

**SB**

**82**

<TARGET><BILL>SB 82</BILL><SUBJECT>SB  
82</SUBJECT><COMM>SJUD27</COMM></TARGET>

## Changes in Senate Judiciary Committee to Senate Bill 82

The Senate Judiciary Committee adopted an amendment requested by the Department of Law. It provides:

- \* conforming amendments (to changes made by last year's House Bill 126) which permit the Department, a guardian, parent or custodian acting on behalf of a child to apply for custody to the age of 21 in one-year periods, if the extensions are in the best interests of the child and the child consents to it.
- \* a requirement that when custody of a child in the care of the department is due to expire, the department will file notice with the court 30 days before the date of release and provide that notice to all parties -- including the child -- if the child is 16 years of age or older unless all parties have agreed to a shorter notice period.

27-LS0500\X

Mischel

3/30/11

**CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 82(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR DAVIS

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the procedures and jurisdiction of the Department of Health and  
2 Social Services for the care of children who are in state custody; relating to court  
3 jurisdiction and findings pertaining to children who are in state custody; and modifying  
4 the licensing requirements for foster care."

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

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

8 SHORT TITLE. This Act may be known as the Alaska Foster Family Protection Act.

9 \* **Sec. 2.** 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;

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

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

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

8 (C) there is a compelling reason that the most appropriate  
9 placement for the child is [SHOULD BE PLACED] in another planned,  
10 permanent living arrangement and the department has recommended the  
11 arrangement under AS 47.14.100(p); the findings under this paragraph  
12 must include the steps that [AND WHAT STEPS] are necessary to achieve  
13 the new arrangement;

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

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

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

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

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

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

30 (5) the court shall hold a hearing to review the permanent plan at least  
31 annually until successful implementation of the plan; if the plan approved by the court

1 changes after the hearing, the department shall promptly apply to the court for another  
2 permanency hearing, and the court shall conduct the hearing within 30 days after  
3 application by the department.

4 \* **Sec. 3.** AS 47.10.080 is amended by adding a new subsection to read:

5 (w) The court shall recognize a presumption that maintenance of a sibling  
6 relationship, including with a sibling who is related by blood, marriage, or adoption  
7 through one parent, is in a child's best interest.

8 \* **Sec. 4.** AS 47.10.100 is amended to read:

9 **Sec. 47.10.100. Retention of jurisdiction over child [MINOR].** (a) The court  
10 retains jurisdiction over the case and may at any time stay execution, modify, set  
11 aside, revoke, or enlarge a judgment or order, or grant a new hearing, in the exercise  
12 of its power of protection over the child [MINOR] and for the child's [MINOR'S] best  
13 interest, for a period of time not to exceed two years or in any event extend past the  
14 day the child reaches [MINOR BECOMES] 19 years of age, unless sooner  
15 discharged by the court, except that the department may apply for and the court may  
16 grant an additional one-year period of custody or supervision past [AGE] 19 years of  
17 age and additional one-year periods of custody that do not extend beyond the  
18 person's 21st birthday if continued custody or supervision is in the best interests of  
19 the person and the person consents to it. An application for any of these purposes may  
20 be made by the parent, guardian, or custodian acting in behalf of the child [MINOR],  
21 or the court may, on its own motion, and after reasonable notice to interested parties  
22 and the appropriate department, take action that it considers appropriate.

23 (b) If the court determines at a hearing authorized by (a) of this section that  
24 the department has complied with the requirements for release of a child under  
25 AS 47.14.100(a) and that it is in [FOR] the best interests of the child [MINOR] to be  
26 released to the child's own custody, or to the care or custody of the child's  
27 [MINOR'S] parent, guardian, or custodian, it shall [MAY] enter an order to that effect  
28 and the child [MINOR] is discharged from the control of the department.

29 (c) If a child [MINOR] is adjudicated a child in need of aid before the child's  
30 [MINOR'S] 18th birthday, the court may retain jurisdiction over the child [MINOR]  
31 after the child's [MINOR'S] 18th birthday for the purpose of supervising the child

1 [MINOR], but the court's jurisdiction over the minor under this chapter never extends  
2 beyond the child's [MINOR'S] 19th birthday, except that the department may apply  
3 for and the court may grant an additional one-year period of custody or supervision  
4 past [AGE] 19 years of age and additional one-year periods of custody that do not  
5 extend beyond the person's 21st birthday if continued custody or supervision is in  
6 the best interests of the person and the person consents to it. The department may  
7 retain jurisdiction over a child [BETWEEN THE CHILD'S 18TH AND 19TH  
8 BIRTHDAYS FOR THE PURPOSE OF SUPERVISING THE CHILD,] if the child  
9 has been placed in the custody or under the supervision of the department before the  
10 child's 18th birthday, except that the department may apply for and the court may  
11 grant an additional one-year period of custody or supervision past [AGE] 19 years of  
12 age and additional one-year periods of custody that do not extend beyond the  
13 person's 21st birthday if continued custody or supervision is in the best interests of  
14 the person and the person consents to it.

15 \* **Sec. 5.** AS 47.14.100(m) is amended to read:

16 (m) Prima facie evidence of good cause not to place a child with an adult  
17 family member or family friend under AS 47.10.088(i) or under (e) of this section  
18 includes the failure to meet the requirements for a foster care license under AS 47.32  
19 and regulations adopted under AS 47.32, taking into account a waiver, variance, or  
20 exemption allowed under AS 47.32.030(a)(3) and 47.32.032. Prima facie evidence  
21 of good cause not to place a child with an adult family member or adult family friend  
22 does not include poverty or inadequate or crowded housing. If the department denies a  
23 request for placement with an adult family member or a family friend, the department  
24 shall inform the adult family member or family friend of the basis for the denial and  
25 the right to request a hearing to review the decision. A non-party adult family member  
26 or family friend requesting a review hearing under AS 47.10.088(i) or under (e) of this  
27 section is not eligible for publicly appointed legal counsel.

28 \* **Sec. 6.** AS 47.14.100 is amended by adding new subsections to read:

29 (o) Except as provided in (p) and (q) of this section, the department shall  
30 continue to search for a suitable adoptive or permanent legal guardianship for a child  
31 who is in the custody of the state and who is under 18 years of age.

1 (p) The department may recommend to the court another planned permanent  
2 living arrangement for a child who is in state custody only if

3 (1) the child is 16 years of age or older;

4 (2) the department has unsuccessfully made intensive efforts to find a  
5 permanent placement for the child; and

6 (3) the department, after considering reunification, adoption, legal  
7 guardianship, or permanent placement with a fit and willing relative, determines that  
8 there is a compelling reason that the most appropriate permanency plan for the child is  
9 placement in another planned permanent living arrangement, and the department  
10 documents for the court the compelling reason for the alternate plan.

11 (q) The department may release from state custody a child who has been  
12 committed to the custody of the department, before the custody is ordered to end, only  
13 if

14 (1) the child, if the child is over 16 years of age and available, and the  
15 guardian ad litem are notified not less than 30 days before a motion for release is filed  
16 unless the parties agree to a shorter notice period;

17 (2) the department files a motion with the court for release of state  
18 custody that describes the reasons the release is in the best interest of the child; and

19 (3) a court makes a written finding that release from state custody is in  
20 the best interest of the child.

21 (r) When custody of a child who has been committed to the custody of the  
22 department is due to expire, the department shall file a notice of release with the court  
23 30 days before the date of release unless the parties agree to a shorter notice period  
24 and distribute the notice to the parties, including the child if the child is 16 years of  
25 age or older and available.

26 (s) The department shall make reasonable efforts to place siblings in the same  
27 placement if the siblings are residing in the same home when taken into the custody of  
28 the department. If siblings are not placed together after reasonable efforts have been  
29 made, the case supervisor for the division with responsibility over the custody of  
30 children shall document in the file the efforts that were made and the reason separating  
31 the siblings for placement purposes is in the best interest of the children. In this

1 subsection, "sibling" means two or more persons who are related by blood, adoption,  
2 or marriage as a child of one or both parents.

3 (t) As used in (p) of this section, "compelling reason" may include  
4 circumstances in which

5 (1) the child has specifically requested that emancipation be  
6 established;

7 (2) a parent and child have a significant bond, but the parent is unable  
8 to care for the child because of an emotional or physical disability, and the child's  
9 foster parents have committed to raising the child to the age of majority and to  
10 facilitating visitation with the disabled parent.

11 (u) In this section, "another planned permanent living arrangement" means a  
12 permanent living arrangement for a child who is committed to the custody of the  
13 department under AS 47.10.080(c)(1) that is an alternative to permanent placement  
14 with an adult family member, and to reunification, adoption, and legal guardianship.

15 \* **Sec. 7.** AS 47.32 is amended by adding a new section to read:

16 **Sec. 47.32.032. Foster care license; variance.** (a) The department shall  
17 streamline the application and licensing paperwork necessary for a person to be  
18 approved as a foster parent or relative placement to the extent consistent with federal  
19 law.

20 (b) The department shall approve a variance of the applicable building code  
21 requirements for licensure of a foster care home to the extent permitted by federal law  
22 if an applicant does not meet the requirements at the time of inspection and

23 (1) the home design and construction is consistent with homes located  
24 in the community; and

25 (2) the home is otherwise a safe environment for a child.

*adopted*

AMENDMENT # 1

OFFERED IN THE SENATE

TO: CSSSSB 82(HSS)

1 Page 3, lines 16 - 17:

2 Delete "[AN] additional one-year periods [PERIOD] of supervision past [AGE] 19  
3 years of age that do not extend beyond the person's 21st birthday if continued"

4 Insert "an additional one-year period of custody or supervision past [AGE] 19 years  
5 of age and additional one-year periods of custody that do not extend beyond the person's  
6 21st birthday if continued custody or"

7

8 Page 3, line 20:

9 Delete "minor"

10 Insert "child [MINOR]"

11

12 Page 4, lines 3 - 5:

13 Delete "[AN] additional one-year periods [PERIOD] of supervision past [AGE] 19  
14 years of age that do not extend beyond the person's 21st birthday if continued"

15 Insert "an additional one-year period of custody or supervision past [AGE] 19 years  
16 of age and additional one-year periods of custody that do not extend beyond the person's  
17 21st birthday if continued custody or"

18

19 Page 4, line 8, following "placed":

20 Insert "in the custody or"

21

22 Page 4, lines 10 - 13:

23 Delete "[AN] additional one-year periods [PERIOD] of supervision past [AGE] 19

1 years of age that do not extend beyond the person's 21st birthday if continued"

2           Insert "an additional one-year period of custody or supervision past [AGE] 19 years  
3 of age and additional one-year periods of custody that do not extend beyond the person's  
4 21st birthday if continued custody or"

5  
6 Page 5, lines 10 - 11:

7           Delete "Unless the child, department, and guardian ad litem agree to a release from  
8 custody without a motion and with less than 30 days' notice, the"

9           Insert "The"

10  
11 Page 5, line 12:

12           Delete "who is under 19 years of age"

13  
14 Page 5, line 13, following "department":

15           Insert ", before the date custody is ordered to end,"

16  
17 Page 5, line 14, following "is":

18           Insert "over 16 years of age and"

19  
20 Page 5, line 15, following "filed":

21           Insert "unless the parties agree to a shorter notice period"

22  
23 Page 5, following line 19:

24           Insert a new subsection to read:

25                   "(r) When custody of a child who has been committed to the custody of the  
26 department is due to expire, the department shall file a notice of release with the court  
27 30 days before the date of release unless the parties agree to a shorter notice period  
28 and distribute the notice to the parties, including the child if the child is 16 years of  
29 age or older and available."

30  
31 Reletter the following subsections accordingly.

Explanation for revisions on page 3, lines 16-18 and page 4, lines 3-5 and 10-12:

Each line allows for “additional periods of supervision past age 19 that do not extend beyond the person’s 21<sup>st</sup> birthday.” This language needs to be amended as it is in conflict with AS 47.10.080(c)(2) which allows for only one additional period of supervision beyond the child’s 19th birthday.

If section 4 in HB 33 passes as written, without also amending AS 47.10.080(c)(2)(B), there would be a conflict between AS 47.10.080(c)(2) and AS 47.10.100, as amended, since AS 47.10.100 would allow supervision until the 21<sup>st</sup> birthday and AS 47.10.080(c)(2) would allow supervision only until the 20<sup>th</sup> birthday.

This revision fixes this conflict by distinguishing between supervision (up until the 20<sup>th</sup> birthday) and custody (up until the 21<sup>st</sup> birthday).

Explanation for revisions on page 5, lines 10-11 and line 15:

The bill now says: “Unless the child, department, and guardian ad litem agree to a release from custody without a motion and with less than 30 days' notice, ...”. If OCS seeks to release custody prior to the time custody ends per court order, it is seeking to modify the court order. This bill would allow the parties to agree to modify a court order without court action, but only the court can modify its earlier order. This could be fixed by just removing the words “without a motion.” However, I think adding the words “unless the parties agree to a shorter notice period” to the end of line 15 is a cleaner way to say this.

Explanation for revisions on page 5, line 12:

This section allows a child under 19 years of age to be notified before the state seeks to release custody, but shouldn't it also apply to the over 19- under 21 group? Don't they want advance notice too? If they do, this revision would allow all children to receive advance notice.

Explanation for revisions on page 5, line 13 and the new (r):

There are two ways to release a child from state custody: (1) custody automatically lapses because the time the court ordered custody to end has arrived; and (2) OCS seeks to release custody prior to the time the court ordered custody to end. This bill requires a motion to be filed in either situation. It is bad policy to ask the court for permission to release custody when custody automatically lapses because (1) it uses judicial resources unnecessarily; (2) it incorrectly suggests that the court has the power not to extend custody (only OCS or the GAL can file a petition to extend custody). A better solution is to require OCS to file a notice of release when custody automatically lapses (the new proposed (r)) and a motion to release when custody before custody is set to end. Such a revision would still accomplish the purpose of this bill (to warn an older child that custody is ending).

Explanation for revisions on page 5, line 14:

As we heard during public testimony from the youth foster care advocate in Anchorage (I didn't catch her name), the point of subsection (q) is to avoid a young adult being released to their own care with no warning that state custody is ending. This bill now requires notice to all children under 19, but I propose to limit notice to 16 or older.

Here's why: OCS would never release custody of a child under age 18 to his/her self (unless in the rare case that a 16+-year-old is emancipated, but that child would already be involved since the child is the petitioner in emancipation cases). It serves no purpose to notify a young child – for example, a 2-year-old – prior to OCS filing a motion to release that child to their parents. Giving notice to the child's GAL, who represents the child's best interests, should be sufficient for children under age 16.

# Alaska State Legislature

Senate  
Health & Social  
Committee  
Chair  
•  
Senate  
Education Committee  
Vice-Chair



Legislative Council  
Vice-Chair  
•  
Senate  
Transportation  
Committee  
•  
Senate  
Labor & Commerce  
Committee

[Senator\\_Bettye\\_Davis@legis.state.ak.us](mailto:Senator_Bettye_Davis@legis.state.ak.us)  
<http://www.aksenate.org/>

## Senator Bettye Davis

Date: March 21, 2011

To: Senator Hollis French  
Chair, Judiciary

From: Senator Bettye Davis

A handwritten signature in cursive script that reads "Bettye Davis".

RE: **Request for Hearing - SB82 – Foster Care Licensing/State Custody “An Act relating to the procedures and jurisdiction of the Department of Health and Social Services for the care of children who are in state custody; relating to court jurisdiction and findings pertaining to children who are in state custody; and modifying the licensing requirements for foster care.”**

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Senator French,

You currently have in your possession SB82 – Foster Care Licensing/State Custody. SB82 mirrors HB33, a bill that was originally introduced by Representative Les Gara. I was asked to introduce legislation that mirrored HB33 in an effort to get this important bill moving and hopefully passed.

SB82 modifies various provisions in Title 47, making small but very significant changes that prioritize the needs of youth in foster care. This legislation addresses permanent planning for children in custody under “Another Planned Permanent Living Arrangement (APPLA);” modifies licensing procedures; outlines court requirements for release or termination of custody by the courts; outlines “compelling reason” standards for youth with APPLA permanency goals; and provides a provision to support placement of siblings into the same foster home.

This legislation is supported by the department and carries a zero fiscal note. I would greatly appreciate your consideration in scheduling this important bill for hearing as soon as possible. Please let me know if you have any questions.

Thank you.

# Alaska State Legislature

Senate  
Health & Social  
Committee  
*Chair*  
•  
Senate  
Education Committee  
*Vice-Chair*



Legislative Council  
*Vice-Chair*  
•  
Senate  
Transportation  
Committee  
•  
Senate  
Labor & Commerce  
Committee

Senator Bettye Davis @legis.state.ak.us  
<http://www.aksenate.org/>

## Senator Bettye Davis

Senate Bill 82 "An Act relating to the procedures and jurisdiction of the Department of Health and Social Services for the care of children who are in state custody; relating to court jurisdiction and findings pertaining to children who are in state custody; and modifying the licensing requirements for foster care."

### SPONSOR STATEMENT

Senate Bill 82 modifies various provisions in Title 47 by making small, but very significant changes that better prioritize the needs of foster children. This legislation seeks to:

1. **Achieve Permanency for Older Children in Foster Care** – Permanency for children in OCS custody is best achieved through reunification with the child's parent, or failing that option, through adoption or guardianship. If these three options are not available, another form of permanency is through APPLA ("Another Planned Permanent Living Arrangement"). This bill seeks to make sure the APPLA option is not chosen unnecessarily by providing guidelines for both OCS and the court as to when APPLA should be used.
2. **Presumption to Keep Siblings Together** – Although OCS attempts to keep siblings together when they enter foster care, this bill creates a statutory presumption that siblings be placed in the same home when possible and when such a placement is in the siblings' best interest. When the children cannot be in the same home, this bill requires an OCS supervisor to document in the file the efforts made and the reason for the separation.
3. **Early Release of Custody** - When OCS files a motion to release a child from state custody before the custody order expires, this bill requires OCS and the court to take extra steps to ensure the child and Guardian ad Litem have ample notice of the motion and that the release is in the child's best interest.
4. **Foster Home Licensing Variance Process** - If a potential foster home cannot meet the building codes required to be a licensed foster home, this bill allows a variance to be granted if the home is consistent with construction of other homes in the community and is otherwise a safe environment for the child.
5. **Streamlining Application Process for Foster Parents**  
This bill requires that paperwork required for foster parent licensing be streamlined as much as possible.
6. **Housekeeping** – The bill includes some minor changes to a statute to make it consistent with last year's legislation to extend foster care to age 21.

# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSSSB 82(HSS)  
 (S) Publish Date: 3/18/11

Identifier (file name): SSSB082-DHSS-FLSW-03-11-11 Dept. Affected: Health and Social Services  
 Title: Foster Care Licensing/State Custody Appropriation: Children's Services  
 Allocation: Front Line Social Workers  
 Sponsor: Sen. Davis  
 Requester: Senate HSS Committee OMB Component Number: 2305

**Expenditures/Revenues** (Thousands of Dollars)

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

|                               | Appropriation<br>Required | Information |            |            |            |            |            |
|-------------------------------|---------------------------|-------------|------------|------------|------------|------------|------------|
|                               |                           | FY 2012     | FY 2013    | FY 2014    | FY 2015    | FY 2016    | FY 2017    |
| <b>OPERATING EXPENDITURES</b> |                           |             |            |            |            |            |            |
| Personal Services             |                           |             |            |            |            |            |            |
| Travel                        |                           |             |            |            |            |            |            |
| Services                      |                           |             |            |            |            |            |            |
| Commodities                   |                           |             |            |            |            |            |            |
| Capital Outlay                |                           |             |            |            |            |            |            |
| Grants                        |                           |             |            |            |            |            |            |
| 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>0.0</b> |

|                             |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|--|

|                           |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES</b> |  |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |            |            |            |            |            |            |            |
|--------------------------|------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |            |
| Other (please identify)  |            |            |            |            |            |            |            |
| <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> | <b>0.0</b> |

Estimate of any current year (FY2011) cost: \_\_\_\_\_

**POSITIONS**

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

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable. Initial version.

Prepared by: Christy Lawton, Acting Director  
 Division: Office of Children's Services  
 Approved by: Alison Elgee, Assistant Commissioner  
DHSS Finance & Management Services

Phone 465-3191  
 Date/Time 3/11/11 5:00 PM  
 Date 3/11/2011

FISCAL NOTE #1

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

BILL NO. CSSSSB 82(HSS)

**Analysis:**

SSB082 has zero fiscal impact on DHSS. This bill addresses permanent planning for children in custody under "Another Planned, Permanent Living Arrangement (APPLA)"; modifies licensing procedures; outlines court requirements for release or termination of custody by the courts; outlines "compelling reason" standards for youth with APPLA permanency goals; provides a provision to support placement of siblings into the same foster home; and establishes a requirement that the Department will enroll children 6 years of age and younger into a "reading enhancement program" where available. No additional costs are anticipated.



NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

To: Amanda Metivier, Aide to Alaska Rep. Les Gara  
From: Amy Taylor, NCSL Intern and Kelly Crane, NCSL  
Date: November 17, 2010  
Subject: Another Planned Permanent Living Arrangement

**Richard Moore**  
*Senator  
Massachusetts Senate  
President, NCSL*

**Tim Rice**  
*Executive Director  
Illinois Legislative Information System  
Staff Chair, NCSL*

**William Pound**  
*Executive Director*

Following is information on state legislation around Another Permanent Planned Living Arrangement as a permanency goal for children in foster care. Also, below is information on states that allow for the reinstatement of parental rights (a strategy states may use to reduce the use of APPLA as a permanency option).

➤ **State Legislation**

**New York:**

2005 N.Y. Laws, SB 5805, Chap. 3: Specifies the required contents of permanency hearing reports to the court. Describes acceptable permanency goals. Provides that the permanency goal of "another planned permanent living arrangement" must include a significant connection to an adult who is willing to be a permanency resource for the child.

2007 N.Y. Laws, SB 4551, Chap. 327: Clarifies that the plan of "another planned permanent living arrangement" must include documentation of the child's significant connection to an adult who is willing to be a permanency resource for the child.

New York FCA §§1089(c)(1)(v), 1089(d)(2)(i)(E) can be retrieved at:

**Alabama:**

Section 12-15-315 of the Alabama Code: States that if the juvenile court determines the permanent plan shall be placement in another planned permanent living arrangement, the Department of Human Resources must document to the juvenile court a compelling reason for determining that it would not be in the best interests of the child to return home, be placed for adoption with no identified resource or with the current foster parent, or be permanently placed with a relative, with a transfer of legal and physical custody to the relative or with a transfer of physical custody to the relative but with the Department of Human Resources retaining legal custody, be placed with a kinship guardian, or be placed in adult custodial care.

**Denver**  
7700 East First Place  
Denver, Colorado 80230-7143  
Phone 303.364.7700 Fax 303.364.7800

**Washington**  
444 North Capitol Street, N.W. Suite 515  
Washington, D.C. 20001  
Phone 202.624.5400 Fax 202.737.1069

Website [www.ncsl.org](http://www.ncsl.org)  
Email [info@ncsl.org](mailto:info@ncsl.org)

DATE

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**Connecticut:**

Sec. 4. Section 46b-129 of the Connecticut Code: Orders that at a permanency hearing the court shall approve a permanency plan that is in the best interests of the child or youth and takes into consideration the child's or youth's need for permanency. Another Planned living arrangement can be ordered by the court, provided the Commissioner of Children and Families has documented a compelling reason why it would not be in the best interest of the child or youth for the permanency plan to include a different permanency goal. (Sec. 4. Section 46b-129 of the 2010 supplement to the general statutes)

**West Virginia:**

Section 49-6-5 of West Virginia Code: Orders that a child may be placed in another planned permanent living arrangement, but only in cases where the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the other permanency options. (Section 49-6-5. Disposition of neglected or abused children)

➤ **Reinstatement of Parental Rights**

Several states have also passed legislation that allows for the reinstatement of parental rights following termination of parental rights. The laws were developed in response to children who were aging out of the foster care system and re-establishing ties with parents and family members.

**Legislation for Reinstatement following Termination of Parental Rights**

| <b>State</b> | <b>Statute or Code</b>   | <b>Who Can File Motion or Petition</b>   | <b>Who Must Be Notified</b>   |
|--------------|--|--|---|
| Alaska       | <u>Alaska Stat. § 47.10.089</u>  | A person who has voluntarily relinquished the child.                               |   |
| California   | <u>Cal. Welfare and Institutions Code § 366.26</u>                     | Child for whom court has determined that adoption is no longer the permanent plan. | Social worker or probation officer, child's attorney, child's tribe, if applicable, former parent |
| Hawaii       | <u>Act 135, 2010 Session Laws</u>                                      | Child who is 14 or older; child's GAL; department                                  | Former parent; child's GAL; department; child's resource family                                   |
| Illinois     | <u>705 Ill. Comp. Stat. 405/2-28 and 705 Ill. Comp. Stat. 405/2-34</u> | Dept of Child and Family Services on behalf of 13 years or older child             | Parties to the Juvenile Court proceeding  |

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|            |  |  |  |
|------------|--|--|--|
| Louisiana  | <u>La. Child. Code Ann. art. 1051</u>          | Child in foster care over the age of 15.             | Parents, foster parents, CASA volunteer.   |
| Nevada     | <u>Nev. Rev. Stat. Ann. § 128.160, 128.170</u> | Child or legal custodian or guardian of child        | Parents, child's legal custodian or guardian, person or entity that petitioned for TPR, child's attorney   |
| New York   | <u>N.Y. Fam. Ct. Act, §§ 635-637</u>           | Attorney, Guardian of child age 14 or older          | Court may issue summons to child, guardian and custodian, respondent in TPR proceeding.                    |
| Oklahoma   | <u>Okla. Stat. Ann. tit. 10 A. § 1-4-909</u>   | Child 15 or older                                    | Department, child's attorney, child, former parent, foster parent or relative guardian, GAL, child's tribe |
| Washington | <u>Wash. Rev. Code Ann §13.34.215</u>          | Child 12 or older, or younger if good cause is shown | Department, child's attorney, child, former parent, existing parent, current caregiver, child's tribe.     |

Please let us know if we can be of further assistance!

*Amy Taylor*

National Conference of State Legislatures  
Children and Families Program



Alaska Baptist Family Services  
Anchorage, AK

Alaska Children's Services  
Anchorage, AK

Alaska Family Services  
Palmer, AK

Covenant House of Alaska  
Anchorage, AK

Family Centered Services of Alaska  
Fairbanks, AK

Juneau Youth Services  
Juneau, AK

Kenai Peninsula Community Care  
Center  
Kenai, AK

Maniilaq Association  
Kotzebue, AK

Nome Children's Home  
Nome, AK

North Slope Borough Children's  
Services  
Barrow, AK

North Star Behavioral Health  
Anchorage & Palmer, AK

Presbyterian Hospitality House  
Fairbanks, AK

Providence Behavioral Health  
Systems  
Anchorage, AK

Residential Youth Care  
Ketchikan, AK

Searhe  
Sitka, AK

The Boys and Girls Home of Alaska  
Fairbanks, AK

The Salvation Army Booth Memorial  
Home  
Anchorage, AK

Youth Advocates of Sitka  
Sitka, AK

March 7, 2011

Senator Bettye Davis  
Alaska Senate  
State Capitol  
Juneau, Alaska 99801

RE: SB 82: Stability and Opportunity for Foster Youth

Dear Senator Davis,

Alaska Association of Homes for Children (AAHC) thanks you for introducing legislation to improve the service delivery of foster care. Several agencies within our association provide foster care and many of the youth we serve benefit from this critical service.

Unfortunately, we all have witnessed children on long waiting lists for a viable foster care placement for various reasons. The intent of SB 82 provides concrete solutions to streamline the process for foster parents, develop resources for children, and reinforce the goals related to permanency planning.

Placing children in rural areas poses additional challenges related to numerous licensing issues. It can be extremely difficult finding foster homes that meet state licensing requirements. Licensing variances for homes failing to meet specific codes when indicated would provide opportunities for families to open up their homes to provide care for foster children.

Foster care provides for a very cost effective way of helping children. Allowing more families to commit to the many Alaskan children waiting for a quality home creates a win win opportunity for all. AAHC truly appreciates your continued efforts to assist with the foster care system in Alaska.

The provisions within your bill would provide a wise investment in the health and wellbeing of Alaska's children.

Thank you,

Brad Ohs  
AAHC President

cc: Representative Les Gara

Advisory Board on Alcoholism  
and Drug Abuse



Alaska Mental Health Board

ALASKA MENTAL HEALTH BOARD  
ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE  
431 NORTH FRANKLIN STREET, SUITE 200  
JUNEAU, ALASKA 99801  
(907) 465-8920

February 23, 2011

Representative Les Gara  
Alaska State Legislature  
State Capitol, Room 500  
Juneau, Alaska 99801

Re: Support for HB 33

Dear Representative Gara,

On behalf of the Alaska Mental Health Board and the Advisory Board on Alcoholism and Drug Abuse, I would like to express our thanks and appreciation for the commitment that you and your co-sponsors have made to improving the lives of Alaskan children in foster care. HB 33 continues that process of system improvement, and we support the small but very significant changes that better prioritize the needs of foster children.

Being removed from your home, even when that home is not a safe or healthy environment, is traumatic. Being removed from your home and then separated from your brothers and sisters compounds the initial harm caused by abuse or neglect exponentially. While we know this from research and study, the Boards recognized fully the devastating effect this separation has on foster children when we heard from youth involved in the 2011 Youth Policy Summit. No child should have to beg, plead and fight for years to see a brother or sister, and yet we heard how this is the case for far too many youth who grow up in foster care.

HB 33 also prioritizes family connections as an important source of strength, support and resiliency for children and youth who experience abuse or neglect by making family placements easier in rural Alaska. Too often children in rural Alaska are placed with foster parents in urban communities rather than with relatives in villages, with the justification that the rural homes fail to meet foster care licensing standards. How can an aunt in a village where no one has running water ever hope to care for a niece or nephew who is in need, if there is no reasonableness standard in determining a safe physical environment for placement? HB 33 provides that element of reason to family placement decisions.

We are grateful for your continued advocacy for Alaska's children and are glad to be able to support HB 33.

Sincerely,

J. Kate Burkhart  
Executive Director

cc: Representative Bill Thomas  
Representative Bob Herron  
Representative Berta Gardner

January 2<sup>nd</sup>, 2011

Representative Les Gara  
State of Alaska  
State Capitol, Room 500  
Juneau, Alaska 99801-1182

Dear Representative Gara:

The National Association of Social Workers (NASW) – Alaska Chapter, a membership organization that represents over 500 social workers across the State of Alaska, supports The Alaska Foster Family Protection Act.

The mission of NASW is to enhance the effective functioning and well-being of individuals, families, and communities through its work and through its advocacy. The Alaska Foster Family Projection act upholds this mission by ensuring that Alaska's most vulnerable children can more easily transition into safe and permanent homes. The increase in the number of rural foster care placements is especially crucial so youth in rural Alaska can continue to live in their home communities. Research demonstrates that youth from rural communities, and specifically Alaska Native youth, have more promising futures when they are able to maintain connection with their communities and tribes.

Thank you for your consistent attention to child welfare issues in Alaska. We look forward to working with you on behalf of children and families in our state.

Sincerely,



Meg Loomis, MSW  
Executive Director



January 26, 2011

The Honorable Les Gara  
Alaska House of Representatives  
State Capital  
Juneau, AK. 99801-1181

RE: HB 33: Stability and Opportunity for Foster Youth

Dear Representative Gara,

The members of the Alaska Behavioral Health Association would like to inform you of their support for this legislation. It's intent is consistent with the goals and values of the members that provide services in our state and also provides opportunities to expand a system that is currently incapable of meeting the needs of youth.

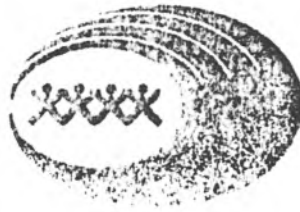
Our providers have experienced tremendous difficulties in placing children and youth back in their home communities when a foster home is required due to the home situation of the biological parents. Frequently, homes may be available but they don't meet the more ridged codes and standards that govern construction in metropolitan areas. While no one would ever want a child placed in an unsafe environment, we are aware that minor code violations can be prohibitively expensive to repair and a foster home can be lost.

We hear reports from providers that it often takes up to six months or more from the time a family begins the application process and they are finally able to accept a child in their home. We appreciate the careful attention to ensure that a child is placed in a safe environment; however, redundancy and over-attention can become a barrier rather than a safe guard.

Thank you for your commitment to foster children and working to make their lives better.

Sincerely,

Donn Bennice, Ph.D.  
President



# Alaska Children's Services

The Honorable Les Gara  
Alaska House of Representatives  
State Capitol  
Juneau, AK 99801-1182

RE: HB 33: Stability and Opportunity for Foster Youth

Dear Representative Gara:

This letter is to inform you of the strong support the Administration and Board of Directors have for the above-mentioned bill. It's intent is consistent with the goals and values of the Treatment Foster Care Program operated by Alaska Children's Services and provides opportunities to expand a system that is currently incapable of meeting the needs of youth.

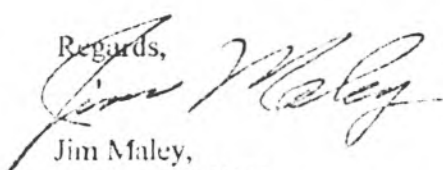
We are particularly appreciative of the section regarding permanency placement. As you have stated the ultimate goal in foster care is to place a child in a good, stable, permanent home through adoption, guardianship, or reunification. Frequently, however, in our haste to find a child a bed or a roof over their head, we lose sight of this goal. By adding additional oversight to the permanency planning process, this goal can be reached.

Alaska Children's Services has experienced tremendous difficulties in placing children and youth back in their home communities when a foster home is required due to the home situation of the biological parents. Frequently, homes may be available but don't meet the more rigid codes and standards that govern construction in metropolitan areas. While no one would ever want to place a child in an unsafe environment, we are aware that minor code violations can be prohibitively expensive to repair and a foster home can be lost.

Alaska Children's Services has three full-time professional staff who comprise the treatment foster care licensing department. They report that it frequently takes up to six months or more from the time a family begins the application process and they are finally able to accept a child in their home. We appreciate the careful attention to ensure that a child is placed in a safe environment; however, redundancy and over-attention can become a barrier rather than a safeguard.

Overall, thank you very much for your continued commitment to one of our most vulnerable populations, our foster children, and please advise if there is more we can do to support this legislation.

Regards,

  
Jim Maley,  
President & CEO

1600 Abbott Road, Anchorage, Alaska 99507-1314 • (907) 246-2101 • Fax: (907) 248-9230  
Email: [akchild@ak.net](mailto:akchild@ak.net) • [www.acs.ak.org](http://www.acs.ak.org)

Alaska Children's Services is an Equal Opportunity Employer. We are an affirmative action employer and are committed to providing a safe and healthy work environment for all employees. We are also committed to providing a safe and healthy work environment for all employees. We are also committed to providing a safe and healthy work environment for all employees.



4600 DeBarr Rd., Suite 301 • Anchorage, Alaska 99508  
Phone: (907) 274-8281 • Fax (907) 274-4055  
www.denalifs.org



February 8, 2011

Representative Les Gara  
Alaska State Legislature  
Juneau, Alaska 99801

Dear Representative Gara:

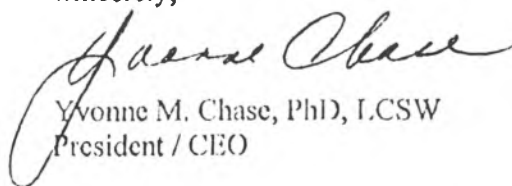
I am writing in support of HB33, the legislation you have proposed relating to foster care in Alaska. Denali Family Services (DFS) is a community mental health agency that provides therapeutic foster care to many children in the custody of the State / Office of Children's Services. DFS is also a child placement agency and in that role, processes foster home applications and licenses foster home in cooperation with OCS (i.e., the license is still a State foster care license). As an agency licensing foster homes, we support using the variance for homes in rural communities as long as the home is a safe environment and there are adequate ways to exit the home in case of a fire.

Denali Family Services serves many adolescents who are moving from care to independence and I am especially pleased to see the language changes that will make extending foster care to age 21 easily accessible for youth who want to take advantage of that opportunity. For youth who do not have a support system in place, those additional three years can make a huge difference in their maturity and readiness to survive on their own.

With regard to the application process for foster parents, DFS has significantly reduced our paperwork requirements in the last two years. In addition, effective this fiscal year, DFS will be utilizing a new foster parent training curricula (Presley Ridge). This curricula offers foster care providers in-depth, specialized training and OCS has agreed that DFS' foster parents who complete the Presley Ridge training will not have to take the OCS CORE training. This change will provide foster parents with more specialized training while maintaining the total hours at a number (per year) that is manageable.

On behalf of Denali Family Services, I am writing in support of HB33. Should you need additional information, please feel free to contact me at 907-222-2322.

Sincerely,



Yvonne M. Chase, PhD, LCSW  
President / CEO



**Covenant  
House  
Alaska**

Crisis Center • Community Services Center • Transitional Living

March 30, 2011

Senator Bettye Davis  
State Capital Room 30  
Juneau, AK 99801

Dear Senator Davis,

Thank you for introducing SB 82, a bill focused on improving Alaska's foster care program and protecting children to the best of our ability. Covenant House Alaska (CHA) serves Alaska's homeless and at-risk youth through our Crisis Center, Transitional Living Programs, Healthcare and Educational/Employment Support. CHA appreciates your commitment to keeping Alaska's youth as safe and healthy as possible.

SB 82 enacts the following changes to protect foster care youth:

- (1) SB 82 requires the department to seek permanency for all youth and, if positive permanency plans are unsuccessful, imposes substantive and procedural protections around planning for youth to be placed in another planned permanent living arrangement;
- (2) SB 82 simplifies the application process to become a foster home and allows the department to waive strict compliance with building code requirements for foster and relative placements if the placement is in the child's best interest and is otherwise preferable and safe; and
- (3) SB 82 requires the department to make all reasonable efforts to place siblings together.

All of the changes listed above evince strong policy underpinnings. Specific to CHA's population of homeless and runaway youth, the provisions regarding waiving strict building code compliance for relatives' homes and placing siblings together are particularly noteworthy. Research indicates that foster care youth who are placed with siblings in the home of a relative or family friend, usually in a familiar community, tend to run away less frequently.

These statutory changes may be viewed as measures targeted to prevent youth homelessness. And, just as important, if a youth comes to Covenant House from the foster care system who qualifies for extended court supervision, it appears that this legislation would allow CHA to work with the department to continue to provide services for the youth.

Thank you for your efforts at protecting Alaska's vulnerable children. Please do not hesitate to contact me if I can answer any questions or provide further feedback on SB 82.

Sincerely,

Deirdre A. Cronin  
Executive Director

Regina Chenault, Violent Crimes Compensation Board

Sgt. Kathy Lacey, APD

Lauren Rice, Covenant House

(Possible: Special Agent Jolene Goeden)