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**PRESENTA-
TION:
OFFICE OF
CHILDREN'S
SERVICES**

OFFICE OF CHILDREN'S SERVICES

Ten-Year Review

Draft



Representative John Coghill & Staff
January 29, 2008

EXECUTIVE SUMMARY

One of the key motivations for me to enter the political arena in 1998 was my belief that parental rights were being ignored in the child protection world. I strongly believe that our children do not belong to the government. Since I came to the legislature in January of 1999, I have slowly and deliberately moved forward on parental rights reform with the firm belief that government should work at preserving families and keeping children with family members as a preference over placement with strangers.

In March of 1998, as an Alaskan citizen, I sat in the Fairbanks LIO for three days waiting to testify against House Bill 375, an omnibus bill embracing federal guidelines for child protection and government intervention of child custody. The bill, which passed with only two dissenting votes, implemented a standard of preponderance of evidence for state intervention into a family's life.

Since the passage of HB 375, I and other legislators have dealt with parents finding themselves involved with the Division of Family and Youth Services (DFYS). Ten years ago reuniting children with their parents once they had been removed from the home was virtually an impossible task. Regional offices of DFYS received little supervision by the statewide director and front line workers were making policy calls that left permanent scars on Alaskan families.

Many legislators have spent the last ten years undoing some of the unintended consequences of HB 375. To better understand the changes made in the child protection laws in the last decade, later in this report we will summarize legislation introduced by legislators and the governor in the last ten years.

In 2003, the Murkowski Administration, under the direction of Commissioner of Joel Gilbertson of Health and Social Services, restructured the department. DFYS was renamed as Office of Children's Services (OCS) and the office was elevated to a deputy commissioner level. With the new name and Marcia Kennai being appointed deputy commissioner, family preservation was injected into the philosophy of the department. However, the division still had problems and high profile cases from the Anchorage area were catching the attention of the news media.

During the 18 months Marcia Kennai ran OCS, she submitted to the federal government and implemented a Program Improvement Plan (PIP) as a response to a 2002 federal audit. The PIP put measurements in place to improve the child protection system. Also under Kennai's direction a new child protection data management system, the Online Resources for the Children of Alaska (ORCA), was put into place. While it took several years to perfect the system, data is now easily retrieved and updated with the ORCA system.



Joel Gilbertson and legislators discuss HB 53 with press.

Gilbertson appointed Tammy Sandoval as the new deputy commissioner for OCS. Tammy came to OCS in early 2004 with 20 years of extensive social work experience. Before coming to Alaska, Tammy worked for the National Resource Center on Maltreatment assisting child welfare agencies across the nation with child protection planning and programming. Before being appointed deputy commissioner Sandoval served as the OCS Systems Reform Administrator.

In early 2005, Joel Gilbertson and Tammy Sandoval attended a meeting I arranged with other legislators who had legislation introduced addressing concerns with OCS and legislators who were anticipating introducing legislation. The end result of the meeting was the decision that House Bill 53, a bill I introduced in the House making statutory changes to OCS, would be the vehicle for an omnibus bill including reform provisions from bills filed by Governor Murkowski and Representatives Rokeberg, Neuman, Harris, Chenault, and McGuire. Tammy Sandoval attended every committee hearing and openly engaged in the discussion of child protection reform to promote family preservation and opening child protection proceedings to transparency.

In 2006, Sandoval contracted with an outside consultant, ACTION for Child Protection, Inc., to study and evaluate internal operations of OCS. The consultant evaluated the operations of the OCS within four functions: organizational structure, community relationships, effectiveness of policy and procedures, and training curriculum. Recommended changes included completing the implementation of the new child protection information management system (ORCA), training staff in and implementing a new safety assessment model for child abuse investigations, and successfully completing a (PIP) with federal partners.

When gauging OCS's performance and improvements, we have to consider the statistics available, however, one way for a legislator to grade the bureaucracy is the number of constituent complaints our office receives about a state agency. My office has been fielding complaints from all over the state about OCS for ten years now.

I can honestly say when HB 53 passed our workload increased because of increased awareness by grandparents and relatives of their rights. The first year of implementation was hampered by a lack of knowledge of the new laws by courts and attorneys at Department of Law. One judge in Kenai continued to keep court proceedings closed months after HB 53 was enacted. Now constituent complaints are almost non-existent, but we still find caseworkers using old rules and procedures.

Areas of concern I continue to have are worker recruitment and retention, supervisor training, foster care training, modifying the Interstate Child Placement Compact without waiving sovereignty, replacing federal dollars funding Child Advocacy Centers, increasing public awareness of the grievance process, and strengthening an atmosphere within OCS for family preservation.

In this report, we will give a brief history of the reform to child protection over the past ten years, discuss increases in funding during the last three years to help OCS implement some of the changes the legislature has made. We will also make some broad comments on improvements to the system where attention is still needed.

A handwritten signature in cursive script, appearing to read "John G. Hill".

SUPERVISOR TRAINING

While the legislature has provided over \$1 million for training of front line workers in the past three years, there is still a need to provide training for supervisors to the front line workers. The quality of supervisory staff is a key element to properly teaching family preservation policies to the support staff.

MODIFYING THE INTERSTATE CHILD PLACEMENT COMPACT

Last year, we introduced HB 50 as a mechanism to weigh in on the amendment of the Interstate Child Placement Compact. Everyone agrees the existing compact doesn't work. However, sixteen states have expressed concerns about the power of the Interstate Commission being given the authority to promulgate rules and regulations that would supersede state law.

The areas of the compact that are being questioned are as follows:

1. **Article VI (B)** – a state has **no due process** when it disagrees with the placement authority of the Interstate Commission.
2. **Article IX (A), (C), & (D)** – allows the Interstate Commission to promulgate, interpret, and enforce rules that **supersede “state law, rules or regulation”**.
3. **Article XI (A), (D), & (H)** – Gives the Interstate Commission authority to promulgate rules that have the “force and effect of statutory law and shall superseded any state law, rule or regulation to the extent of any conflict”. If adopted by a state, this provision relinquishes the sovereignty of state law.
4. **Article XII (A)(2)** – Gives the compact sovereignty over the states adopting the compact.
5. **Article XII (C)(c)** – Gives the Interstate Commission authority to bring legal action against any state adopting the compact.
6. **Article XIII (B)** – Gives the Interstate Commission authority to assess fees on states and allows the commission to promulgate rules to bind the states to the fees. The Alaska State Legislature has appropriation powers and this clause would, in effect, waive that authority.

It should be noted that the Attorney General's Office has advised OCS Director Tammy Sandoval and Health & Social Services Commissioner Kathleen Jackson not to agree to the Compact in its current form.

On February 13th, Marcia Pickering from OCS sent us the final draft of the compact. We are now reviewing the draft to see how the language has been altered to address our concerns about a compact between states superseding state law.

CHILD ADVOCACY CENTERS (CACs)

As mentioned earlier in this report, OCS and law enforcement agencies are now required by state law to use CACs in Alaska when available.¹ Most professionals recognize the advantages to using the centers for the sake of the children to be interviewed and for the sake of preserving important evidence in child abuse cases. While no firm numbers are available, the consensus is the centers do save the state money. One large factor in savings for prosecutors is evidence obtained through an interview at a CAC is more likely to cause someone charged with the crime to plea bargain. Senator Stevens has been providing funding for the CACs for the last five years through the Office of Juvenile Justice, but there will be no federal funding for the centers in FY'09. The department is asking for \$2,423,500 in funding. There is \$1,123,500 in federal dollars remaining to use in next years funding, which leaves a \$1,300,000 gap for funding with general fund money.

Alaska Children's Alliance recently published the following charts showing the benefits of utilizing Child Advocacy Centers.

CAC Research – Crimes Against Children
Children Research Center
University of New Hampshire

1,000 cases of CSA studied at four CACs and four communities without CACs showed:

More coordination of interviews at CACs – more police involvement in cases

- **Children at CAC less fearful when interviewed**
- **Higher satisfaction among parents / caregivers when CAC used**
- **More referrals for mental health services through CACs**
- **More forensic medical exams when CAC used**

¹ See pages 8 – 9.

Cost Benefit Analysis

Analysis done by the National Children's Advocacy Center

Use of CACs showed a cost savings of 36%, or \$1,047 per case.

- Without a CAC: \$3,949
- With a CAC: \$2,902

COST SAVINGS				
Community	FY 07 Children Seen	FY 07 Cost Savings	Total Children Seen Since CAC Open	TOTAL SAVINGS
Anchorage	722	\$ 755,934	6,373	\$ 6,672,531
Wasilla	152	\$ 159,144	1,167	\$ 1,221,849
Fairbanks	139	\$ 145,533	521	\$ 545,487
Juneau	100	\$ 104,700	772	\$ 808,284
Bethel	140	\$ 146,580	674	\$ 705,678
Dillingham	38	\$ 39,786	115	\$ 120,405
Nome	21	\$ 21,987	130	\$ 136,110
Kotzebue	28	\$ 29,316	47	\$ 49,209
Kenai Peninsula	<u>37</u>	<u>\$ 38,739</u>	<u>37</u>	<u>\$ 38,739</u>
TOTALS	1,377	\$1,441,719	9,836	\$10,298,292

GRIEVANCE PROCESS

Parents are still intimidated about filing grievances and continue to tell us they avoid filing a grievance because they are afraid of retaliation and making their chances of regaining custody of their children. OCS needs to educate parents on the grievance process and let them know there are legitimate reasons to file a grievance. The main reason for filing a grievance is to elevate the case to a higher level of decision –meaning when a parent believes a caseworker is making decisions which should be made at a higher supervisory level.

STRENGTHENING FAMILY PRESERVATION PROGRAMS

OCS should get high marks for starting from the first contact with a family to look at what has to be done to keep the child or the children in the home with the parents. While there are still differences of style in management by regions of Alaska, overall there is improvement in efforts to keep families united. Reductions in federal dollars for family preservation programs will continue to be a challenge for OCS.

The University Lake Multi-Disciplinary Center deserves mention as an improvement in family services for families where sexual or physical abuse has occurred. The consolidation of all the stakeholders in a CINA case will reduce trauma for the family, improve delivery of services to the family, and make it less likely that a family falls through the cracks while working with OCS.

TEN-YEAR HISTORY OF LEGISLATIVE REFORM OF OCS

21st Legislature - 1999 - 2000

FAMILY RIGHTS LEGISLATION 1999 – 2000

BILL	SHORT TITLE	PRIME SPONSOR	CURRENT STATUS
<u>HB 34</u>	REPORTING CRIMES AGAINST CHILDREN	DYSON	CHAPTER 62 SLA 99
<u>HB 256</u>	RECORDING OF INTERVIEWS WITH CHILDREN	COGHILL	(H) HES
<u>HB 259</u>	PUBLIC DEFENDER CHILDREN' PROCEEDINGS	COGHILL	CHAPTER 67 SLA 00
<u>HB 269</u>	VIDEOTAPING OF INTERVIEWS WITH CHILDREN	THERRIAULT RLS BY	(H) HES
<u>HB 288</u>	CHILDREN WITNESSING DOMESTIC VIOLENCE	KOTT	CHAPTER 67 SLA 00
<u>HB 321</u>	CONFIDENTIALITY OF CINA HEARINGS & RECORD	REQUEST OF THE GOVERNOR	(H) HES
<u>HB 328</u>	REPORTS RELATED TO CHILD IN NEED OF AID	COGHILL	(H) HES
<u>HB 389</u>	EDUCATIONAL NEGLIGENCE FOR CINA PROCEEDINGS	BRICE	(H) HES
<u>HB 409</u>	GRANDPARENTS' RIGHTS REGARDING CINA	DYSON	(H) FIN
<u>HB 413</u>	INTENSIVE FAMILY PRESERVATION SERVICES	CISSNA	(H) FIN
<u>SB 224</u>	CONFIDENTIALITY OF CINA HEARINGS & RECORD	RLS BY REQUEST OF THE GOVERNOR	(S) JUD

HB 34 - REPORTING CRIMES AGAINST CHILDREN - Dyson

This legislation made it a class A misdemeanor for an adult to fail to come to the aid of a child or fail to report a violent crime against a child. Representative Dyson introduced the legislation because of a case that occurred in Nevada. A seven-year old child was molested and murdered in a casino restroom and a witness to the incident did not come to the aid of the child and, in fact, gave the murderer a ride back to California.

HB 256 & 269- RECORDING INTERVIEWS WITH CHILDREN - Coghill & Therriault

On January 10, 2000, HB 256 was introduced and required all official interviews with children who are alleged to have been abused or neglected to be videotaped. Because the Knowles Administration said the fiscal notes for the bill would be prohibitive, the bill never received a hearing. Fiscal notes in past legislation have been based on outdated videotaping methods. They have not taken into account new technology for videotaping, nor have they taken into consideration the savings to be realized by the State of Alaska. Representative Coghill argues mandatory videotaping would reduce numbers of interviews, reduce determinations of CINA cases, reduce costs for foster care and medical expenses, and reduce workloads for the attorney general's, public defender's, and Office of Public Advocacy's offices.

Reasons for mandatory videotaping:

- Reduces trauma to the child because the videotaped interview can be used in place of multiple interviews by social workers, school officials, guardian ad litem, attorney general's office and the public defender's office.
- The videotape will contain information that the judge can review at the 48-hour-hearing to determine if the child is in need of aid without subjecting the child to yet one more interview.
- Videotaping increases the quality of the interview because the interviewer knows his or her method of interviewing the child will be scrutinized by all parties

The Courts and the Attorney Generals working on CINA cases also saw several advantages to mandatory videotaping in CINA cases and believed such a requirement would benefit all parties in a CINA case, especially the victim.

Their reasons for wanting mandatory videotaping were numerous but the pluses echoed by all were the following:

- Once a child has been interviewed on videotape, it is harder for he or she to recant what was said. It is also easier for the court to determine if the child was manipulated into answering questions a certain way.
- Prosecutors claim a person accused of child abuse is more likely to confess if he or she views a videotaped interview.
- Expert witnesses can review the videotape and give testimony on their findings.
- Videotapes often refresh the vicum's memory which may fade with time in cases where months or years pass before a case is tried.

Then Representative Gene Therriault also introduced a mandatory videotaping bill, HB 269, which received a hearing but was held in committee. Therriault's bill called for a pilot program in Fairbanks to see how mandatory videotaping would work. Representative Coghill kept the discussion and debate alive until the concept was passed in HB 53 in 2005.

HB 259 – PUBLIC DEFENDER CHILDREN'S PROCEEDINGS – Coghill

Previous to his time in the legislature Representative Coghill had worked with parents who had been entrenched in the process of DFYS removing children from their custody and found a pattern of helplessness on the part of those parents. When he introduced HB 259 in February of 2000, Representative Coghill proposed providing legal counsel to parents immediately when their child was placed in physical custody of the State and the parents were awaiting the 48-hour hearing at which the court determines whether probable cause exists to deem the child a "Child In Need of Assistance" (CINA).

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

The argument was made that this legislation will result in added expenses to the State, but Representative Coghill countered this legislation would actually reduce the cost of CINA cases in Alaska. He said that by providing all the information in a professional manner at the first hearing of determination, the number of children in state custody for 90 days to six months then returned to their family would be reduced. This meant a reduction in foster care, caseworker, and health care costs, as well as, long-term public defender, guardian ad litem, and AG expenses. Both Office of Public Advocacy (OPA) and the Public Defender submitted zero fiscal notes for the bill.

HB 259 amended the law that a person did not qualify for assistance from the public defender's office until indigence is determined. Parents were going to court not knowing their rights or the process because they can not find legal assistance in time for the 48-hour hearing. HB 259 as enacted allows any parent or guardian to get legal assistance from the Public Defender's office for the 48-hour CINA hearing regardless of whether or not they are indigent.

HB 288 – CHILDREN WITNESSING DOMESTIC VIOLENCE – Kott

This bill expanded the list of aggravating factors in mitigating the severity of the domestic violence crime and determining the sentence for the crime of domestic violence to protect the special vulnerability of children. Committing domestic violence in the presence of a child became a major factor in determining the severity of the crime and the resulting sentence.

HB 321 & SB 224 – CONFIDENTIALITY OF CINA HEARINGS & RECORDS - Governor

This bill was the first attempt by Department of Law to open CINA proceedings to the public under certain circumstances. The bill was the product of a special task force appointed by then Governor Tony Knowles to address concerns about accountability on the part of DFYS during a period of time when DFYS was receiving mass criticism about how they operated. The task force made three recommendations:

"(1) Court Proceedings. With limited exceptions, all proceedings involving child protection matters should be open. The exceptions are the initial proceeding should be closed, the subsequent proceeding would be closed if a party has not had the opportunity to obtain legal counsel, or a court could choose to close all or a part of a proceeding so far as necessary to protect the interest of the child. The court would be required to make a specific finding before the proceeding would be closed to avoid the situation of it becoming a blanket order in certain courts, that regardless of the statute, the matter would be closed.

(2) Court Records. Those records are today closed. For cases that would be prosecuted or pursued after the enactment of the statute, certain of those records would be made public, but others would remain closed. In essence there would be a confidential record in the court system as well as the public record. A member of the public or press would be able to see what the basic procedure is and what the basic controversy is, but such records as psychological reports would be kept confidential. Children will be better protected in an open atmosphere rather than a closed one.

(3) Agency Records. These records would continue to be closed; however, it would not preclude the publication of summaries of reports of harm. If the public wished to view how the state is doing its job, it would be pointed to the public court proceedings and to the records of the court system."

HB 321 narrowed down the task forces' recommendations and the bill opened records under three circumstances:

1. when there is a child fatality or near fatality²;
2. for a fair comment proceeding when parents speak publicly about the case;
3. when there is a companion criminal case.

Representative Dyson thought the bill would require more deliberation than one session could provide, and the bill was not moved out of House HESS.

HB 328 – REPORTS RELATED TO CHILD IN NEED OF AID - Coghill

Also in 2000, Representative Coghill introduced his first attempt to establish accountability on the part of DFYS. This legislation made a state employee civilly liable to parents who are victims of false allegation for damages for defamation. The legislation also made a state employee convicted of inappropriately disclosing confidential CINA files guilty of a class B misdemeanor. The bill never received a hearing but opened up a six year debate over duties and standard of care by the state to both the children and the parents.

HB 389 – EDUCATIONAL NEGLECT FOR CINA PROCEEDINGS – Brice

This legislation would have made a child under 16 years of age whose parents knowingly violated the compulsory attendance statute a child in need of aid.

HB 409 – GRANDPARENTS' RIGHTS REGARDING CINA – Dyson

This bill had provisions that would require the grandparents to be notified of all proceedings that could lead to the termination of parental rights. This was the first bill to recognize that CINA proceedings need to recognize a CINA case involves the entire family, not just the parents. The bill was reintroduced by Dyson in 2001 and was passed into law that year.

² Federal law already requires disclosure when there is a child fatality or near fatality.

HB 413 – INTENSIVE FAMILY PRESERVATION SERVICES - Cissna

This bill was Representative Cissna's first attempt to create an intensive intervention just before the removal of children from their parents into state custody. The proposal was based on a model, called Homebuilders, which has been successfully used by Washington State since 1974. In 2000, 30 other states had implemented the intensive family preservation model. Representative Cissna said the program is successful because, even though the family may have received similar services prior to the imminent removal of their children, the family is truly in crisis. At this juncture, families are searching for a way to safely keep their children at home. The bill laid out the program and steps that would be necessary to implement the proposal. Representative Cissna reintroduced the bill in 2001, but the bill failed to pass.

Since reorganization of DFYS to OCS in 2003 and with the appointment of Tammy Sandoval as head of OCS, intensive family preservation is a recognized practice.

22nd Legislature 2001 - 2002

FAMILY RIGHTS LEGISLATION 2001 - 2002

BILL	SHORT TITLE	PRIME SPONSOR(s)	CURRENT STATUS
<u>HB 23</u>	INTENSIVE FAMILY PRESERVATION SERVICES	CISSNA	(H) HES
<u>HB 25</u>	EDUCATIONAL NEGLECT FOR CINA PROCEEDINGS	HAYES	(H) HES
<u>HB 164</u>	GRANDPARENTS' RIGHTS REGARDING CINA	DYSON	CHAPTER 43 SLA 01
<u>HB 252</u>	CHILDREN IN NEED OF AID: SERVICES & LIAB.	COGHILL	(S) RLS
<u>HB 261</u>	TERMINATION OF PARENTAL RIGHTS	COGHILL	(H) HES
<u>HB 280</u>	VISITATION COST WHEN PARENT MOVES	DYSON	(H) HES
<u>HB 301</u>	NONCASH CONTRIBUTIONS FOR CHILD SUPPORT	COGHILL	(H) HES
<u>HB 309</u>	INTERSTATE PLACEMENT OF CHILDREN	CHENAULT	(H) HES
<u>HB 465</u>	CINA AND FOSTER CARE AMENDMENTS	CHENAULT	(H) HES
<u>HB 469</u>	CHILD AND FAMILY OMBUDSMAN	CHENAULT	(H) HES

HB 23 - INTENSIVE FAMILY PRESERVATION – Cissna

Representative Cissna reintroduced this bill to recognize that DFYS should first attempt to preserve the family before removing a child or children from the family. Language from this bill was added to HB 252, which died in Senate Rules the last day of session in 2002.

HB 25 – EDUCATIONAL NEGLECT FOR CINA PROCEEDINGS – Hayes

This legislation would have made a child under 16 years of age whose parents knowingly violated the compulsory attendance statute a child in need of aid.

HB 164 - GRANDPARENTS RIGHTS REGARDING CINA – Dyson

This bill passed in 2001 and enacted provisions that require the grandparents to be notified of all proceedings that could lead to the termination of parental rights. This was the first bill to recognize that CINA proceedings need to recognize a CINA case involves the entire family, not just the parents.

HB 252 - CHILD IN NEED OF AID: SERVICES AND LIABILITY – Coghill

This bill created a duty and standard of care for OCS caseworkers. It died in Senate Rules on the last day of the second session. While the bill ran out of time in the 22nd Legislature, the committee process brought the issue of duty and standard of care to a new level of awareness both on the part of legislators and people working for DFYS.

HB 261 – TERMINATION OF PARENTAL RIGHTS – Coghill

This legislation would have raised the standard for termination of parental rights to beyond a reasonable doubt from the existing standard of a preponderance of evidence. Such a change would have put all parents on an equal playing field and “beyond a reasonable doubt” is the standard for parents governed by the Indian Child Welfare Act. While the bill didn’t pass, the discussion continued about how to draw a brighter line for civil actions based on accusations of wrongdoings that would be, if criminal charges were filed, judged at a higher standard.

HB 280 – VISITATION COST WHEN PARENT MOVES – Dyson

When the parent with primary physical custody of a child moves away from the other parent with joint legal custody of the child, visitation can be made difficult because of the travel expenses created for the other parent. This legislation would have allowed the court to issue a separate order for the parent with primary physical custody to pay travel expenses for the child to relocate for visitation if the move was fifty mile or more from the other parent.

HB 301 – NONCASH CONTRIBUTIONS FOR CHILD SUPPORT - Coghill

This legislation recognized the dignity of self-sacrifice in a parent providing for children even when cash is not available as there are other means of support outside cash payments. If a person can provide firewood, fish, labor or game meat that is significant support for family needs, this should be recognized as real child support.

HB 309 – INTERSTATE PLACEMENT OF CHILDREN – Chenault

This bill would have required original copies of court orders and custody orders to accompany a child being moved from one state to another under the Interstate Compact for Placement of Children (ICPC). It also imposed sentences and penalties for people who violate the ICPC with each day being a separate violation. An example given during testimony in committee on the bill was a child who was out of the state for 10 days in violation of ICPC. The parent who violated the law could have been sentenced to 1,800 days in jail and fined up to \$10,000. The bill also required all ICPC agreements to be copied to the court file on the case.

HB 309 had two hearings in House HESS Committee but was not moved out of committee.

HB 465 – CINA AND FOSTER CARE AMENDMENTS – Chenault

This legislation required notice to grandparents of CINA proceedings including the possibility of termination of parental rights. It also prevented the State from using state or federal funds for medical treatment of a child in state custody the child is not otherwise eligible for such coverage from Indian Health Service or Medicaid. It also more clearly defined advance notice for proceedings to mean 10 days and made the disclosure of confidential information by a state employee in a CINA case a misdemeanor criminal offense. Lastly, the bill required to department to remove a child from a foster home and make placement with a relative if a relative is located. Many provisions of this bill were eventually enacted with HB 53.

HB 469 – CHILD AND FAMILY OMBUDSMAN – Chenault

This bill established a new office called the Office of the Child and Family Ombudsman within the legislative branch of state government to investigate complaints filed by children and families about OCS. The bill did not pass.

23 rd Legislature 2003 - 2004
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BILL	SHORT TITLE	PRIME SPONSOR(s)	CURRENT STATUS
<u>HB 17</u>	JURY TRIAL FOR ENDING PARENTAL RIGHTS	COGHILL	(H) JUD
<u>HB 176</u>	NONCASH CHILD SUPPORT	COGHILL	(H) FIN
<u>HB 197</u>	INTENSIVE FAMILY PRESERVATION SERVICES	CISSNA	(H) HES
<u>HB 231</u>	PARENTAL RIGHTS; SUPPORT ARREARAGES	HARRIS	(H) HES
<u>HB 316</u>	CHILDREN IN NEED OF AID: SERVICES & LIAB.	COGHILL	(H) HES
<u>SB 288</u>	TEMPORARY CHILD CUSTODY HRNGS/PLACEMENT	GREEN	CHAPTER 117 SLA 04

HB 17 – JURY TRIAL FOR ENDING PARENTAL RIGHTS – Coghill

Termination of Parental Rights proposed allowing parents the right to a jury trial and a day before their peers. The bill never received a hearing because of the fiscal impact of providing a jury for termination cases. In 2004, the Court System was receiving approximately 1,200 new CINA cases and 200 petitions to terminate parental rights annually.

HB 176 – NONCASH CONTRIBUTIONS FOR CHLD SUPPORT - Coghill

Rep. Coghill reintroduced his non cash child support bill in 2003. He was contacted by Tanana Chiefs Conference and informed they were going to implement a policy for noncash contributions with their enforcement of child support orders. They said they recognize that a person may be working hard to provide for their children even

though a cash payment is the only thing CSSD recognizes. One of the impediments to getting this legislation passed was concerns about how to place a value on noncash contributions and the unintended consequences to placing a value on things accumulated through subsistence activities.

HB 197 - INTENSIVE FAMILY PRESERVATION – Cissna

Representative Cissna reintroduced this bill in the 23rd legislature. She said she continues to believe children are being removed from their homes, placed in foster homes and not getting the services needed to be returned to their family.

HB 231 – TERMINATION OF PARENTAL RIGHTS FOR CHILD SUPPORT ARREARAGES – Harris

This bill would allow the custodial parent of a child who lives in Alaska to file an action to terminate the parental rights of a noncustodial parent if that parent is not in “substantial compliance” with the custody order. “Substantial compliance” would mean no arrearage, an arrearage in an amount not more than twelve times the monthly obligation, or the court has found the noncustodial parent “making the best efforts.” The bill did not pass.

HB 316 – CHILD IN NEED OF AID: SERVICES AND LIABILITIES - Coghill

This piece of legislation drew huge resistance from the Department of Law. The bill included construction language that CINA laws “recognize that parents possess inherent, individual rights to direct and control the education and upbringing of their children”. The section objected to by DOL was a new section of law, AS 47.10.961, Duty and standard of care regulation:

The department shall adopt regulations that establish the scope of the duty owed and the standard of care that must be met by the department's employees with regard to the children and families being served under this chapter. The regulations must be consistent in all relevant respects with the code of professional ethics and the standards of practice for social work adopted by the Board of Social Work Examiners under AS 08.95.”

It was during the debate between Representative Coghill and the Department of Law on this legislation that he began to advocate for more training for social workers and more accountability for their actions.

**SB 288 – TEMPORARY CHILD CUSTODY HEARINGS & PLACEMENT –
Green**

This bill was a housekeeping measure to capture more federal dollars to care for children placed in state custody. Current state law provides that the courts determine within 48 hours of removing a child whether or not it is "contrary to the welfare of the child to remain in the home of the parent." Varying language is used to express this, but if the judge does not say it is "contrary to the welfare of the child" the child would not be eligible for Title IV-E funding for the duration of the child's life in the system. Because the language is so critical, Senator Green decided to put in statute that it is "contrary to the welfare of the child to remain in the home of the parent." It is estimated that the State lost \$500,000 in federal receipts in FY '05 because judges failed to use the correct terminology in their court orders. In 2004, when Green introduced the bill about 5% of the statewide cases under review did not use that language in the initial hearing and did not receive the funding. About 26% of cases in Anchorage did not qualify, even though the judges had received training. The bill passed and was enacted.

24th Legislature 2005 - 2006

BILL	SHORT TITLE	SPONSOR(s)	STATUS	DATE
<u>HB 17</u>	CINA; ADOPTION; FOSTER CARE	ROKEBERG, GATTO	(H) HES	01/10/05
<u>HB 53</u>	CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN	COGHILL	CHAPTER 64 SLA 05	06/30/05
<u>HB 112</u>	CHILD PROTECTION INTERVIEW/TRANSPORT	RLS BY REQUEST OF THE GOVERNOR	(H) HES	01/26/05
<u>HB 113</u>	CHILD PROTECTION CONFIDENTIALITY	RLS BY REQUEST OF THE GOVERNOR	(H) HES	01/26/05
<u>HB 114</u>	TERM. PARENTAL RTS/CINA/DELINQUENCY CASES	RLS BY REQUEST OF THE GOVERNOR	(H) HES	03/23/05
<u>HB 346</u>	CHILD ABUSE INVESTIGATIONS	NEUMAN, LYNN	(H) JUD	04/06/06
<u>HB 408</u>	CHILD ABUSE AND NEGLECT/DISCLOSURE/PFDS	RLS BY REQUEST OF THE GOVERNOR	CHAPTER 20 SLA 06	05/03/06
<u>SB 82</u>	CHILD PROTECTION INTERVIEW/TRANSPORT	RLS BY REQUEST OF THE GOVERNOR	(S) JUD	02/18/05
<u>SB 83</u>	TERM. PARENTAL RTS/CINA/DELINQUENCY CASES	RLS BY REQUEST OF THE GOVERNOR	(S) RLS	02/28/05
<u>SB 84</u>	CHILD PROTECTION CONFIDENTIALITY	RLS BY REQUEST OF THE GOVERNOR	(S) FIN	03/04/05
<u>SB 252</u>	DEFINITION OF CHILD ABUSE AND NEGLECT	RLS BY REQUEST OF THE GOVERNOR	(S) JUD	02/09/06

The Twenty-Fourth Legislature was focused on OCS issues. A high profile case in the Mat-Su Valley put OCS on the front page of nearly every newspaper in the State and the legislature and the public were asking hard questions. While OCS wanted to tell their side of the story, Department of Law advised them that they couldn't disclose confidential information; therefore, the criticism of OCS went unanswered.

The Murkowski Administration had reorganized the Department of Health & Social Services, changed DFYS to OCS, elevated the director of OCS to a deputy commissioner position, and filed four pieces of legislation in the House and the Senate that would make changes to the way OCS did business. Representative Coghill was just one of several legislators, Representatives Rokeberg, Neuman, Lynn, Chenault, Harris, and McGuire, who introduced bills addressing concerns with OCS in 2005.

Representative Coghill organized a meeting with all the legislators working on legislation and the governor's office to discuss an omnibus bill that would address everyone's concerns without creating chaos in the system.. It was decided that HB 53 would be the bill used as the vehicle for an omnibus bill to make amendments to AS 47.10 CINA laws. The bill which included 67 sections of amendments to the CINA laws became know as the Family Rights Act.

Governor Murkowski's part of the legislation focused on confidentiality in child protection cases. This legislation improved transparency in the child protection system by allowing the Department of Health and Social Services Office of Children's Services to share information with the public about department actions in certain child abuse and neglect cases.

As a result of passage of HB 53, two key areas changed in the child protection confidentiality statutes:

- CINA court hearings would be open to the public except in certain circumstances. Before HB 53, these hearings were closed to the public.
- OCS 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 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.

Other changes House Bill 53 made in CINA law include:

CREATES A DUTY AND STANDARD OF CARE

The bill eliminated from the law language that implies there is no duty and standard of care for social workers making decisions for children in state custody. Representative Coghill believed the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 953 P.2d 871 (Alaska 1998) did create a duty to children in state custody and believed there is a civil liability for wrongdoing. He introduced his first bill to accomplish this in 1999. (Sec. 29) Coghill

In an effort to establish a duty and standard of care, Representative Coghill said "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."

STRENGTHENS FAMILIES

HB 53 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. (Sec. 3) Coghill

Other relatives or family friends should also be considered for placement before a child is placed with a stranger. 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

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 if the treatment was not available and OCS did not provide treatment. (Sec. 14) Coghill

The bill encouraged 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 amended 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 previously unavailable confidential information 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



Fred Van Wallinga from Citizens Review

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 is subject to the Open Meetings Act and will have the ability to meet in executive session. (Sec. 38 - 44) Coghill

VIDEOTAPING & CHILD ADVOCACY CENTERS

HB 53 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

Provides that the videotape of a sexual abuse interview of a minor under the age of sixteen can be admissible evidence in a criminal case if the witness is available for cross examination. (Hollis French Amendment on the floor of the Senate)

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

In 2006, OCS came to Representative Coghill to carry House Bill 408 which was a catch all for some final tweaks to AS 47.10.

In an effort to ensure that more parents are receiving family support services, OCS must now provide to the court "clear and convincing evidence" that the parent should not receive those services.

1. Parent has subjected child to substantial risk through abandonment, sexual abuse, torture, chronic physical or mental injury;
2. Committed, abetted, attempted, conspired or solicited homicide;
3. Felony assault that results in injury of a child;
4. Failed to comply with a court order in a twelve month period

HB 408 raised the bar from preponderance of evidence to "clear and convincing evidence" to terminate parental rights. This was retroactively applied to CINA cases pending before the court, on appeal, and for which the time of appeal has not expired on the day the bill became law.

Language from Representative Chenault's HB 327 was added to HB 408. It requires departments to respond to inquiries from public officials within five working days.

A Coghill amendment clarified that once one of the three triggers for OCS to publicly discuss a ROH, OCS has the flexibility to disclose confidential information on all reports of harm in the family's history with OCS.

The bill preserves Permanent Fund Dividends applied for and placed in a trust by OCS for children in state custody. The PFD's remain in the trust until the child turns 18, the child is returned to biological parents or the child is adopted. The only other way the money can be released is if a court determines a guardian has a legitimate use of the funds. This law was changed as a result of a guardian in Representative Coghill's district getting several years of PFD's for two children and the placement did not work out.

Finally, the bill requires health care providers to report children they suspect are adversely affected by a controlled substance or alcohol and clarifies controlled substance does not include prescribed medication.

25th Legislature 2007 - 2008

Letting the administration get its hands around the family rights reforms of 2005 and 2006, the legislature took a hiatus from Title 47.10 in 2007. Legislators did work on funding for increased numbers of frontline workers, more training funds, and getting ORCA to the stage of benefit for everyone.

This year Representative Coghill will be introducing a piece of legislation for OCS. The legislation transfers from the commissioner to the department the authority to adopt regulations to determine the amount and duration of subsidy payments for hard-to-place children. The bill also provides to OCS the same ability to get support changes orders as parents by adding administrative orders as an option to going to court for a change of order. Lastly, the bill clarifies that if a state employee of public officials discloses confidential or privileged information provided to them under AS 47.10.092 that person could be found guilty of a misdemeanor, could be fined \$500 and could serve not more than one year of imprisonment.

FUNDING INFORMATION FROM FY '06 - PRESENT

FY '06 BUDGET INCREMENTS FOR INCREASES:

Frontline workers increase GGU	\$ 943,500
Training for front line staff	\$ 409,200
ORCA maintenance & help desk support	\$ 591,900
Bargaining Unit Contracts	\$ 2,080,900
3 new PCNs	\$ 177,200
Retirement Systems Increases	\$ 95,600
Family Preservation Funding	\$ 1,351,000
Front line worker expansion	\$ 4,613,700
Subsidized adoptions	<u>\$ 1,978,700</u>
TOTAL INCREASES FY '06	\$12,241,700

Reductions in funding in FY '06:

Foster care base rate	76,600
Foster care special needs	460,000

FY 07 BUDGET INCREMENTS FOR INCREASES:

Bring the Kids Home Expand Behavioral Rehabilitation Services	\$ 2,500,000
Medicaid Behavioral Rehabilitative Services Rate Increase to fully reimburse providers for Kids in Custody	\$ 2,214,000
Medicaid Behavioral Rehabilitative Services Rate Increase for Non-Custody Kids	\$ 580,000
Continue FY 06 enhance training capacity for front line workers	\$ 409,200
Wage and benefit increases for frontline workers	\$ 2,620,800
Wage and benefit increases for children's services management	\$ 189,500
Other wage and benefit increases	\$ 78,900
Citizen's Review Panel operating costs	\$ <u>35,700</u>
TOTAL FY '07 INCREASES	\$ 8,628,300

FY '07 Increases requested OCS but not funded:

ORCA upgrade	750,000
BTKH gate keeping committee	200,000
Enhanced post adoptive services especially in rural areas	230,000
Expand contracts with Catholic Social Services & Fairbanks Counseling and Adoption	<u>147,300</u>
TOTAL	\$ 1,327,300

FY '07 Loss of Revenues:

Loss of MHTAAR funding for OCS Parental Support Services	\$ 150,000
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FY '08 BUDGET INCREMENTS FOR INCREASES:

Replace federal dollars for front line workers	\$ 1,872,600
Replace federal dollars for Children's Services Management	\$ 652,100
Replace federal funding for Children's Services training	\$ 223,600
Replace federal funding for Family preservation	\$ 650,000
Replace federal funding for foster care special needs	\$ 341,000
Replace federal funding for residential child care	\$ 105,500
Increase Early Childhood Comprehensive System Grants	\$ 100,000
Increase Behavior Intervention and Supports Early Childhood	\$ <u>80,000</u>
TOTAL - FY '08 INCREASES	\$ 4,024,800

FY '09 BUDGET INCREMENTS FOR INCREASES:

FMAP Increases - GF	\$ 355,600
Basic Training and Development - \$369.1 GF	\$ 427,000
Implement Front line worker recommendations - \$600.0 GF	\$ 860,900
Replaces federal dollars for Private Proshare Refinancing-Family Preserve	\$ 322,400
Transfer of Proshare GF from Health Care Services to OCS	\$ 76,900
Child Advocacy Centers - replace federal dollars - GF	\$ 1,488,200
Foster parent and parent srves: recruit, train, support - \$75.0 GF/\$75 MH	\$ 150,000
IV-E Federal participation foster care base rate change - GF replace	\$ 57,100
Increase receipt support services for CSSD collection - RSS	\$ 600,000
IV-E Foster Care Augmented Rate change - GF replace	\$ 7,700
Increase child care benefits for CPS - I/A	\$ 1,295,100
IV-E Special Needs Fed participation change - GF replace	\$ 13,700
Increase legal fees for adoption - GF	\$ 277,500
IV-E Residential Child Care fed participation change - GF	\$ 12,200
MH Trust: Behavior Intervention and support-early childhood system	\$ 80,000
MH Trust: Early Childhood comprehensive grant system grants	\$ 75,000
MH Trust: Early childhood mental health learning network & coordinator - \$ 100.0 GF/MH and \$ 100.0 MHTAAR funds	\$ 200,000
TOTAL FY'09 INCREMENT INCREASES	\$ 6,299,300

FY '09 FUNDING TRANSFERS

Transfer out permanency funding to subsidized adoptions-legal services	\$ 227,500
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FY '08 SUPPLEMENTAL REQUEST:

Foster Care Base Rate due to increased Protective Services Reports	\$ 656,300
Foster Care Special Needs Funding - 240 additional children	\$ 622,800

ALLEGATIONS

	Mental Injury	Neglect	Physical Abuse	Sexual Abuse	Unknown	Total
Nov 2007	227	1,271	299	151	1	1,949
Nov 2006	355	1,115	287	181	0	1,938
Nov 2005	349	974	331	157	0	1,811

A Protective Services Report may contain one or more allegations of child abuse or neglect. The table above shows the number of allegations in the PS reports counted by the type of harm alleged. Total PS reports in Nov. 2007 - 892; Nov. 2006 - 915; and Nov. 2005 - 823.

ASSESSMENT COMPLETED

	Substantiated	Not Substantiated	Closed without finding	Total
Nov 2007	154	227	53	434
Nov 2006	183	260	31	474
Nov 2005	199	212	27	438

Substantiated: the available facts indicate the child was abused or neglected;

Not substantiated: based on the available facts, OCS is unable to determine if a child was abused or neglected, or there are no facts to support the allegation of child abuse or neglect;

Closed without finding: no determination made because, for example, the family cannot be located.

Source of charts: <http://hss.state.ak.us/ocs/Statistics/default.htm>