent acting in the child's best interests. This right of the child often competes with the parent's interests. The second right is the fundamental right of a parent to retain a parental relationship with a child and vice-versa, which is a right that merits strong protection. Finally, the state has a compelling interest as *parens patriae*

in protecting the child's rights.

In a termination of parental rights case, the court must walk a fine line and achieve the proper balance between the best interests of children, while giving full weight to the importance of the parent-child relationship.

State courts that have decided this constitutional issue have found that a jury trial removes a termination of parental rights case from its status as a protective proceeding, while adding little if any efficacy to the fact-finding process.

The final argument that state courts have addressed is the argument from history. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to a termination of parental rights case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice.

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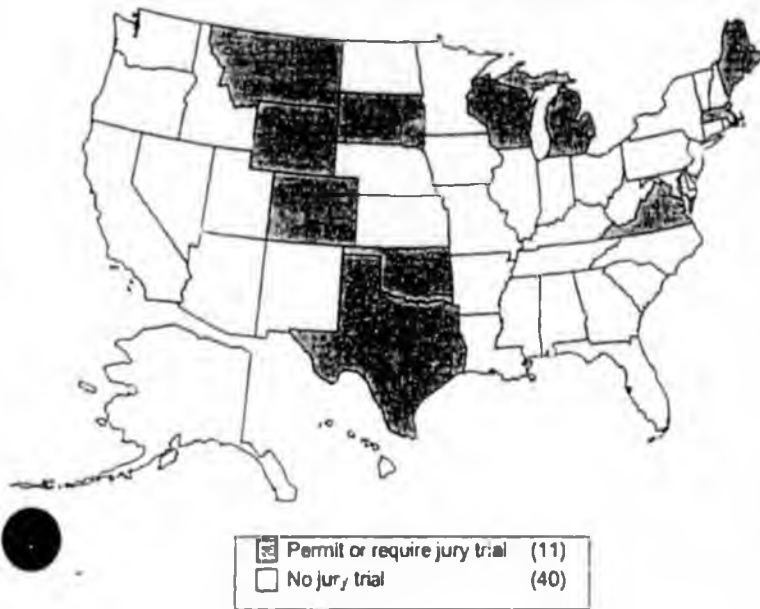
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ISSN 1093-9369

Jury Trial in Abuse, Neglect, Dependency Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Abuse, Neglect, Dependency Cases



As of the end of 2003, the following 11 states (Colorado, Maine, Massachusetts, Michigan, Montana, Oklahoma, South Dakota, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in abuse, neglect, dependency cases. In Virginia, the jury is called an "advisory jury."

The other 40 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in abuse, neglect, dependency cases.

However, state legislatures in these remaining 40 jurisdictions continue to discuss and debate the issue of jury trials in abuse, neglect, dependency cases.

For example, on December 18, 2003, the Governor of Arizona approved legislation granting the right to a jury trial, if requested, by the parent, guardian or custodian whose parental rights were to be terminated. Although the Bill had language granting jury trials in abuse or neglect cases, if requested, this language was not included in the Bill that finally passed.

On April 23, 2003, the Hawaii House of Representatives adopted a Concurrent Resolution requesting the State Auditor to consult with national entities with child welfare expertise, and to conduct program audits of the Child Protective Services Division of the Hawaii Department of Human Services, the Department of

the Attorney General, the Family Courts, and the police department of each county on the issue of child abuse and neglect within the state. One of the listed focus points of the audit is a discussion of the pros and cons of the right to a jury trial for parents accused of child abuse, a right currently not available in Hawaii.

Also, in 2003, the state of Illinois introduced a Bill giving a parent the right to demand a trial by jury in any proceeding seeking a finding that a minor is neglected, abused, or dependent. This Bill failed to pass.

Of the states that do have jury trials in abuse, neglect, dependency hearings, in Colorado, any respondent, or the guardian ad litem may demand a jury trial at the adjudicatory hearing of an abuse, neglect, dependency case. In addition, the court, on its own motion may order such a jury trial. The jury consists of 6 people. In Michigan, the right to a jury trial belongs to any person with standing in the case.

In Oklahoma, a parent, the state or a child has the right to demand a jury trial, but only when the petition to determine if a child is deprived also contains a request for termination of parental rights. The demand for a jury trial must be granted unless the parties waive the right to a jury trial. However, the court, on its own motion may order a jury trial. As in Colorado, Michigan and Wisconsin, the jury consists of 6 people.

Under Wyoming law, a party against whom a petition has been filed or the District Attorney may demand a trial by jury at an adjudicatory hearing. Demand for a jury trial must be made to the court not later than 10 days after the party making the demand is advised of his right to a jury trial. Failure of a party to demand a jury trial is a waiver of this right.

State courts that have addressed the issue of a constitutional right to a jury trial in an abuse, neglect, dependency case use the argument from history to state that there is no such right. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to an abuse, neglect, dependency case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice. Any one may use the content of this publication for educational purposes, we only ask that you identify the material as being the property of NCJJ. If you want to use this publication for commercial purposes or alter its content, you need our permission.

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 Pittsburgh, PA: National Center for Juvenile Justice.

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By: Bonnie Williams
Introduced: 03/24/05
Adopted: 03/24/05

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2005 - 13

A RESOLUTION IN SUPPORT OF STATE ACTIONS AND ACCOUNTABILITY INVOLVING CHILDREN

WHEREAS, the Fairbanks North Star Borough Assembly has four times in the past 10 years passed a resolution urging the State of Alaska to fully implement a statute impacting children under the care of the State by appointing and using a Peer Review body in each community; and

WHEREAS, during these past 10 years the quality of care provided to children under the legal care of the State has been revealed to be seriously less than adequate; and

WHEREAS, such poor care has resulted in repeated injuries, and in some tragic instances, death of children purportedly in state care; and

WHEREAS, a thorough review by a federal task force of the State of Alaska's care of children found numerous instances of failure to adequately care for children removed from their natural families by a court order; and

WHEREAS, such tragedy must not be allowed to continue to occur.

NOW THEREFORE BE IT RESOLVED that the Fairbanks North Star Borough, once more, sadly and tiredly but determinedly, asks the Legislature of the State of Alaska to take such actions as are deemed appropriate, purposeful and useful toward the purpose of improving the State's care of children.

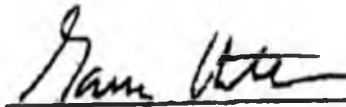
BE IT FURTHER RESOLVED, that the Assembly supports HB 53 "An Act relating to child-in-need-of-aid proceedings...", and urges its passage and implementation.

BE IT FURTHER RESOLVED, that the Assembly encourages the Legislature to reenact AS 47.14.200 Citizen's Foster Care Review Board and that the Governor appoint public members to fulfill the much needed peer review committee.

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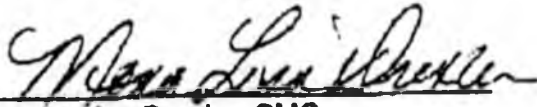
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of the State of Alaska, and to members of the Interior Delegation of the Alaska State Legislature.

PASSED AND APPROVED THIS 24th DAY OF MARCH 2005.



Garry Hutchison
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

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Ayes: Romans, Bartos, Sattley, Rex, Williams, Hopkins, Aldridge, Frank, Hutchison
Noes: None

ALASKA STATE HOUSE OF REPRESENTATIVES



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Fax# (907)-488-4271

Session

(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

March 24, 2005

Martha M. Anderson
Child and Adult Care Program Manager
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Dear Ms. Anderson:

Thank you for your recent letter to Chairman Wilson of the House Health & Social Services Committee regarding CSSSHB 53(HSS), the Family Rights Act.

The language you discussed in your letter was folded into my bill from a bill the governor introduced at the beginning of session. I discussed your concerns with several people at OCS and in the Governor's office. They have assured me that the existing language does avail to you confidential information about care providers that you license.

Attached is an email I asked my staff to send to get clarification in writing that you and other licensing entities would be eligible to obtain confidential information about the facilities you license.

If you have further concerns, feel free to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "John Coghill".

Representative John Coghill

Rynniva Moss

From: Gibbens, Joanne [Joanne_Gibbens@health.state.ak.us]
Sent: Wednesday, March 23, 2005 5:26 PM
To: Rynniva Moss
Subject: RE:

Hi Rynniva - the answer to your question is Yes - that provision, which was part of the Governor's confidentiality bill would cover the municipality of anchorage as an entity we would be able to disclose information to - we could not give them the actual report of harm, but we would be allowed to disclose appropriate information to them if we were concerned about the safety of any children in the facilities they licensed - Joanne

-----Original Message-----

From: Rynniva Moss [mailto:Rynniva_Moss@legis.state.ak.us]
Sent: Wednesday, March 23, 2005 4:21 PM
To: Barb Malchick OPA; Barbara Brink; Dianne Olsen; Heather Nobrega; Jan Rutherford; Joanne Gibbens; Joel Gilbertson; Josh Fink; Kathy Hope Erickson; Linda Wilson Public Defender; Michael Lessman; Peter Naoroz; Rep. Berta Gardner; Rep. Bob Lynn; Rep. John Coghill; Rep. Lesil McGuire; Rep. Max Gruenberg; Rep. Mike Kelly; Rep. Nancy Dahlstrom; Rep. Norman Rokeberg; Rep. Paul Seaton; Rep. Peggy Wilson; Rep. Pete Kott; Rep. Sharon Cissna; Rep. Tom Anderson; Rep. Vic Kohring; Representative Gara; Representative Ramras; Sherry Hill; Stacie Kraly; Sue Standliff; Tammy Sandovol; Vanessa Tondoni
Subject:

I have submitted the attached memos to Leg Legal. The bill will be heard next Thursday March 31st, at 3:00 p.m. I will prepare new sectionals and get them to all of you as soon as possible.

We received a letter from the Municipality of Anchorage with concerns that they do not have access to records of ROH's for child care facilities so they don't know when a child facility is posing a danger to children so they can police the licensing of those facilities. Section 23 of Version S provides that a state or municipal agency or employee shall disclose appropriate confidential information regarding a case to

and new subsection (11) reads:

"a caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child;"

Is that language inclusive of a municipality that licenses child care facilities by referring to "an entity responsible for ensuring the safety of children"?

Thank you everyone for your hard work and cooperation on this bill.

Rynniva

MAR 22 2005



Municipality of Anchorage

P.O. Box 106650 • Anchorage, Alaska 99512-0650 • 425 "I" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

March 18, 2005

The Honorable Peggy Wilson
 Chair, State House Health, Education and Social Services Committee
 Alaska State House of Representatives
 State Capitol, Room 108
 Juneau, AK 99811
 VIA fax: 465-3175

Dear Representative Wilson:

I write to comment on behalf of the Municipality of Anchorage on the Family Rights Act, CSSSHB (HESS) ("HB 53"). We thank you for the concern for the children of this state which HB 53 articulates. We want to bring to your attention our view that the bill should more clearly give child care licensing entities in Alaska greater access to the records of the Office of Children's Services (OCS) for purposes of licensing and investigating child care facilities. We believe all children of this state will benefit if OCS and child care licensing entities share information.

I. Introduction

The Municipality of Anchorage, Department of Health and Human Services, Child & Adult Care Program (CAC) now has full responsibility for licensing all child care facilities in Anchorage. Its duties include issuing licenses as well as restricting and removing these licenses. As you are aware, many children in Alaska now spend their most formative years in the care of licensed child care providers. Many of these young children are infants who are unable to talk. Therefore, it is the responsibility of CAC and other licensing entities in Alaska to ensure that these young children are safe and well-cared for in child care entities.

II. Background

Before the CAC issues a license, it conducts an investigation which consists of checking criminal backgrounds and fingerprinting applicants, in addition to other investigation.¹ It also asks child care providers to sign releases so that it may check the provider's child protection background.²

When CAC receives complaints about child care facilities, it must investigate those complaints and take licensing action if the complaints have merit. Unfortunately, the CAC's ability to license and investigate child care facilities in Anchorage has been compromised in recent years by the inability of its workers to gain access to OCS files of child care providers. For example,

¹ See, AMC16.55.100.

² See, AMC 16.55.100 D. 15. a. ii.

Community, Security, Prosperity

Family Rights Act, CSSSHB (HESS) ("HB 53")
Page 2

in one instance, after receiving several complaints about a child care facility, CAC initiated proceedings to revoke the facility's license. During the course of preparing the case for hearing, CAC learned that the child care provider at issue had an extensive file at OCS, with serious allegations relating to the health and safety of children which spanned a 10-year period. None of these episodes had been reported to CAC, and line workers at OCS had been afraid to tell CAC of these episodes because of the restriction on disclosure of child protection records.³ In other instances, CAC has been concerned that home-based child care providers had children of their own in the home who had serious behavioral problems and who thus posed a threat to the children in their care.

Therefore, in addition to wanting to protect children in care from adults who may pose a threat to their well being, CAC wants to be able to protect children in care from potential abuse or neglect by other children.⁴ If CAC is allowed greater access to OCS records, it could then make a better determination as to whether some applicants should be awarded a license in the first place. In addition, if CAC receives complaints about a child care facility after it has been licensed, it will have a better means of investigating those complaints.

III. Discussion of HB33

As you know, AS 47.10.093 currently states as follows:

- (a) Except as specified in 47.10.092 and (b) – (g) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty are privileged and may not be disclosed directly or indirectly without a court order.

Section 22 of HB 33, adds a new exception to the prohibition on disclosure, which appears to give OCS the authority to provide records to licensing agencies like CAC. It provides as follows:

Sec. 22. AS 47.10.093 (b) is amended to read:

- (b) A state or municipal agency or employee shall disclose appropriate confidential information regarding a case to
 - (11) a caregiver of a child or entity responsible for ensuring the safety of children as necessary to protect the safety of a child

Subsection (11) as drafted appears to relate to agencies like CAC, as CAC is "an entity responsible for ensuring the safety of children." However, to clarify the fact that child care licensing authorities have access to child protection records of providers, we request that you substitute "of children" for "a child" at the end of subsection 11. If this phrase "of children" is

³ Sec, AS 47.10.093.

Family Rights Act, CSSSHB (HSS) ("HB 53")
Page 3

added, the legislation will more clearly indicate the intent that agencies such as CAC have the ability to review child protection records so that it can better protect all children in a child care facility from potentially harmful child care providers and individuals who have contact with children in child care entities.

CAC will agree to keep information it receives from OCS confidential. Indeed, AS 47.10.093 (m) as drafted states that:

- (m) Except for a disclosure made under (k) of this section, a person to whom disclosure is made under this section may not disclose confidential information about the child or the child's family to a person not authorized to receive it.

Moreover, CAC is bound by the confidentiality requirements of its own regulations.⁵

IV. Conclusion

If agencies such as the CAC have greater access to OCS records of providers, they can better serve the young children of this state. CAC's goals are so closely aligned with the goals of OCS that this access should not create a conflict for either agency, as long as both agencies agree to maintain confidentiality. We therefore request that you clarify HB 33 so that child care licensing entities have greater access to State child protection records.

If you have questions or would like to speak with me about this matter further, please call me at (907) 343-4676.

Sincerely,



Martha M. Anderson
Child and Adult Care Program Manager

cc: Senator Fred Dyson
Representative Sharon Cissna
Representative John Coghill Jr., House Majority Leader
Beverly K. Wooley, Director
Mary Pinkel, Assistant Municipal Attorney

⁵ See, AMC 16.55.160.

FISCAL NOTE TOTALS

SCS CSSSHB 53(JUD)

| Fiscal Note No. | Dept. | Component | | Fiscal Impact | |
|--------------------|--------|--------------------------------|----|---------------------|---|
| 12 | DOA | Public Defender | \$ | 82,700.00 | x |
| 13 | DOA | OPA | \$ | 161,300.00 | x |
| 14 | Courts | Trial Courts | \$ | 94,900.00 | x |
| 15 | OCS | Children's Services Management | \$ | 142,700.00 | x |
| 16 | OCS | Front Line Workers | \$ | 106,200.00 | x |
| 17 | Law | Civil Human Services | \$ | 586,400.00 | x |
| | | Total Fiscal Impact | \$ | 1,174,200.00 | |

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 12
 Bill Version: CSSSHF 53(FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to child in need of RDU Legal and Advocacy Services
aid proceedings;... Component Public Defender Agency
 Sponsor Reps. Coghill, Ramras...
 Requester House Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 54.3 | 54.3 | 54.3 | 54.3 | 54.3 | 54.3 |
| Travel | 2.4 | 2.4 | 2.4 | 2.4 | 2.4 | 2.4 |
| Contractual | 18.0 | 18.0 | 18.0 | 18.0 | 18.0 | 18.0 |
| Supplies | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 |
| Equipment | 6.7 | 0.7 | 0.7 | 0.7 | 0.7 | 0.7 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 82.7 | 76.7 | 76.7 | 76.7 | 76.7 | 76.7 |

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|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
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| CHANGE IN REVENUES () | | | | | | |
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FUND SOURCE (Thousands of Dollars)

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|-----------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 82.7 | 76.7 | 76.7 | 76.7 | 76.7 | 76.7 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 82.7 | 76.7 | 76.7 | 76.7 | 76.7 | 76.7 |

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

CSSS HB53(JUD) is an omnibus bill significantly changing the child protective statutes (CINA) and in some instances the adoption and guardianship statutes. The portions of the bill having a fiscal impact on the operations of the Public Defender Agency will be discussed on the following page.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Michael Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone: (907)-334-4416
 Date/Time: 4/27/05 7:25 AM
 Date: 4/27/2005

FISCAL NOTE #12

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Fiscal Note Analysis for SS HB 53: (continued)

Various Sections of this bill change statutes and court rules concerning confidentiality in child protective proceedings (CINA). CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. The Agency opens over 900 new child protective proceedings a year. It is anticipated that in a significant number of the Agency's cases the attorney will be repeatedly moving to close hearings. This additional motion practice will also require service on a member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to a half-time attorney position, factoring in support staff. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled.

Other provisions of the bill will have a fiscal impact on the Agency as well, but the extent of the impact cannot be predicted with any accuracy. In various sections of the bill it provides for family members or friends to request and obtain a review hearing of denied visitation, denied temporary placement, or a denied adoption placement request. While these identified people are not considered parties who would be entitled to the appointment of counsel, if indigent, Agency attorneys representing parents in these cases will likely be involved or need to attend these requested review hearings. In addition, the bill provides for additional review hearings in guardianship, termination, and adoption proceedings when a parent voluntarily relinquishes their parental rights but retains privileges, like visitation or contact, and seeks enforcement or modification of the retained privilege, or in some termination instances vacation of the termination order. These additional hearings will result in a fiscal impact to the Agency, but again, the extent cannot be predicted with any accuracy.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 13
 Bill Version: CSSSHB 53 (FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to Child in Need of RDU Legal and Advocacy Services
Aid proceedings, ... Component Office of Public Advocacy
 Sponsor Rep. Coghill
 Requester House Judiciary Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 119.3 | 119.3 | 119.3 | 119.3 | 119.3 | 119.3 |
| Travel | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Contractual | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 | 35.0 |
| Supplies | 1.0 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 |
| Equipment | 5.0 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 161.3 | 156.2 | 156.2 | 156.2 | 156.2 | 156.2 |

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| CAPITAL EXPENDITURES | | | | | | |
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| CHANGE IN REVENUES () | | | | | | |
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FUND SOURCE (Thousands of Dollars)

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|-----------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 161.3 | 156.2 | 156.2 | 156.2 | 156.2 | 156.2 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 161.3 | 156.2 | 156.2 | 156.2 | 156.2 | 156.2 |

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This omnibus Child-in-Need-of-Aid (CINA) legislation incorporates a number of changes to the CINA statutes and court rules. Two (2) changes would impact the Office of Public Advocacy, as delineated below.

Sections 8 and 9, as well as portions of numerous other sections, change statutes and court rules governing confidentiality in child protective proceedings (CINA) and some agency documents. CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. Approximately 1000 CINA cases are opened annually. OPA provides guardian ad litem representation in all CINA cases for the children (continued on page 2)

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division Office of Public Advocacy Date/Time 4/27/05 7:21 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 4/27/2005
 Agency Department of Administration

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

(continued from page 1)

and also provides parental representation for the parents where the Public Defender Agency has a conflict. In essence, every CINA case is the equivalent of two cases to OPA if not more (in cases where there are more than two parents). This representation for both children and parents is provided by staff attorneys and GALs, as well as contractors in areas of the state where OPA has no staff or where OPA staff have a conflict. It is anticipated that in a significant portion of OPA's cases the attorney representing either the child or parent will move to close the hearing. Prior to doing this, an investigation must be conducted up front to determine if an open hearing would be detrimental to the child's best interests. In addition, any motion practice regarding hearing closure must be served on any member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to one full time attorney (a half-time attorney for child advocacy and a half-time attorney for parental advocacy), factoring in a third of a support staff member. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled. Finally, contractors will bill additional hours for investigation, motion practice, and motion service regarding hearing closures. Additional contract funds have also been included. The costs for these confidentiality sections would be 161.3 the first year and 156.2 thereafter.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 14
Bill Version: CSSSHB 53(FIN)
(H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title: Child in Need of Aid/Review Panels BRU: Alaska Court System
Sponsor: Representative Coghill Component: Trial Courts
Requester: _____ Component No.: _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 83.6 | 83.6 | 83.6 | 83.6 | 83.6 | 83.6 |
| Travel | 5.3 | 5.3 | 5.3 | 5.3 | 5.3 | 5.3 |
| Contractual | | | | | | |
| Supplies | 6.0 | 2.8 | 2.8 | 2.8 | 2.8 | 2.8 |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 94.9 | 91.7 | 91.7 | 91.7 | 91.7 | 91.7 |

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| CAPITAL EXPENDITURES | | | | | | |
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| CHANGE IN REVENUES () | | | | | | |
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FUND SOURCE (Thousands of Dollars)

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|----------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 94.9 | 91.7 | 91.7 | 91.7 | 91.7 | 91.7 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type-Do not abbreviate) | | | | | | |
| TOTAL | 94.9 | 91.7 | 91.7 | 91.7 | 91.7 | 91.7 |

Estimate of any current year (FY2005) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | 4 | 4 | 4 | 4 | 4 | 4 |

ANALYSIS: *(Attach a separate page if necessary)*
CSSSHB 53 (FIN) makes several changes to the statutes that govern Child in Need of Aid (CINA) proceedings. Most of those changes reflect a policy to presumptively open most CINA proceedings, and agency actions and records. Of particular interest to the court system are those sections that relate to court hearings. Under the bill, most CINA hearings will be open to the public unless a party files, and the court grants, a motion to close all or a portion of a hearing. An interested member of the public may notify the court and the parties that he or she would like to be served with any petitions to close. Additionally, if the court is considering closing a hearing out of concern that an open hearing might interfere with a criminal investigation then the court is to notify the criminal justice agency conducting the investigation and provide it with an opportunity to be heard. (Continued on page 2)

Prepared by: Doug Wooliver, Administrative Attorney Phone 907-463-4750
Division: Alaska Court System Date/Time 4/27/05 9:22 AM
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 4/27/2005
Agency: Alaska Court System

FISCAL NOTE #14

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB (FIN)

ANALYSIS CONTINUATION

Each year the court system receives roughly 1,200 new CINA cases and 200 petitions to terminate parental rights. Both the Public Defender Agency and the Office of Public Advocacy, who represent the parties in these cases, anticipate filing motions to close in a significant percentage of these cases. This fiscal note reflects additional judicial and clerical time associated with ruling on motions to close, closing and then reopening hearings where only a portion of a hearing needs to be closed, notifying law enforcement agencies in those cases where closure is needed to protect a criminal investigation and clerical work associated with data input and scheduling changes. Specifically, this note asks for four months of a part-time court clerk in Anchorage and two months of part-time clerks in both Bethel and Fairbanks and corresponding pro tem time for judges in those same locations.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 15
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO CHILD-IN-NEED-OF AID MATTERS

RDU Children's Services
 Component Children's Services Management

Sponsor COGHILL

Requester HOUSE (FIN)

Component No. 2666

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 71.9 | 71.9 | 71.9 | 71.9 | 71.9 | 71.9 |
| Travel | | | | | | |
| Contractual | 70.8 | 10.8 | 10.8 | 10.8 | 10.8 | 10.8 |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 142.7 | 82.7 | 82.7 | 82.7 | 82.7 | 82.7 |

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| CAPITAL EXPENDITURES | | | | | | |
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| CHANGE IN REVENUES (0) | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---------------------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 142.7 | 82.7 | 82.7 | 82.7 | 82.7 | 82.7 |
| 1037 GF/Mental Health | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| TOTAL | 142.7 | 82.7 | 82.7 | 82.7 | 82.7 | 82.7 |

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

CSSSHB 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Department's Office of Children's Services (OCS) budget are summarized below.

Confidentiality

Various amendments and additions in this bill are similar to those included in SB 84 that allow public access to CINA proceedings and confidential information.

con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3191
 Date/Time 04/20/2005
 Date 04/26/2005

STATE OF ALASKA
2005 LEGISLATIVE SESSION

CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Confidentiality - Analysis Con't

Should either bill become law, the Department anticipates that increase in public concern and requests for information will necessitate an additional position within the OCS to assist in the effort to respond in a timely manner. This position would be an Associate Coordinator, Range 18, under the current Program Coordinator for Community Relations at a cost of \$71.9 per fiscal year for salary and benefits with 15% service costs for a total of \$82.7 in general funds.

Sec. 46. Notification of Status of Investigations

Section 46 requires that when a person makes a report of harm and requests notification of the status of the investigation, OCS provide the status without disclosing confidential information. Because the OCS case management system (ORCA) does not now capture all addresses and does not report on the required data, system changes at a one-time cost of approximately \$60.0 would be required. These reports are not federally mandated and therefore not eligible for federal match.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 16
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): Rev 4/27/05 12:15p

Title: RELATING TO CHILD-IN-NEED-OF AID MATTERS
 RDU: Children's Services
 Component: Front Line Social Workers

Sponsor: COGHILL
 Requester: HOUSE (FIN)
 Component No.: 2305

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 33.7 | 33.7 | 33.7 | 33.7 | 33.7 | 33.7 |
| Travel | 28.0 | 28.0 | 28.0 | 28.0 | 28.0 | 28.0 |
| Contractual | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| Supplies | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 | 0.6 |
| Equipment | 41.9 | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 106.2 | 64.3 | 64.3 | 64.3 | 64.3 | 64.3 |

CAPITAL EXPENDITURES

CHANGE IN REVENUES (0)

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---------------------------------------|--------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 106.2 | 64.3 | 64.3 | 64.3 | 64.3 | 64.3 |
| 1037 GF/Mental Health | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| TOTAL | 106.2 | 64.3 | 64.3 | 64.3 | 64.3 | 64.3 |

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

CS HB 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Office of Children's Services (OCS) budget are summarized below:

Section 13 provides that if a parent or family member of a child in state custody is denied visitation, the department will inform the parent or family member as to the reason for the denial and their right

Con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3191
 Date/Time 04/26/2005
 Date 04/27/2005

FISCAL NOTE
FN # 16

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Bill No. CSSH B 53(FIN)

ANALYSIS CONTINUATION

to request a review hearing. The OCS believes there would be an increase in staff time required for hearing preparation and court time, but no data upon which to estimate the fiscal impact is available. Visitation denials are not tracked.

Section 38 provides that the department shall serve as staff to the Citizen Review Panel. The estimated cost to provide this support is:

| | |
|------------------------------------------|--------|
| .5 FTE staff support for CRP (Range 16) | \$33.7 |
| Travel for 10 CRP members for 4 meetings | |
| Fairbanks | \$ 8.0 |
| Anchorage x2 | \$10.0 |
| Juneau | \$10.0 |
| Teleconferences (4) | \$ 2.0 |
| Supplies (brochures, flyers, paper) | \$.6 |
| | ----- |
| Total | \$64.3 |

Section 49 provides that an interview of a child conducted as a result of a report of harm may be audiotaped or videotaped. When an interview concerns a report of sexual abuse by a parent or caretaker, the interview shall be videotaped unless it is not feasible to do so or unless the interview further harms the child. OCS estimates a need for video taping and viewing equipment in each of its 30 offices as follows:

| | # needed | Pkg | Cost per | Ext |
|-------------------------------------------------|----------|-----|----------|------|
| Camcorders w/ case, tripod, batteries & charger | 30 | | 815 | 24.6 |
| Audio recorders w/ additional memory | 30 | | 269 | 8.1 |
| Discs | 3,500 | 150 | 75 | .2 |
| DVD players and monitors | 30 | | 300 | 9.0 |
| Total | | | | 41.9 |

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 17
 Bill Version: CSS HB 53(FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to child-in-need-of-aid RDU: CIVIL
proceedings." Component: Human Services
 Sponsor: Representative Coghill
 Requester: House Finance Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | 484.0 | 484.0 | 484.0 | 484.0 | 484.0 | 484.0 |
| Travel | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 | 1.2 |
| Contractual | 57.0 | 57.0 | 57.0 | 57.0 | 57.0 | 57.0 |
| Supplies | 7.5 | 7.5 | 7.5 | 7.5 | 7.5 | 7.5 |
| Equipment | 36.7 | 36.7 | 36.7 | 36.7 | 36.7 | 36.7 |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|-----------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 | 586.4 |

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | 4 | 4 | 4 | 4 | 4 | 4 |
| Part-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.10 (Children in Need of Aid). Passage of this legislation will impact the Department of Law in two ways.

1. It changes statutes that apply to confidentiality of child in need of aid matters. Longstanding policies, practices and procedures of every agency and branch of government involved in child welfare protection will be altered. As a result it is anticipated that disputes will arise over the interpretation and implementation of this legislation. The additional operating costs to resolve such disputes are estimated based on 400 additional attorney hours per year at a cost of \$49,696. Half of an attorney position is also requested in conjunction with the funding to allow the Department to add a part time attorney to handle the increased caseload

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 4/27/05 12:16 PM
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 4/27/2005
 Agency: Department of Law

FISCAL NOTE #17

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

2. It allows a parent, family member, or guardian who is denied visitation rights the right to request a review hearing thereby increasing the number of hearings attorneys must prepare for and attend. It includes a relative preference for adoption but adds three reasons why adoption may be denied to the relative. These sections will give rise to a number of contests and good cause findings. Taken together, these sections will cause an increase in the caseload that will add another 2 days of work to each CINA attorney's schedule and 1 day of work for each paralegal. This is a conservative estimate based on the assumption that some issues will be worked out early on in the placement process. That will cost \$536,759 which will fund 2.5 additional attorneys, 1 paralegal, and 1 law office assistant.

These costs are based on the Department of Law FY 2006 timekeeping and billing rate of \$107.99 per hour for attorneys and \$81.07 per hour for paraprofessionals. This rate includes overhead costs for leased space, office supplies, and 1 support staff (included in the position count and impact above) and \$6,500 per new position for one time costs for office furnishings and computer equipment.

Sectional for SCS CSSSHB 53(HSS)

Section 1. Amends Title 13, Article 2 "Guardians of Minors" to add as a qualification for the court to appoint a guardian if an adult family member applies for guardianship, unless the court finds that appointment would not be in the best interest of the child.

Sec. 2. This section adds language to Tile 13.26 (Guardians of Minors) bridging guardianship placement with voluntary relinquishment language in adoption (Sec. 5) and CINA (Sec. 20) sections of Version C.

Sec. 3. Gives preference to an adult family member who has cared for a child for twelve consecutive months or more to adopt the child(ren) unless the court finds there is good cause not to grant the adoption.

Sec. 4. Adds a new section to CINA law that allows for voluntary relinquishment of parental rights while retaining privileges for future contact, communication, and visitation with a child. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order-"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

HB 17 Rokeberg Placement with Relatives

SB 83 Governor Voluntary Relinquishment
Indirect Rule Change
Rules 14 and 15, Rules of Probate Procedure

HB 53 Coghill Relative Preference for Adoption

SB 83 Governor Voluntary Relinquishment

Direct Rule Change:
Rule 9(a) Alaska Adoption Rules Sec. 54
Rule 13(a) Alaska Adoption Rules Sec. 56

Indirect Rule Change:
Rules 9 and 14, Alaska Adoption Rules

Finally it provides that a prospective adoptive parent may, after a termination order is entered, before the entry of an adoption or legal guardianship decree, and after notification of the biological parent if required, request that the court decline incorporation of a retained privilege in the adoption decree.

Sec. 5. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

Sec. 6. Intent language for the Family Rights Act.

Sec. 7. This section allows the court to, on its own motion, appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

Sec. 8. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

Sec. 9. Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

Sec. 10. Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

If an open hearing could stigmatize or emotionally harm the child, inhibit a child's testimony, interfere with a criminal investigation, or disclose information protected as confidential by state or federal law, the hearing can be closed.

SB 83 Governor Protection of Child's Dividend

HB 53 Coghill Parent's Participation in the
Upbringing of the Child

SB 83 Governor Improving the Process

SB 83 Governor Improving the Process

SB 84 Governor Open the Process

Direct Rule Change
Rule 3 Alaska CINA Rules of Procedure Sec. 50

SB 84 Governor Open the Process
Direct Rule Change
Rule 3(f) Alaska CINA Rules of Procedure
Sec. 50

Grandparents, foster parents, or other out-of-home care providers may attend hearings otherwise closed to the public but may be limited in their participation at the hearing.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing. An amendment in House Finance would permit the court to bar a violator or the court restrictions from all future hearings regardless of who the parties are.

Finally, this section clarifies that the right of an adult family member to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of an adult family member under Title 47.

Sec. 11. Legal has added some cleanup language to this section, including replacing the word "relative" with "adult family member".

Sec. 12. Provides that the court shall make one additional finding in the permanency plan, that being that the department has made reasonable efforts to finalize the permanent plan. It is needed to satisfy federal requirements for foster care reimbursement.

Sec. 13. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial. New language by Department of Law clarifies that a non-party adult family member would not qualify for publicly appointed legal counsel.

Sec. 14. Amends AS 47.10.80 (Judgments and Orders) to add three provisions:

(i) The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

(ii) Requires foster parents to provide regular

Indirect Rule Change

Rule 3 Alaska CINA Rules of Procedure Sec. 50

LAA Legal Language Cleanup

Request of Department of Law to comply with federal law.

Direct Rule Change

Rule 3(c) Alaska CINA Rule of Procedure Sec. 49

Rule 17.2(f) Alaska CINA Rules Sec. 51

HB 17 Rokeberg Family Visitation

HB 53 Coghill Family Preservation

HB 53 Coghill Family Preservation

with family and to encourage foster parents to serve as mentors for facilitating family reunification.

It opens adjudication hearings to the public unless an exception in Section 12 applies.

Sec. 15. The section amends the residual rights section of Title 47.10 to include language that defines "major medical treatment" to include "medication used to treat a diagnosed mental health disorder".

Sec. 16. Provides that before OCS can approve placement of a child for adoption, the department must attempt to locate all living adult family members. The department must provide written notice to all located family members of their right to adopt and those reasons by which the department can deny adoption. Adult family members who have had parental rights terminated or are ineligible for foster care licensing do not have to be notified.

Sec. 17. Section 20 adds a new section to CINA statutes to provide for relinquishment of parental rights. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

It provides that parents can retain some privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order--"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request a hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

SB 84 Governor Open the Process

HB 53 Governor Family Preservation

HB 17 Rokeberg Placement with Relatives

SB 83 Governor Voluntary Relinquishment

Direct Rule Change:

Rule 9(g) Alaska Adoption Rules Sec. 55

Rule 13(a) Alaska Adoption Rules Sec. 56

Rule 18(d)(1) Alaska CINA Rules Sec. 52

Indirect Rule Change:

Rules 9 and 14, Alaska Adoption Rules

Rule 18 Alaska CINA Rules

Sec. 18. Language clean up to statute providing for files of a child in custody being sealed when the child turns 18.

Sec. 19. Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

Sec. 20. Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. TO obtain additional privileged information from Department of Health & Social Services or OPA or the public defender, a Disclosure of Information Release Form must be completed by a parent. Also attorney-client privileged would be protected.

Sec. 21. This section now provides that as long as the child is in state custody, disclosure to certain officials will stay in effect, unless a parent or legal guardian says it is not longer needed.

Additionally, in this section, the department will now be required to notify a state official or employee of the opportunity to file a grievance.

Sec. 22. Provides that unless information and records are available through the changes in law in HB 53, information and records of government agencies are confidential and cannot be disclosed without a court order.

Sec. 23. Language clean up to replace "foster parents" with "a foster parent" and "relatives" to "out-of-home care provider". Also disclosure of confidential agency records is expanded to include a caregiver, an entity responsible for ensuring the safety of children, and the citizen's review panel. The department is adding language to subsection (12) to extend the authority to establish a review panel to the governor and the legislature. The House Finance added guardians ad litem back into this category and clarified that caregivers include parents or guardians.

SB 84 Governor Improving the Process

SB 84 Governor Improving the Process
Direct Rule Change
Rule 22(c) Alaska CINA Rules of Procedure
Sec. 53
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

SB 83 Rokeberg Family Preservation

HB 53 Coghill Improving the Process

SB 84 Governor

SB 84 Governor Improving the Process
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

Sec. 24. Language cleanup by legislative legal where four former subsections were repealed in 1996 and only one provision remained, which is disclosing to a person charged with making a preliminary investigation.

Sec. 25. Clarifies that information made available to party with interest is confidential information. The regulatory language is deleted because it has been added to Section 30.

Sec. 26. The section directs OCS to work with law enforcement agencies in assisting schools, both public and private, in developing procedures for disclosure of confidential information to schools in an expedited timeline as possible.

Sec. 27. The purposes for which confidential agency records can be disclosed to the public have been expanded to include public officials, but additionally, when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child. The agencies allowed to disclose confidential information have been expanded to include not only Health and Social Services, but also the Department of Administration.

The department may withhold disclosure of child's name, picture or other information that would readily identify the child if it determines it is in the best interest of the child or other children in the household. The department can also withhold information if it would interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial.

This section acknowledges that the person receiving confidential information has a fiduciary responsibility to keep the information confidential.

Gives Department of Health & Social Services and Department of Administration authority to promulgate regulations.

LAA Legal

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Language cleanup

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

Sec. 28. New language to this section establishes in statute a grievance process but leaves the ability to set policies and procedures to the regulatory process.

Sec. 29. Provides that failure to comply with a provision of this title [AS 47] does not constitute a basis for civil liability for damages and does nothing to change the Alaska Supreme Court's opinion that OCS has a duty to children in state custody.

Sec. 30. Defines "mental health professional" in CINA statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 31. Defines "adult family members", "family members", and "near fatality" in CINA statutes. House Finance amended the definition of "adult family member" to include a sibling's parent or legal guardian.

Sec. 32. Defines "mental health professional" in Delinquent minor statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 33. Provides priorities for placement of a child when removed from the parent's home. Placement must be the least restrictive and in close proximity to parents to allow for reunification planning. Preferences for placement would be an adult family member, a family friend, a licensed foster home, or lastly, an institution with a program suitable for the child.

Sec. 34. Provides that when a child is placed in a home other than a home of a relative, the department must fully disclose to the relative the nature of the placement.

Sec. 35. Expands the requirement of OCS fully communicating information about placement of the child elsewhere to not only the parents, but also to adult family members.

| | | |
|-------|----------|-----------------------|
| HB 53 | Coghill | Improving the Process |
| HB 53 | Coghill | Accountability |
| SB 83 | Governor | Improving the Process |
| SB 83 | & LAA | Legal |
| SB 83 | Governor | Improving the Process |
| HB 53 | Coghill | Family Preservation |
| HB 17 | Rokeberg | Improving the Process |
| HB 17 | Rokeberg | Improving the Process |

Sec. 36. Provides that criminal background checks are required for both temporary placements and adoptive placements including finger print background check on anyone residing at the home who is 16 or older.

Sec. 37. Established that poverty is not a Prima facie evidence (a fact presumed to be true unless disproved by evidence to the contrary) to deny placement and if a person is denied placement they are to be informed of the reason and told that they have a right to a hearing but not to legal counsel. o

Sec. 38. Creates a State Citizens Review Panel consisting of volunteers who are broadly representative of the state.

Sec. 39. Duties of the panel are to examine policies, procedures, and practices of state and local agencies in making or investigating a ROH; evaluate specific cases; and report annually to the governor all of their activities.

Sec. 40. Directs Department of Health & Social Services to cooperate with and provide records to the state panel to facilitate timely review of plans for children under the jurisdiction of the panel. The department shall serve as staff to the panel.

Sec. 41. Instructs the members of the panel, panel staff, and attendees of panel meetings not disclose to ANYONE records or other information containing personally identifying or other information made confidential under state or federal law about a child or witnesses involved in a case under review by the panel. It also clarifies that the panel would be covered by the Open Meetings Act and would have the ability to call executive sessions.

Sec. 42. Directs the panel to conduct public outreach and gather information on the department's current procedures and practices.

Department of Law amendment

Department of Law amendment

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Sec. 43. Directs the department to prepare an annual report and provide it to the governor. It also requires the department to submit a written response to the report to the governor within six months of the date the report is submitted to the governor.

Sec. 44 Imposes a civil penalty for violating the confidentiality clauses for up to \$2,500 per violation.

Sec. 45. Creates immunity for state panel members and persons provided support to the panel.

Sec. 46. Defines "adult family member", "state panel" as the Citizen Review Panel and "near fatality" in Title 47.14, Juvenile Programs and Institutions by reference to AS 47.10.990.

Sec. 47. Requires OCS to notify a person who has made a ROH with a status report within 20 days.

Sec. 48. Amends duties of school officials to direct schools to conduct interviews of children as provided for with trained interviewers and being videotaped or audiotaped.

Sec. 49. Creates standards for interviewing CINA children requiring audio or videotaping and requiring interviewers to be trained and competent to conduct the interview. It also limits interviews to one unless it is determined that an additional interview is necessary. The House Finance Committee discussed "may" versus "shall" for videotaping. They agreed to be permissive for many Reports of Harm, but if the report of harm is that involved a report of sexual abuse, the interview "shall" be videotaped, unless the interview is not feasible or will result in trauma to the child.

Since HB 53 encourages OCS to utilize child advocacy centers, the House Finance Committee added a subsection to this section that created a definition for child advocacy centers.

Sec. 50. Amends Title 47.18, "Foster Care Transition Program" to provide for a transition plan for children who have reached the age of sixteen but have not reached the age of 23. Formerly the age limit was 21.

HB 53 Coghill Improving the Process

HB 53 Coghill Due Process

HB 53 Coghill Improving the process

HB 53 Coghill Improving the process

HB 17 Rokeberg Improving the process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Department of Law

Court Rules Changes Due to Legislation

Sec. 51. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 52. Repeals CINA Rule 3(f), General Public Excluded, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 53. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 54. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 55. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 56. Rule change for voluntary relinquishment with other parental privileges.

Sec. 57. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 58. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 59. Various indirect rule change provisions.

Sec. 60. Indirect rule changes for disclosure of confidential information.

Sec. 61. Applicability.

Sec. 62. Transition language to implement changes through regulation.

Sec. 63. Revisor's instructions.

Sec. 64. Conditional Effect.

Sec. 65-66. Effective dates.