

**SB**

**83**

# SENATE COMMITTEE REPORT

DATE: 2/16/05

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Judiciary Committee considered

SENATE BILL NO. 83

## SB 83 TERM. PARENTAL RTS/CINA/DELINQUENCY CASES

"An Act relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding; relating to eligibility for permanent fund dividends for certain children in the custody of the state; relating to child in need of aid proceedings and juvenile delinquency proceedings; 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

**Senate Bill:**

- Same Title
- New Title

**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):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|------|--------|--------|------|-----|
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|            |      |        |        |      |     |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>[Signature]</i>              |         |             | X      |       |
| <i>[Signature]</i>              |         |             | X      |       |
| <i>[Signature]</i>              |         |             | X      |       |
|                                 |         |             |        |       |
|                                 |         |             |        |       |
| CHAIR: <i>Ralph DeSantis</i>    | ✓       |             |        |       |

24-GS1108G  
Mischel  
2/23/05

**CS FOR SENATE BILL NO. 83( )**

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

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the retaining of certain privileges of a parent in a relinquishment  
2 and termination of a parent and child relationship proceeding; relating to eligibility for  
3 permanent fund dividends for certain children in the custody of the state; relating to  
4 child-in-need-of-aid proceedings and juvenile delinquency proceedings; relating to  
5 findings in permanency hearings in child-in-need-of-aid proceedings; amending Rule  
6 17.2, Alaska Child in Need of Aid Rules of Procedure; and providing for an effective  
7 date."

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

9 \* **Section 1.** AS 25.23.180 is amended by adding a new subsection to read:

10 (j) In a relinquishment of parental rights executed under (a) of this section, a  
11 parent may retain privileges with respect to the child, including the ability to have  
12 future contact, communication, and visitation with the child. A retained privilege  
13 must be stated with specificity in the writing, and, if a termination order is entered

1 following the relinquishment, the court shall incorporate a retained privilege into the  
 2 termination order. A relinquishment may not be withdrawn or invalidated, nor may a  
 3 termination order be vacated, on the grounds that a retained privilege has been  
 4 withheld from the relinquishing parent or that the relinquishing parent has been  
 5 unable, for any reason, to act upon a retained privilege.

6 \* Sec. 2. AS 43.23.005(f) is amended to read:

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

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

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

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

18 (a) Whenever circumstances subject a child to the jurisdiction of the court  
 19 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency  
 20 to make a preliminary inquiry and report for the information of the court to determine  
 21 whether the best interests of the child require that further action be taken. The court  
 22 shall make the appointment on its own motion or at the request of a person or  
 23 agency having knowledge of the child's circumstances. If, under this subsection,  
 24 the court appoints a person or agency to make a preliminary inquiry and to report to it,  
 25 or if the department is conducting an investigation of a report of child abuse or  
 26 neglect, the court may issue any orders necessary to aid the person, the agency,  
 27 or the department in its investigation or in making the preliminary inquiry and  
 28 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the  
 29 court may

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

31 (2) determine whether the best interests of the child require that further

1 action be taken; or

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

4 \* Sec. 4. AS 47.10.020 is amended by adding a new subsection to read:

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

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

8 (2) filing a petition.

9 \* Sec. 5. AS 47.10.080(l) is amended to read:

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

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

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

17 (A) and when the child should be returned to the parent or  
18 guardian;

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

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

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

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

29 (A) whether the department has made the reasonable efforts  
30 required under AS 47.10.086 to offer appropriate family support services to  
31 remedy the parent's or guardian's conduct or conditions in the home that made

1 the child a child in need of aid under this chapter;

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

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

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

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

15 \* Sec. 6. AS 47.10 is amended by adding a new section to read:

16 **Sec. 47.10.145. Expert witness testimony regarding absent parent,**  
17 **guardian, or custodian.** If the court finds by clear and convincing evidence that a  
18 parent, guardian, or custodian of a child cannot be located after a reasonable search for  
19 the parent, guardian, or custodian has been conducted by the department, the court  
20 may conclude that the testimony of a qualified expert witness would support a finding  
21 that continued custody of the child by the absent parent, guardian, or custodian is  
22 likely to result in serious emotional or physical damage to the child.

23 \* Sec. 7. AS 47.10.990(16) is amended to read:

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

30 \* Sec. 8. AS 47.12.990(10) is amended to read:

31 (10) "mental health professional" has the meaning given in

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AS 47.30.915, except that, if the minor is placed in another state by the department, "mental health professional" also includes a professional listed in the definition of "mental health professional" in AS 47.30.915 who is not licensed to practice by a board of this state but is licensed by a corresponding licensing authority to practice in the state in which the minor is placed;

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

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

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

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

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

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

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

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

CONDITIONAL EFFECT. Section 5 of this Act takes effect only if sec 9 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

\* Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

SB 83



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 25, 2005

The Honorable Ben Stevens  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the retaining of certain privileges of a parent in a relinquishment and termination of a parent and child relationship proceeding, relating to eligibility for Permanent Fund dividends for certain children in the custody of the state, and relating to child in need of aid proceedings under AS 47.10 and juvenile delinquency proceedings under AS 47.12.

The bill would add language to AS 25.23.180 to permit parents to relinquish their parental rights to a child while retaining certain privileges, such as ongoing communication or visitation with the child. This proposed amendment is in response to a recent Alaska Supreme Court decision holding that current law prohibits a parent from retaining any rights or privileges in a relinquishment. In some cases, ongoing contact with the parent is in the child's best interest, particularly in cases involving adoption by relatives or family acquaintances. Before the Supreme Court's decision, retention of privileges in relinquishments was a common practice. The proposed amendment would authorize retained privileges in appropriate cases.

The bill would add language to AS 43.23.005 to allow children who are placed temporarily by the Department of Health and Social Services (DHSS) outside of the state--in out-of-state treatment facilities, for example--to maintain their eligibility for Permanent Fund dividends. Some children require long-term treatment of a nature that is currently unavailable in this state; such children are at risk of losing their Permanent Fund dividend eligibility if they remain placed out of state for more than a year and are unable to return to the state to meet permanent fund dividend eligibility requirements. These Alaskan children should not lose the privilege of dividend eligibility as a result of being placed by the DHSS in a treatment program that is only available out-of-state.

The bill would add language to AS 47.10.020 to clarify that the court may issue any orders necessary to aid the DHSS in its investigation of an allegation of child abuse or neglect. Orders to aid DHSS are not prohibited by existing law;

COMMITTEE COPY

The Honorable Ben Stevens  
January 25, 2005  
Page 2

however, the proposed clarification would resolve any ambiguity regarding the ability of judges to issue such orders.

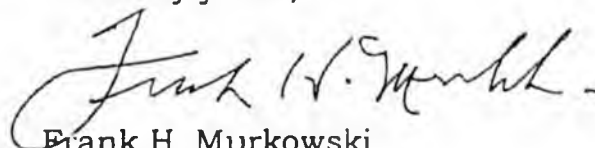
The bill also would add a new provision to permit courts to dispense with unnecessary and costly expert witness appearances in child in need of aid cases involving parents who cannot be located or identified. Under existing federal law, in order for a court to authorize the out-of-home placement of, or termination of parental rights to, an Indian child, the court must consider the testimony of a qualified expert witness. In cases involving a parent whose whereabouts remain unknown despite a diligent search, this federal law would appear to require that an expert witness be called solely to support the self-evident finding that placement of a child with the parent who cannot be found is likely to place the child at risk of harm. The proposed addition to AS 47.10 would permit a court to conclude, as a matter of law, that the testimony of a qualified expert witness would support a finding that placing the child with an absent parent would place a child at substantial risk of serious harm. This provision will satisfy federal legal requirements.

Finally, the bill would amend the definition of the term "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings. In order to authorize placement of children in secure residential psychiatric treatment facilities, courts must hear the testimony of a "mental health professional." The current definition of that term, contained in AS 47.30.915, excludes professionals who may be licensed to practice in other states, but not in Alaska. The testimony of such professionals is often critical in cases involving Alaska children who are already placed out of state by DHSS. Thus, expansion of the existing definition is necessary to ensure that Alaska children who are placed outside of this state receive the psychiatric treatment they need.

Each of the provisions of this bill constitutes a step toward making Alaska's children safer, healthier, and more secure, without unreasonably expanding governmental powers.

I urge your prompt and favorable action on this measure.

Sincerely yours,



Frank H. Murkowski  
Governor

Enclosure

24G-1  
2/18/2005  
(1:46 PM)

AMENDMENT # 1

OFFEREL IN THE SENATE JUDICIARY  
COMMITTEE  
TO: SB 83

BY \_\_\_\_\_

1 Page 1, line 4, following "delinquency proceedings;":

2 Insert "relating to findings in permanency hearings in child in need of aid  
3 proceedings; amending Rule 17.2, Alaska Child in Need of Aid Rules;"

4

5 Page 3, following line 6:

6 Insert a new bill section to read:

7 **\*\* Sec. 5.** AS 47.10.080(I) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) the court shall hold a hearing to review the permanent plan at least  
18 annually until successful implementation of the plan; if the plan approved by the court  
19 changes after the hearing, the department shall promptly apply to the court for another  
20 permanency hearing, and the court shall conduct the hearing within 30 days after  
21 application by the department."  
22

23 Renumber the following bill sections accordingly.

24  
25 Page 3, following line 28:

26 Insert new bill sections to read:

27 "\* Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

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

31 (f) **Additional Findings.** In addition to the findings required under paragraph

1 (e), the court shall also make written findings related to

2 (1) whether the Department has made reasonable efforts required under  
3 AS 47.10.085 or, in the case of an Indian child, whether the Department has made active  
4 efforts to provide remedial services and rehabilitative programs as required by 25 U.S.C.  
5 Sec. 1912(d);

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

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

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

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

16 CONDITIONAL EFFECT. Section 5 of this Act takes effect only if sec. 9 of this Act  
17 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of  
18 the State of Alaska."

19  
20 Renumber the remaining bill section accordingly.

**SENATE BILL NO. 83**

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

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**Introduced: 1/26/05**

**Referred: Health, Education and Social Services, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the retaining of certain privileges of a parent in a relinquishment  
2 and termination of a parent and child relationship proceeding; relating to eligibility for  
3 permanent fund dividends for certain children in the custody of the state; relating to  
4 child in need of aid proceedings and juvenile delinquency proceedings; and providing  
5 for an effective date."

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

7 \* Section 1. AS 25.23.180 is amended by adding a new subsection to read:

8 (j) In a relinquishment of parental rights executed under (a) of this section, a  
9 parent may retain privileges with respect to the child, including the ability to have  
10 future contact, communication, and visitation with the child. A retained privilege  
11 must be stated with specificity in the writing and, if a termination order is entered  
12 following the relinquishment, the court shall incorporate a retained privilege into the  
13 termination order. A relinquishment may not be withdrawn or invalidated, nor may a

1 termination order be vacated, on the grounds that a retained privilege has been  
 2 withheld from the relinquishing parent or that the relinquishing parent has been  
 3 unable, for any reason, to act upon a retained privilege.

4 \* Sec. 2. AS 43.23.005(f) is amended to read:

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

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

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

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

16 (a) Whenever circumstances subject a child to the jurisdiction of the court  
 17 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency  
 18 to make a preliminary inquiry and report for the information of the court to determine  
 19 whether the best interests of the child require that further action be taken. The court  
 20 shall make the appointment on its own motion or at the request of a person or  
 21 agency having knowledge of the child's circumstances. If under this subsection,  
 22 the court appoints a person or agency to make a preliminary inquiry and to report to it,  
 23 or if the department is conducting an investigation of a report of child abuse or  
 24 neglect, the court may issue any orders necessary to aid the person, the agency,  
 25 or the department in its investigation or in making the preliminary inquiry and  
 26 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the  
 27 court may

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

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

31 (3) authorize the person or agency having knowledge of the facts of the

1 case to file with the court a petition setting out the facts.

2 \* Sec. 4. AS 47.10.020 is amended by adding a new subsection to read:

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

- 5 (1) conducting an investigation of a report of child abuse or neglect; or
- 6 (2) filing a petition.

*extent of search or questioning*

7 \* Sec. 5. AS 47.10 is amended by adding a new section to read:

8 **Sec. 47.10.145. Expert witness testimony regarding absent parent,**  
 9 **guardian, or custodian.** If the court finds by clear and convincing evidence that a  
 10 parent, guardian, or custodian of a child cannot be located after a reasonable search for  
 11 the parent, guardian, or custodian has been conducted by the department, the court  
 12 may conclude that the testimony of a qualified expert witness would support a finding  
 13 that continued custody of the child by the absent parent, guardian, or custodian is  
 14 likely to result in serious emotional or physical damage to the child.

15 \* Sec. 6. AS 47.10.990(16) is amended to read:

16 (16) "mental health professional" has the meaning given in  
 17 AS 47.30.915, except that if the child is placed in another state by the department,  
 18 "mental health professional" also includes a professional listed in the definition  
 19 of "mental health professional" in AS 47.30.915 who is not licensed to practice by  
 20 a board of this state but is licensed by a corresponding licensing authority to  
 21 practice in the state in which the child is placed.

22 \* Sec. 7. AS 47.12.990(10) is amended to read:

23 (10) "mental health professional" has the meaning given in  
 24 AS 47.30.915, except that if the minor is placed in another state by the  
 25 department, "mental health professional" also includes a professional listed in  
 26 the definition of "mental health professional" in AS 47.30.915 who is not licensed  
 27 to practice by a board of this state but is licensed by a corresponding licensing  
 28 authority to practice in the state in which the minor is placed.

29 \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 83  
 ( S ) Publish Date: 1/28/05  
 Dept. Affected: Health & Social Services  
 RDU: Children's Services  
 Component: Front Line Social Workers

Revision Date/Time (Note if correction):  
 Title: RELATING TO CHILDREN IN NEED OF AID  
 Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR 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             |            |            |            |            |            |            |
| Travel                        |            |            |            |            |            |            |
| Contractual                   |            |            |            |            |            |            |
| Supplies                      |            |            |            |            |            |            |
| Equipment                     |            |            |            |            |            |            |
| Land & Structures             |            |            |            |            |            |            |
| Grants & Claims               |            |            |            |            |            |            |
| Miscellaneous                 |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b>        | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |
| <b>CAPITAL EXPENDITURES</b>   |            |            |            |            |            |            |
| <b>CHANGE IN REVENUES (0)</b> |            |            |            |            |            |            |

**FUND SOURCE** (Thousands of Dollars)

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

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 |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

**ANALYSIS:** (Attach a separate page if necessary)

This bill addresses a number of different issues related to children in the custody of the department. The bill modifies various sections of Alaska Law by:

1. Allowing a parent to retain privileges of ongoing contact or communication with a child, when appropriate, after relinquishment of parental rights;
2. Maintaining permanent fund dividend eligibility for Alaskan children temporarily placed outside the state by the Department of Health and Social Services (DHSS)
3. Clarifying the court's authority to issue orders to aid the DHSS in its investigations of child abuse and neglect;

Prepared by: Marcia Kennai, Deputy Commissioner Phone 465-3191  
 Division: Office of Children's Services Date/Time 12/27/2004  
 Approved by: Joel S. Gilbertson, Commissioner Date 12/29/2004  
 Agency: Department of Health and Social Services

**FISCAL NOTE**

**FN # 1**

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

**BILL NO. SB 83**

**ANALYSIS CONTINUATION**

4. Modifying the circumstances under which the DHSS may assume emergency custody of a child in order to better protect abused and neglected children;
5. Establishing a definition of "mental health professional" for purposes of child in need of aid and juvenile delinquency proceedings, and
6. Allowing the court to make findings regarding the testimony of expert witnesses in cases where parents cannot be located.

Passage of this bill will not have a fiscal impact on the department.

**Sectional Analysis of SB 83/HB 114 (Child in need of aid omnibus)**

*(Prepared by the Department of Law, February 11, 2005)*

HB 114/SB 83 would allow certain privileges to a parent when relinquishing parental rights; allow a child placed out of state while in custody of the Department of Health and Social Services not to be disqualified from receiving a permanent fund dividend on that basis alone; clarify the court's authority with regard to the investigation of abuse or neglect of a child; allow the court to rely on certain expert testimony in the case of an absentee parent, guardian, or custodian; and broaden the definition of "mental health professional."

**I. Change to add parental privileges at relinquishment (AS 25.23.180) (Section 1):**

**Sec. 1:** Section 1 provides that a parent may retain certain privileges with respect to a child when relinquishing parental rights, including the ability to have future contact, communication, and visitation with the child. A relinquishment cannot be invalidated, nor a termination order vacated, if a retained privilege has been withheld from the relinquishing parent or if a relinquishing parent fails to exercise a retained privilege.

**II. Changes to statute regarding eligibility for a permanent fund dividend (AS 43.23.005) (Section 2):**

**Sec. 2:** Section 2 allows the commissioner of the Department of Revenue to waive the permanent fund dividend's physical presence requirement for an individual who is in the custody of the Department of Health and Social Services and placed outside of the state for medical or behavioral treatment.

**III. Changes regarding Department of Health and Social Services' investigation of abuse or neglect of a child (AS 47.10.020) (Sections 3 and 4):**

**Sec. 3:** Section 3 amends the section regarding the investigation of the abuse or neglect of a child to describe when the court shall appoint a person or agency to make a preliminary inquiry and report for the information of the court, and to permit the court to issue orders necessary to help a person, agency, or the Department of Health and Social Services in its investigation or in making the preliminary inquiry and report to the court.

**Sec. 4:** Section 4 adds a new subsection that states that nothing in the section requires the Department of Health and Social Services to obtain court approval before investigating a report of harm or filing a petition. This places in statute current practice.

**IV. Changes to allow a court to rely upon certain expert testimony (Section 5):**

**Sec. 5:** Section 5 adds a new subsection to the chapter regarding children in need of aid (AS 47.10) to allow a court, in certain circumstances, to conclude that the testimony of a qualified expert witness would support a finding that continued custody of a child by an absent parent, guardian, or custodian is likely to result in serious damage to the child.

**V. Changes to broaden the definition of "mental health professional" (Sections 6 and 7):**

**Sec. 6:** Section 6 amends the definition of "mental health professional" in the chapter regarding children in need of aid (AS 47.10) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

**Sec. 7:** Section 7 amends the definition of "mental health professional" in the chapter regarding delinquent minors (AS 47.12) to include a professional who is licensed to practice in a state other than Alaska when the Department of Health and Social Services has placed a child in that state.

**VI. Effective date (Section 8):**

**Sec. 8:** Section 8 provides that the bill would take effect immediately.