

**HB**

**54**

<TARGET><BILL>HB 54</BILL><SUBJECT>HB  
54</SUBJECT><COMM>HJUD28</COMM></TARGET>



# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

## MEMORANDUM

DATE: April 3, 2013  
TO: Representative Wes Keller  
FROM: Representative Les Gara  
RE: Hearing Request for CSSHB 54

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A handwritten signature in black ink, appearing to be "Les Gara", written over the "FROM:" line of the memorandum.

On behalf of co-sponsor Rep. Thompson and the five co-prime sponsors, I respectfully request that the Committee Substitute for the Sponsor Substitute for House Bill 54, relating to Foster Care, be scheduled for a hearing in the House Judiciary Committee. Please feel free to contact me, or my aide Toby Smith, with questions or thoughts at 465-6591.

Attached you will find a background packet for CSSHB 54. This includes the current version of the bill, a sponsor statement, sectional analysis, changes to the bill, a fiscal note, and supporting documents.

Thank you for your consideration.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

## Committee Substitute for the Sponsor Substitute for House Bill 54

### Sponsor Statement

#### CSSSHB 54: Ensuring Extended Family Members Are Contacted As Potential Foster Parents

Under Alaska law a youth who faces the unfortunate circumstance of being placed in foster care is entitled to a placement that is in his or her "best interests". Federal law and rules internal to the Office of Children's Services (OCS) note that a search of family members and friends who are akin to family members should be completed in a timely manner, within 30 days.

The main provision of HB 54 makes sure a supervisor signs off that the requirement of a diligent search for family members has occurred. If it has not, the social worker is directed to complete that search to the supervisor's satisfaction in as timely a manner as possible.

HB 54 puts into statute this additional protection, which is not currently addressed by OCS statutes or policy, but is warranted due to the continuous high social worker turnover rate. Some social workers are very new, and many don't make it as social workers beyond one year or two years. Having a supervisor sign off that a family search has been thoroughly conducted will ensure children are protected, and in the best foster home possible.

This provision is expected to be cost-neutral. It is recognized in the area of foster care that, where a good family placement is available, keeping a child in their family is often the placement that is the child's best interests.

HB 54 Sponsor Statement, page 1 of 1

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

## Committee Substitute for the Sponsor Substitute for House Bill 54

### Sectional Analysis

CSSSHB 54: Ensuring Extended Family Members Are Contacted As Potential Foster Parents

#### Section 1.

This section adds a new section to AS 47.10, requiring that a supervisor in the Office of Children's Services (OCS) certify in writing that a search for noncustodial parents, adult family members, and appropriate adult family friends of the child has been conducted. OCS must notify these adults of the child's removal within 30 days, unless there are extenuating circumstances. This section codifies existing OCS policy related to extended family searches, and adds the requirement of supervisor certification.

#### Section 2.

This section adds a reference to the new section of statute established in Section 1. It requires that due diligence be conducted to locate extended family members before the child is placed in a foster home.

#### Section 3.

This section allows the department to provide for emergency placement of a child while conducting due diligence.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

## Committee Substitute for Sponsor Substitute for House Bill 54

### Summary of Changes from SSHB 54 to CSHB 54 version R

Page 1, line 2:

Deletes "and family friends"

This change was made at the request of the Office of Children's Services (OCS). The inclusion of family friends in AS 47.10.035 created a new requirement that family friends be notified when a child is removed from their home. Determining which family friends were required to be notified of the removal of the child would be difficult to determine, and would create an onerous requirement for OCS to comply with. Family friends will still be considered as potential foster parents.

Page 1, lines 6:

Deletes "or adult family friend" for the reasons stated above.

Page 1, line 10:

Deletes "and appropriate adult family friends" for the reasons state above.

Page 1, line 14:

Changes "certify" to "verify".

This change was made at the request of OCS. OCS feels that a verification of a family member search can be done using current documentation methods, while a certification may have required additional documentation.

CSSSHB 54 Summary of Changes, page 1 of 2

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

Page 2, line 2 1-3:

Deletes "The information provided under this subsection shall be submitted to the court for consideration before the next scheduled hearing after the due diligence period specified in (a) of this section."

This change was made at the request of OCS. Submitting this information to the court was a redundant requirement, as all the information is made available to all parties as part of the discovery process.

Page 2, following line 19:

Inserts a new section to read: "Sec. 3. AS 47.14.100 is amended by adding a new subsection to read: (u) The department may provide for emergency placement of a child while conducting due diligence under AS 47.10.035 and (e) of this section."

This change was made at the request of OCS and the Department of Law. There was some concern that Sec. 2 (e) of the bill could prohibit OCS from making an emergency placement for a child the day they are removed from their home. This change clarifies that a child may be placed in an emergency or temporary foster home until a family search has been conducted and a permanent placement has been approved.

CSSSHB 54 Summary of Changes, page 2 of 2

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54(HSS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVES GARA AND THOMPSON, Millett, Tuck, Peggy Wilson, Kerttula, Costello**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the identification, location, and notification of specified family**  
2 **members of a child who is in state custody."**

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

4 **\* Section 1.** AS 47.10 is amended by adding a new section to read:

5 **Sec. 47.10.035. Placement of a child with noncustodial parent or adult**  
6 **family member; due diligence.** (a) Within 30 days after removal of a child from the  
7 child's home and placement of the child in out-of-home care under this chapter and  
8 under AS 47.14, the department shall exercise due diligence to identify, locate, and  
9 notify of the removal noncustodial parents and adult family members of the child. If  
10 circumstances prevent the department from completing this due diligence search in 30  
11 days, the department shall complete the search as soon as possible.

12 (b) A supervisor of the division of the department with jurisdiction over  
13 children in need of aid shall verify in writing, in a timely manner, the due diligence of  
14 the department exercised under (a) of this section.

1 \* **Sec. 2.** AS 47.14.100(e) is amended to read:

2 (e) When a child is removed from a parent's home, the department shall, after  
3 conducting due diligence required under AS 47.10.035, place the child, in the  
4 absence of clear and convincing evidence of good cause to the contrary,

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

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

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

10 (A) an adult family member;

11 (B) an adult [A] family friend who meets the foster care  
12 licensing requirements established by the department;

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

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

17 \* **Sec. 3.** AS 47.14.100 is amended by adding a new subsection to read:

18 (u) The department may provide for emergency placement of a child while  
19 conducting due diligence under AS 47.10.035 and (e) of this section.

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Mischel  
2/7/13

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES GARA AND THOMPSON, Millett, Tuck, Peggy Wilson, Kerttula**

**A BILL**

**FOR AN ACT ENTITLED**

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6 family and that meets the child's special needs, if any;

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

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

10 (A) an adult family member;

11 (B) **an adult** [A] family friend who meets the foster care  
12 licensing requirements established by the department;

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

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16 meet the child's needs.

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18 (u) The department may provide for emergency placement of a child while  
19 conducting due diligence under AS 47.10.035 and (e) of this section.

**SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 54**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - FIRST SESSION**

**BY REPRESENTATIVES GARA AND THOMPSON, Millett, Tuck, Peggy Wilson**

**Introduced: 1/24/13**

**Referred:**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the identification, location, and notification of specified family**  
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3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 47.10 is amended by adding a new section to read:

5 **Sec. 47.10.035. Placement of a child with noncustodial parent, adult family**  
6 **member, or adult family friend; due diligence.** (a) Within 30 days after removal of  
7 a child from the child's home and placement of the child in out-of-home care under  
8 this chapter and under AS 47.14, the department shall exercise due diligence to  
9 identify, locate, and notify of the removal noncustodial parents, adult family members,  
10 and appropriate adult family friends of the child. If circumstances prevent the  
11 department from completing this due diligence search in 30 days, the department shall  
12 complete the search as soon as possible.

13 (b) A supervisor of the division of the department with jurisdiction over  
14 children in need of aid shall certify in writing, in a timely manner, the due diligence of

1 the department exercised under (a) of this section. The information provided under this  
2 subsection shall be submitted to the court for consideration before the next scheduled  
3 hearing after the due diligence period specified in (a) of this section.

4 \* **Sec. 2.** AS 47.14.100(e) is amended to read:

5 (e) When a child is removed from a parent's home, the department shall, **after**  
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9 family and that meets the child's special needs, if any;

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11 account any special needs of the child and the preferences of the child or parent;

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13 (A) an adult family member;

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15 licensing requirements established by the department;

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

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

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: HB 54 (P)  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB054SS-DHSS-FLSW-2-4-13  
Title: PLACEMENT OF A CHILD IN NEED OF AID  
Sponsor: GARA, THOMPSON  
Requester: House Health & Social Services

Department: Department of Health and Social Services  
Appropriation: Children's Services  
Allocation: Front Line Social Workers  
OMB Component Number: 2305

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
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>

**Fund Source (Operating Only)**

None							
<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>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable. Initial version.
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Prepared By:  
Division  
Approved By:

Christy Lawton, Director  
Office of Children's Services  
Sarah Woods, Deputy Director  
Finance & Management Services

Phone: (907)451-2096  
Date: 02/04/2013 09:00 AM  
Date: 02/04/13

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2013 LEGISLATIVE SESSION

BILL NO. SSHB054

**Analysis**

This bill has no fiscal impact on the Office of Children's Services.

Section 1 requires the Office of Children's Services, within 30 days after removing a child, to exercise due diligence to identify, locate and notify noncustodial parents, adult family members and appropriate adult family friends of the removal. If circumstances prevent the department from completing due diligence, the department shall complete the search as soon as possible.

OCS already adheres to most of these notification requirements. Federal 42 U.S.C 671(a)(29) requires OCS to notify noncustodial parents and adult family members of the right to request placement. OCS policy requires notifying all identified relatives. The requirement to also notice "appropriate adult family friends" is a new mandate; however it is not new practice for OCS. "Adult family friends" have been considered for possible placement of a child since 2005.

HB 54 also requires an OCS supervisor to certify in writing that due diligence has been exercised. This requirement to verify what is currently being done verbally is new.

Section 2 adds the due diligence required under Section 1 and specifies that a family friend considered for placement must be an adult. This section would not have an impact on current practice.

# ALASKA STATE LEGISLATURE



REPRESENTATIVE LES GARA  
REPRESENTATIVE STEVE THOMPSON

## Committee Substitute for Sponsor Statement for House Bill 54 Request for Teleconferencing

### Witnesses

Amanda Metivier  
Statewide Coordinator, Facing Foster Care in Alaska

Off-net

HB 54 Request for Teleconferencing, page 1 of 1

7702 Stillwater Circle  
Wasilla, Alaska 99654

February 28, 2013

**Re: Support for HB No. 54, S**

To Whom It May Concern:

Please accept this letter in support of HB No. 54, "An Act relating to the identification, location, and notification of specified family members and family friends of a child who is in state custody."

My name is Jennifer Payton. I am a Licensed Clinical Social Worker in the State of Alaska. I have worked in the mental health field for 18 years. My experience is varied, and includes work as an Adoption Home Study Writer. This gave me a firsthand look at the need in our state for homes for children in need of adoption. Along with my professional work I am also a therapeutic foster parent for teenage boys. The number of youth in need of foster/adopt homes is astounding and I believe it is our duty to try our best in finding placement for these youth. Making the right match is an important factor for the success of foster homes, and beginning with next of kin is most logical as the youth are already connected to them biologically, and most likely have a level of comfort with them, as well as heritage and history in common.

Thank you for hearing my voice and through me the voice of children in foster care.

Respectfully,

Jennifer L. Payton, LCSW

907-354-3828

[jenniferlpayton@yahoo.com](mailto:jenniferlpayton@yahoo.com)

HB 54 supporting document letter  
Jennifer Payton 2-28-13

# Presbyterian Hospitality House

209 Forty Mile Avenue, Suite #100 · Fairbanks · Alaska · 99701 · tel (907) 456-6445 · fax (907) 456-6402

## Members of the Alaska State Legislature:

Thank you for the opportunity to support an act designed to increase the quality of life for children in Alaska. At Presbyterian Hospitality House in both Fairbanks and Wasilla, we often see young people who are ready to go home but have no family resource to welcome them back. This lack of a home may be because of a natural parent who feels they cannot have a older child mix with their younger children, a situation where the parent is incarcerated or drug addicted, or all too often, a failed adoption. Many of these young people still need parenting and support so we seek foster parents who are eminently qualified to help meet our mission of intentionally creating a brighter, safer environment for Alaskan children. Sometimes a bond occurs between the foster parents and the child in their care. With careful thought and counseling by one of our 9 therapists the child and foster family may reach a decision to seek adoption. What a tragedy for all involved when a well meaning OCS worker, usually new to the "Case" decides that another placement might be better. It is even more of a trauma for children ladled "reactive attachment disorder" who have finally worked through this, now, significant relationship.

All too often children who are in out-of-home care under AS 47.14 find themselves alone with only a tenuous bond to an OCS worker for protection. If that worker is transferred or leaves the job, the child can languish in the system with no permanent plan for their future. Under Alaska law a youth who faces the unfortunate circumstance of being placed in foster care is entitled to a placement that is in his or her "best interests". Federal law and rules internal to the Office of Children's Services (OCS) note that a search of family members and friends who are akin to family members should be completed in a timely manner, usually considered being within 30 days.

HB 54 puts into statute an additional protection, which is not currently addressed by OCS statutes or policy. This ACT is warranted due to the continuous high turnover rate for OCS workers. Additionally some OCS workers (over 30% a year) are very new, and many don't make it as social workers beyond one year or two years. Requiring that a more experienced OCS supervisor document that a family search has been thoroughly conducted will ensure that Alaskan children are protected, and when possible residing with a family member or kin.

Furthermore, this Act ( HB 54) stipulates that an OCS supervisor will be required to verify that a diligent search for family members has occurred. If it has not, the OCS line worker will be directed to complete that search, to the supervisor's satisfaction

It is generally accepted in the field of foster care services that, if a good family placement is available, keeping a child in their family is often the placement that is the best interest of the child as well as the community. This provision is expected to be cost-neutral.

### Drenda Tigner

Chief Executive Officer  
Presbyterian Hospitality House  
1356 Parks Hwy.Ste. 101  
Wasilla, Ak 99654



A Member of the United Way of the Tanana Valley



HB 54 supporting document letter Presbyterian Hospitality House 2-20-13

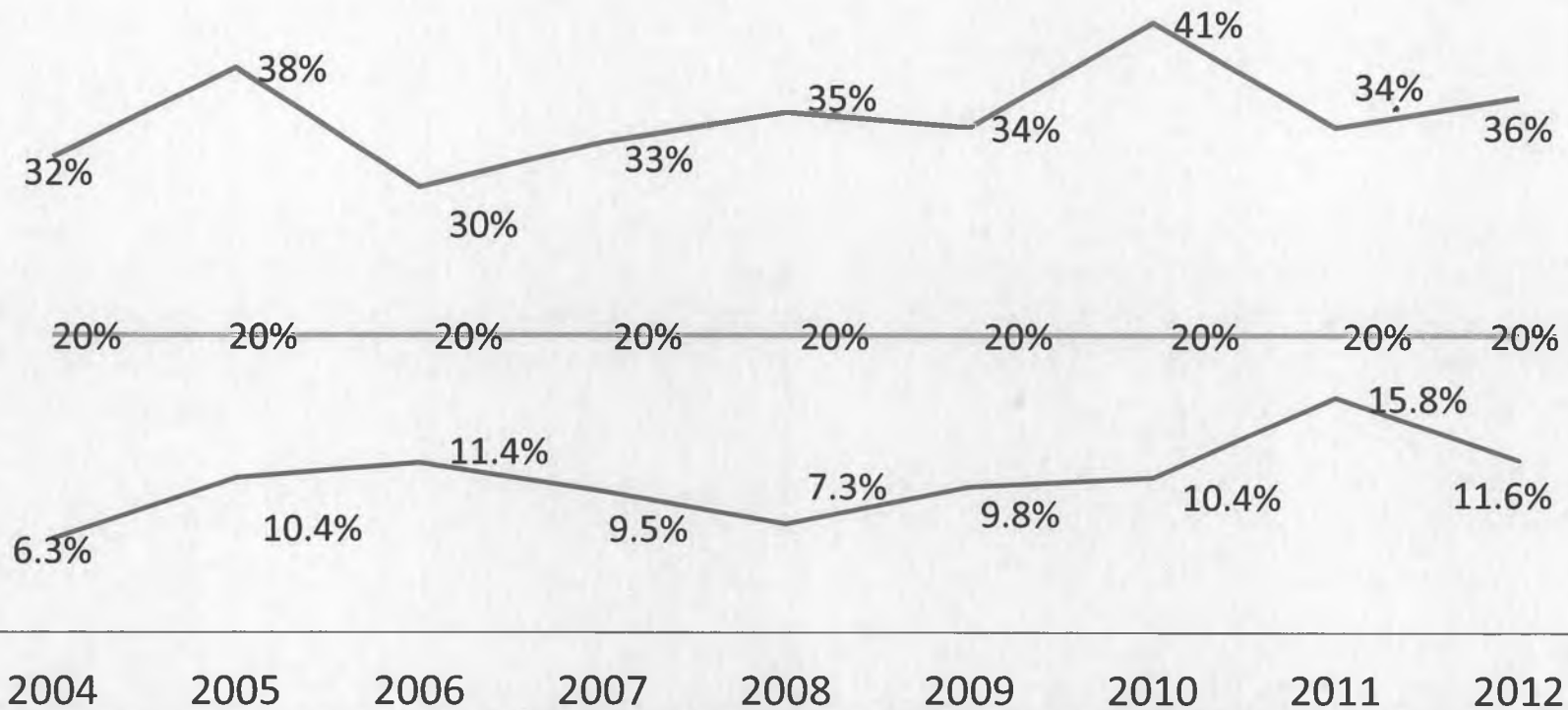
# Office of Children's Services

Vision: Safe Children, Strong Families



## OCS Frontline Vacancy and Turnover Rates

— Vacancy Rate    — Turnover Target Rate    — Turnover Rate



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judgment stage because there was no sworn statement indicating that the expert's affidavit was made truthfully or under penalty of perjury, and no state-

ment was ever submitted indicating that a notary was unavailable. *Maines v. Kenworth Alaska, Inc.*, 155 P.3d 318 (Alaska 2007).

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S;

**Collateral references.** — 1 Am. Jur. 2d, Acknowledgments, §§ 26-66.

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**Sec. 09.63.030. Notarization.** (a) When a document is required by law to be notarized, the person who executes the document shall sign and swear to or affirm it before an officer authorized by law to take the person's oath or affirmation and the officer shall certify on the document that it was signed and sworn to or affirmed before the officer.

ties

(b) The certificate required by this section may be in substantially the following form:

SLA

Subscribed and sworn to or affirmed before me at \_\_\_\_\_ on

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Title of Officer

ment  
was  
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(c) If the document is sworn to or affirmed before a notary public of the state, the notary public shall

laska

(1) affix on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission; and

(2) comply with AS 44.50.060 — 44.50.065 and other applicable law. (§ 1 ch 37 SLA 1981; am § 2 ch 60 SLA 2005)

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LR3d

**Effect of amendments.** — The 2005 amendment, effective July 1, 2005, rewrote subsection (c).

**NOTES TO DECISIONS**

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**"Sworn statement."** — Notarized statement was a "sworn statement" even without proof of the administration of a verbal oath, where the declarant showed his identification to the notary, knowingly signed the document in her presence, the document stated that the defendant was duly sworn, and the notary actually notarized it. *Gargan v. State*, 805 P.2d 998 (Alaska Ct. App. 1991), cert. denied, 501 U.S. 1209, 111 S. Ct. 2808, 115 L. Ed. 2d 981 (1991).

**Verification and notarization.** — Verified and notarized documents satisfy the same basic requirements. *Bennett v. Weimar*, 975 P.2d 691 (Alaska 1999).

**Requirements of oath satisfied.** — When the notary is present at the signing of a document which purports to be sworn, and when the notary then notarizes the document, the requirements of the oath have been satisfied; the document qualifies as a sworn statement. *Gargan v. State*, 805 P.2d 998 (Alaska Ct. App. 1991), cert. denied, 501 U.S. 1209, 111 S. Ct. 2808, 115 L. Ed. 2d 981 (1991).

believe

A statement signed by defendants in the presence of the notary qualified as a "sworn statement" for purposes of perjury, even though the notary never actually administered an oath or affirmation to defendants. *Knix v. State*, 922 P.2d 913 (Alaska Ct. App. 1996).

**Sec. 09.63.040. Verification.** (a) When a document is required by law to be verified, the person required to verify it shall certify under oath or affirmation that the person has read the document and believes its content to be true.

(b) The person who makes the verification shall sign it before a person authorized by law to take the person's oath or affirmation.

(c) A verification made under this section may be in substantially the following form:

I \_\_\_\_\_ say on oath or affirm that I have read the foregoing (or attached) document and believe all statements made in the document are true.

\_\_\_\_\_  
Signature

tarized  
y judg-  
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of Civil  
Alaska

or court  
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Subscribed and sworn to or affirmed before me at \_\_\_\_\_  
 on \_\_\_\_\_  
 (date)

\_\_\_\_\_  
 Signature of Officer

\_\_\_\_\_  
 Title of Officer

(d) If the verification is sworn to or affirmed before a notary public of the state, the notary public shall

(1) affix on the document the

(A) notary public's official signature and official seal; and

(B) date of expiration of the notary public's commission; and

(2) comply with AS 44.50.060 — 44.50.065 and other applicable law. (§ 1 ch 37 SLA 1981; am § 17 ch 85 SLA 1988; am § 3 ch 60 SLA 2005)

**Effect of amendments.** — The 2005 amendment, effective July 1, 2005, rewrote subsection (d).

**NOTES TO DECISIONS**

**Verification and notarization.** — Verified and notarized documents satisfy the same basic requirements. *Bennett v. Weimar*, 975 P.2d 691 (Alaska 1999).

**Article 2. Uniform Recognition of Acknowledgments Act.**

**Section**

- 50. Recognition of notarial acts performed outside the state
- 60. Authentication of authority of officer
- 70. Certificate of person taking acknowledgment
- 80. Recognition of certificate of acknowledgment

**Section**

- 90. Certificate of acknowledgment
- 100. Forms of acknowledgment
- 110. Uniformity of interpretation
- 120. Definition
- 130. Short title

**Sec. 09.63.050. Recognition of notarial acts performed outside the state.** Notarial acts may be performed outside the state for use in the state with the same effect as if performed by a notary public of the state by

(1) a notary public authorized to perform notarial acts in the place in which the act is performed;

(2) a justice, judge, magistrate, clerk, or deputy clerk of a court of record in the place in which the notarial act is performed;

(3) an officer of the foreign service of the United States, a consular agent, or a person authorized by regulation of the United States Department of State to perform notarial acts in the place in which the act is performed;

(4) a commissioned officer in active service with the armed forces of the United States or a person authorized by regulation of the armed forces to perform notarial acts if the notarial act is performed for a merchant seaman of the United States, a member of the armed forces of the United States, a person serving with or accompanying the armed forces of the United States, or their dependents; or

(5) a person authorized to perform notarial acts in the place in which the act is performed. (§ 1 ch 37 SLA 1981)

**NOTES TO DECISIONS**

**Applicability to administration of oath.** — The Uniform Recognition of Acknowledgments Act does not apply to the administration of an oath to a witness at trial. *Gregg v. Gregg*, 776 P.2d 1041 (Alaska 1989).