

HB

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10</SUBJECT><COMM>HHSS30</COMM></TARGET>

Alaska State Legislature House of Representatives

Representative Tammie Wilson

Interim
301 Santa Claus Lane 3B
North Pole, Alaska 99705
Phone - (907) 451-2723



Session
State Capitol Rm 412
Juneau, AK 99801
Phone - (907) 465-4797

Rep.Tammie.Wilson@akleg.gov

SPONSOR STATEMENT

HB 10

"An Act relating to the duties of the Department of Health and Social Services; relating to child-in-need-of-aid proceedings; relating to child protection; and amending Rules 6(a), 6(b)(2) and (3), 10(c)(2) and (3), 10(e)(2), 10.1, 15(f)(2), 17(c), 17(d)(2), 17.1(b), 17.1(d)(3), 17.2(a), 17.2(e), 17.2(f), 17.3, 18(c), and 19.1(c), Alaska Child in Need of Aid Rules of Procedure, and repealing Rules 17.1(a), 17.1(c), and 17.1(d)(2), Alaska Child in Need of Aid Rules of Procedure."

Inequality should not be tolerated! Currently, the Office of Children Services (OCS) has two discriminatory standards for Alaska's children.

Congress passed the Indian Child Welfare Act (ICWA) in 1978 as a response to then-prevalent culturally insensitive state government child welfare practices that negatively impacted "Indian children", their families, and their tribes. The ICWA aims to ensure that Indian children are removed from their parents only after carefully crafted efforts have been made to maintain the Indian family.

In 1996, the Alaska Court System received a major federal grant to study and improve the state's handling of child protection cases, including child abuse, neglect, foster care, and adoption litigation. These cases are called child in need of aid cases, or CINA. The CINA guide describes how these cases are handled by the state, the roles played by various individuals, agencies, and courts.

The child's ethnicity changes the level of the State's duty. When the child in custody is Indian, the State has an affirmative duty to make "active efforts" to reunify the family (ICWA). When the child is non-Indian, the State must make "reasonable efforts" (CINA). "Active efforts" is a more stringent standard than "reasonable efforts," which embody duties that touch on important rights of parents.

HB 10 raises the standard so that all of Alaska's children are treated the same.

I would appreciate your support.



Indian Child Welfare Glossary and Flowchart



NICWA

National Indian Child Welfare Association

Protecting our children • Preserving our culture

The Indian Child Welfare glossary is compiled to accompany the ICWA/Child Protective Services (CPS) Flow Chart. The glossary represents words that are commonly used in Indian child welfare and in situations where the Indian Child Welfare Act is applied.

This material was developed by the National Indian Child Welfare Association.

Authors

Chey Clifford-Stoltenberg, Rachel Kupcho, Phoebe A. Mills, and David Simmons

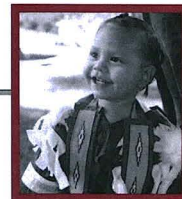
Acknowledgements

We would like to thank Craig Dorsay, attorney at law, for his valuable assistance in completing this glossary.

For more information, please contact the National Indian Child Welfare Association

5100 SW Macadam Avenue, Suite 300 Portland, OR 97239

T: 503.222.4044 **F:** 503.222.4007 **E:** info@nicwa.org **W:** www.nicwa.org



A

- ✘ **Active efforts:** “Active efforts” is an action that is required of the state in caring for an *Indian child*, mandated under the *Indian Child Welfare Act (ICWA)*. While active efforts is undefined in ICWA, it refers to an effort more intense than the legal term “reasonable efforts.” Active efforts applies to providing *remedial and rehabilitative services* to the family prior to the removal of an Indian child from his or her parent or *Indian custodian*, and/or an intensive effort to reunify an Indian child with his or her parent or *Indian custodian*.
- ✘ **Adoption:** Adoption is the legal transfer of parental *custody* for a *child* to adoptive parent(s). There are different forms of adoption, and it does not always include *termination of parental rights*. The new kinship network that is formed upon adoption may include birth parents and relatives, past foster families, and other persons significant to the child.
- ✘ **Adoption & Safe Families Act (ASFA):** The Adoption & Safe Families Act (ASFA) is a federal law enacted in 1997 that sets timelines and requirements for finding a permanent home for a *child* in temporary *custody*. It is important to note, however, that ASFA does not supercede the *Indian Child Welfare Act (ICWA)* and that ICWA requirements must still be met.
- ✘ **ASFA:** Please see “Adoption & Safe Families Act.”

C

- ✘ **CASA:** Please see “Court Appointed Special Advocate.”
- ✘ **Case plan:** Please see “service plan.”
- ✘ **Child:** A child is any person under 18 years of age or any person under 21 years of age who is under state *custody* in the child welfare system. Please see also “Indian child.”
- ✘ **Child abuse and neglect:** Child abuse and neglect is defined differently by individual tribes and states. However, the U.S. federal government provides a foundation definition under the federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C.A. §5106g), as amended by the Keeping Children and Families Safe Act of 2003: child abuse and neglect is “at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.” Types of child abuse can include physical abuse, sexual abuse and exploitation, and emotional abuse or maltreatment. Types of child neglect can include physical, medical, educational, emotional, and moral neglect.
- ✘ **Child Protective Services (CPS) / Protective Services:** Child protective services (CPS) are services that the state provides to look after the safety of children. They are often associated with the involuntary removal of a *child* from an unsafe home; however, CPS also provides services to strengthen and support families.

Words that are *italicized* in a definition are defined in a separate entry in this glossary.

- ✿ **Concurrent planning:** Concurrent planning is a practice technique used by social workers that takes place when the worker and the family simultaneously plan for *reunification* and an alternate permanent *placement* if reunification is not possible.
- ✿ **Court Appointed Special Advocate / CASA:** A CASA volunteer is a trained community volunteer appointed by a judge to speak for the best interests of an abused and neglected child.
- ✿ **CPS:** Please see “Child protective services.”
- ✿ **Custodian:** A custodian is a person who has legal *custody* of a *child* under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such *child*. See also the definition of “Indian custodian.”
- ✿ **Custody:** There are 2 kinds of custody: legal and physical.
 1. **Legal custody:** Legal custody gives a parent the authority to make the decisions about the children’s health, education and welfare. Joint legal custody allows both parents equal responsibility for such decisions in the children’s lives.
 2. **Physical custody:** Physical custody refers to the time the *child* spends with each parent on a regular basis. Joint physical custody can occur when parents can agree on a plan on their own or with a mediator’s help.

Sometimes, a judge gives both parents joint legal custody, but not joint physical custody. This means both parents have equal responsibility for important decisions in the children’s lives, but, the *child* lives with one parent most of the time and usually has scheduled time with the other parent.

- ✿ **Customary adoption:** A customary adoption is a practice, ceremony, or process conducted in a manner that is long-established, continued, reasonable, and certain; considered by the people of a tribe to be binding or found by the tribal court to be authentic, which gives a child a legally recognized permanent parent-child relationship with a person other than the child’s biological parent without a requirement for termination of parental rights (TPR).

D

- ✿ **Deposition:** A deposition is a *proceeding* that typically occurs outside of the courtroom. It is a collection of statements of parties involved, and these statements are given under oath. A court reporter may use audio or video-recording equipment to collect the information. The deposition is a way for the opposing attorney to learn about the facts and opinions before a *trial* begins, and it may be used at the time of trial.

E

- ✿ **Enrollment in a tribe:** Enrollment in a tribe is registration with a tribe that verifies membership with that tribe. See also “member of a tribe.”
- ✿ **Expert witness:** Under *ICWA*, an “expert witness” is someone who can



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provide the court with knowledge of the social and cultural aspects of Indian life to diminish the risk of any cultural bias. The testimony of a qualified expert witness is required in the case of an *Indian child* in order to make a *foster care placement* or *termination of parental rights*. A qualified expert witness can be identified with help from the tribe of the *child*, the BIA, or *Indian* organizations and is meant to be a person with more knowledge than the average social worker or anthropologist.

F

- ✘ **Family Group Conferencing:** Family group conferencing is a family-centered, strengths-based, and culturally relevant technique used by social workers to gather a family and other significant people for the purpose of establishing a care plan for a *child*. The meeting is often structured into three phases: information sharing, family alone time, and presentation of the plan. Follow-up conferences may occur if needed.
- ✘ **Family preservation:** “Family preservation” often refers to a program that provides services specifically identified for families in crisis whose children are at risk of out-of-home placement. Family preservation actively seeks to obtain or directly provide the critical services needed to enable the family to remain together in a safe and stable environment.
- ✘ **Foster care:** Foster care is the provision of temporary parental care and supervision to a *child* typically not related through legal or blood ties. For more information on foster care placements, see also “placement.”

G

- ✘ **Guardian ad litem:** A guardian ad litem is an advocate for a child whose welfare is a matter of concern for the court. In legal terms, it means “guardian for the lawsuit.”
- ✘ **Guardianship:** Guardianship is an out-of-home *placement* designated by a court between a *child* and caretaker which, in most cases, is intended to be permanent. (The child is no longer a ward of the court.)

H

- ✘ **Hearing:** A hearing is a *proceeding* to review procedural issues or other matters before a magistrate, such as a judge, without a jury. While some hearings may follow the same process of a *trial*, other hearings may not have as much formal testimony as a trial and may be more brief. There are seven (7) types of hearings that are often associated with child welfare cases. It is important for parent(s)/*custodian*(s) to be present at each of these hearings, as absence could be taken as a lack of interest in the *child*.
1. **Emergency hearing / Shelter hearing / Detention hearing:** An emergency hearing occurs within 24-72 hours that the state has taken emergency physical *custody* of a *child* suspected to be a victim of abuse or neglect. The purpose of this hearing is for the court to give official *notice* to the parents about what is happening and to determine what steps the state will follow next with regard to the custody of the child: return to parent(s) or live somewhere else for now. If the court decides the child needs to live

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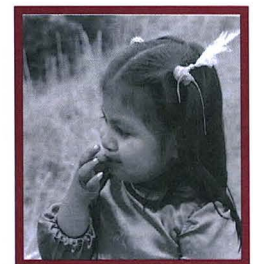
somewhere else, it can make visitation orders so the parent can see the child. The court will also tell the parents where they can get help so the child can come back to them. The court also decides if the state's social services made an "*active effort*" or "*reasonable effort*" to keep the child with the parents.

2. Disposition hearing / Placement hearing: In a disposition hearing the court names the specific place where the *child* will go. This hearing can sometimes be combined with another hearing, to confirm *placement* with a specific family or agency. The initial disposition hearing typically occurs within 14 days after removal of the child.
3. Pre-trial conference / Pre-trial hearing: At the pretrial conference, the court may consider efforts to locate and serve all parties, try to simplify the issues, resolve legal questions, resolve questions about and mark evidence, discuss settlement and mediation, decide whether the *child* will testify at adjudication and under what conditions, establish a reasonable time limit for presenting evidence, consider any other matters that may help resolve the case, and have the parties submit list of witnesses.
4. Jurisdictional hearing / Adjudication: A jurisdictional hearing is one in which the state or the tribe has to



establish sufficient grounds under state or tribal law for the state or tribe to take legal *custody* of the *child*. There are a 3 grounds under which the state can take custody of the child: dependency, neglect, abuse (sexual or physical), and hearings that are on the grounds of dependency are often called "dependency hearings."

- a. Dependency hearing: In a dependency hearing, the state is required to establish that the *child* is dependent instead of abused or neglected. Every state has its own grounds for establishing dependency, however the general meaning of dependency is that through no fault of the parents, the parents are unable to take care of the child, and the child is on his/her own and needs assistance.
5. Review hearing / Status hearing: In a review hearing the state reviews its need to continue jurisdiction over the *child*. It also allows the court to decide whether to continue with family *reunification* services, order additional services, set a date for a permanency hearing, and/or dismiss the case.
 6. Permanency hearing / Implementation hearing: A permanency hearing is required under the *Adoption & Safe Families Act of 1997 (ASFA)* and decides a permanent *placement* for the *child* and the future direction of the case. At this hearing, the court makes a permanent plan for the child. The plans can be to place the child with a relative, foster parent, or in a group home; name a legal guardian for the child; or *termination of parental rights* so the child can be adopted. *Reunification* with the original caretakers is not an option by the time this hearing occurs.
 7. Termination hearing: In a termination hearing the state court proceeds with the *termination of parental rights (TPR)*. This is like a regular *trial* and may sometimes occur before a jurisdictional hearing or any full-blown trial to develop procedural matters.



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I

- ✿ **ICWA:** Please see “Indian Child Welfare Act.”
- ✿ **Indian:** “Indian” is a term used in U.S. federal language, including the *Indian Child Welfare Act (ICWA)*, to refer to any person who is a member of a federally recognized American Indian tribe or Alaska Native village, or who is an Alaska Native and a member of a Regional Corporation. See <http://www.indians.org/> for a list of federally recognized tribes.
- ✿ **Indian child:** As defined in the *Indian Child Welfare Act (ICWA)*, an Indian child is “any unmarried person who is under age 18 and is either (a) a member of an *Indian* tribe or (b) is eligible for membership in an Indian tribe and is the biological *child* of a member of an Indian tribe” (U.S.C. Title 25).
- ✿ **Indian Child Welfare Act / ICWA:** The Indian Child Welfare Act (*ICWA*) is a federal law passed in 1978 that guides states in their process for *placement* of an *Indian child* that is in their *custody*. This act was passed in response to the alarmingly high rate of Indian children being removed from their homes unnecessarily. It requires that states seek placement for the *child* with that child’s family, tribe, and other American *Indian* homes before looking elsewhere. It generally does not apply to divorce *proceedings*, intrafamily disputes, *juvenile delinquency* cases, or cases under tribal court jurisdiction.
- ✿ **Indian custodian:** As defined in the *Indian Child Welfare Act (ICWA)*, an Indian custodian is “any *Indian* person who has legal *custody* of an *Indian child* under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such *child* [italics added]” (U.S.C. Title 25).
- ✿ **Involuntary:** In Indian child welfare, this refers to the process by which a parent loses *custody* of a *child* to a state agency and the child is placed in foster care due to *child abuse and/or neglect*. In order to regain custody, the parent and social worker together develop a *service plan* outlining *remedial or rehabilitative services* for *reunification* with the child.

J

- ✿ **Juvenile delinquency:** Juvenile delinquency occurs when a person under the age of 18 years commits a violation of the federal or state laws which would have been a crime if committed by an adult; or when noncriminal acts are committed by a juvenile for which supervision or treatment by juvenile authorities is authorized. There are narrow exceptions where the *Indian Child Welfare Act (ICWA)* may apply in juvenile delinquency cases.

K

- ✿ **Kinship care:** Kinship care is when a non-parent relative provides parental care and supervision to a *child*.

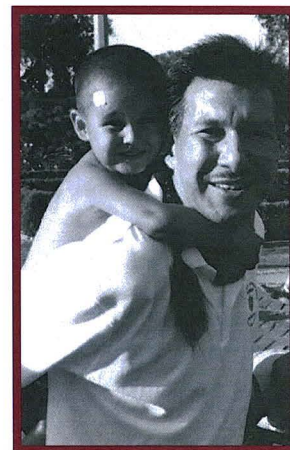
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M

- ❖ **Member of a tribe:** The definition of what constitutes membership in a tribe varies from tribe to tribe, and final determination of membership lies with the tribe. Membership can be more inclusive than *enrollment in a tribe*.

N

- ❖ **Notice to parent/custodian:** Under the *Indian Child Welfare Act (ICWA)*, states are required to ensure that a parent/*custodian* is notified when their *Indian child* is involved in any involuntary *proceeding* that could lead to a *foster care placement* or *termination of parental rights (TPR)*. The party seeking the foster care placement or TPR is required to notify the parent/*custodian* and the Indian child's tribe by registered mail with return receipt requested of the pending proceedings and of their right to intervene. Additionally, "if the identity or location of the parent or *Indian custodian* and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe [*italics added*]" (U.S.C. Title 25).
- ❖ **Notice to tribe:** Under the *Indian Child Welfare Act (ICWA)*, once the state receives custody of an *Indian child*, it is required to notify that *child's* tribe(s) by registered mail with return receipt requested that the child is in their custody so that the tribe may decide if it wishes to intervene. Please see also "tribal intervention."



O

- ❖ **Out-of-home Placement:** Please see "placement."

P

- ❖ **Permanency planning:** In Indian child welfare practice, permanency planning is planning for maintenance of an *Indian child's* sense of belonging to their extended family, their tribe, and their caretakers in a permanent and stable home. This planning includes carrying out a set of goal-directed activities designed to help the *child* live in such a home, offering the child the opportunity to establish life-long relationships with the placement family, extended family, and their tribe. Examples of permanent *placements* include *kinship care*, *guardianship*, *adoption*, *reunification*, conventional or *customary adoption*, and long-term *foster care*.
- ❖ **Permanent placement:** Please see "placement."
- ❖ **Placement:** A placement occurs when a *child* is brought to live in a home other than his or her original home. The placement of the child may be temporary or long-term in out-of-home care or *foster care*, or it may be permanent. Under the *Indian Child Welfare Act*, placement preferences exist for an *Indian child*. They are in order of preference as follows:
 1. A member of the Indian child's extended family (*Indian* or non-Indian);
 2. A foster home licensed, approved, or specified by the Indian child's tribe;
 3. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 4. An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs.

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Out-of-home/ Foster Care Placements: Placement preferences apply to both voluntary and involuntary *foster care* placements. See definitions for *involuntary* and *voluntary*.

Permanent placement: In Indian child welfare practice, a permanent placement is a permanent and stable home that maintains an *Indian child's* sense of belonging to their extended family, their tribe, and their caretakers.

☒ **Proceeding:** A proceeding is a process by which legal judgments are administered. Types of proceedings include a *deposition*, a *hearing*, and a *trial*. Child protection proceedings usually take place in a hearing.

☒ **Protective services:** Please see “child protective services (CPS).”

R

☒ **Relinquishment of child custody:** Please see “termination of parental rights.”

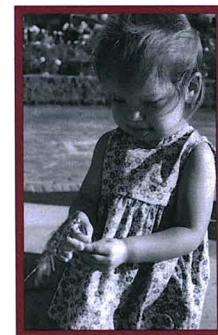
☒ **Remedial and rehabilitative services:** Remedial and rehabilitative services are services provided by the state to give support to families to help them become safe *placements* for a *child*. These services are required in the *Indian Child Welfare Act (ICWA)*. The intention of these services is to provide supports to a family to prevent the removal of a child by “rehabilitating” or strengthening the family in their parenting and other related skills, and/or to provide support that assists in “remediating” or correcting the situation in a home that led to the removal of a *child*. These services can include *family group conferencing*, parent counseling, substance abuse counseling, job-skill training, and many other types of services.

☒ **Residential care:** Residential care is the provision of parental care and supervision to a *child* by a public or private agency in a facility where the *child* lives.

☒ **Reunification:** Reunification is the *active efforts* of state services to help bring the *child* and family back together after a child has been removed from a home.

S

☒ **Service plan:** A service plan is an arrangement of services identified by a social worker and family to meet the needs of the *child* and/or parents. Services for the child can include counseling, cultural practices for healing, medical treatment, protective day care, and out-of-home *placement*. Services for both the parents and the child can include *concurrent planning*, *family group conferencing*, counseling, cultural practices for healing, and other *rehabilitative and remedial services*. The service plan may include informal sources of support, like extended family, church, and the tribe. Social workers will have a certain number of face-to-face contacts and home visits with the family, but the level of service varies by family needs, the proximity of services, and the services provided by other agencies. The service plan is time-limited, meaning that goals and objectives must be met within a limited time or the social worker will look at other permanent *placements*.



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T

- ✘ **Temporary care:** Temporary care is a temporary, safe place that a *child* may be staying at while a permanent *placement* is being sought after. This can include *kinship care*, relative placement, *foster care*, and placement in a care facility.
- ✘ **Termination of parental rights (TPR):** Termination of parental rights is a decision by which a parent loses all rights to their *child*. There are two ways a parent's rights to a child may be terminated:
- **Voluntary TPR:** In a voluntary TPR, the decision to end parental rights is agreed upon by both parents. A child is removed, placed in alternative care, and can be returned upon the parents' request.
 - **Involuntary TPR:** In an involuntary TPR, the decision to end parental rights is made by a court of law and may occur without either parent's consent. A petition must first be filed in a court before it can be ordered. A child is removed, placed in alternative care, and cannot be returned upon the parents' request. Under a *customary adoption*, a modification of parental rights may occur instead of TPR.
- ✘ **TPR:** Please see "Termination of parental rights."
- ✘ **Transfer of jurisdiction:** Please see "tribal intervention."
- ✘ **Trial:** A trial is a *proceeding* to examine disputed questions about facts and law that is presided over by a magistrate, such as a judge, with or without a jury. A trial is usually more formal than a *hearing*. Formal procedures in a trial include opening statements limited to a specific outline, presentation of evidence in a certain order, final arguments, and a final verdict or judgment that usually concludes the trial. A trial can be open to the public. There are several types of trials but they can generally be grouped as "civil trials" or "criminal trials":
1. **Civil trials:** In civil trials addressing child *custody* cases, allegations of *child abuse and neglect* are not as severe as they are in a criminal trial. The majority of court processes in child abuse and neglect cases are handled in civil trials or hearings. There can be multiple parties in the case.
 2. **Criminal trials:** In criminal trials addressing child *custody* cases, allegations of *child abuse and neglect* are more serious than in civil trials. The seriousness of allegations determines if the state will file it as a criminal case, and the state must be able to prove such allegations. Civil child abuse and neglect cases may proceed simultaneously with a criminal case. Criminal trials have only two parties: the state and the defendant, though there will be similar players as in a civil trial. In most criminal cases the exact punishment will be determined by the judge at a hearing held after the trial.
- ✘ **Tribal intervention:** Tribal intervention in a child *custody* case occurs when a tribe acts on its right to participate in a child custody *proceeding*. The *Indian Child Welfare Act (ICWA)* states that "in any State court proceeding for the *foster care placement* of, or *termination of parental rights* to, an *Indian child*, the *Indian custodian* of the *child* and the *Indian child's* tribe shall have a right to intervene at any point in the proceeding [italics added]" (USC Title 25, 1911.C.). This intervention can be wide in its interpretation: the tribe may request to transfer the case to tribal court (a "transfer of jurisdiction") or the tribe may choose to only monitor the case through court records. Transfer of jurisdiction can be requested by either the parent or the tribe. A tribe may intervene at any point in an Indian child custody proceeding.

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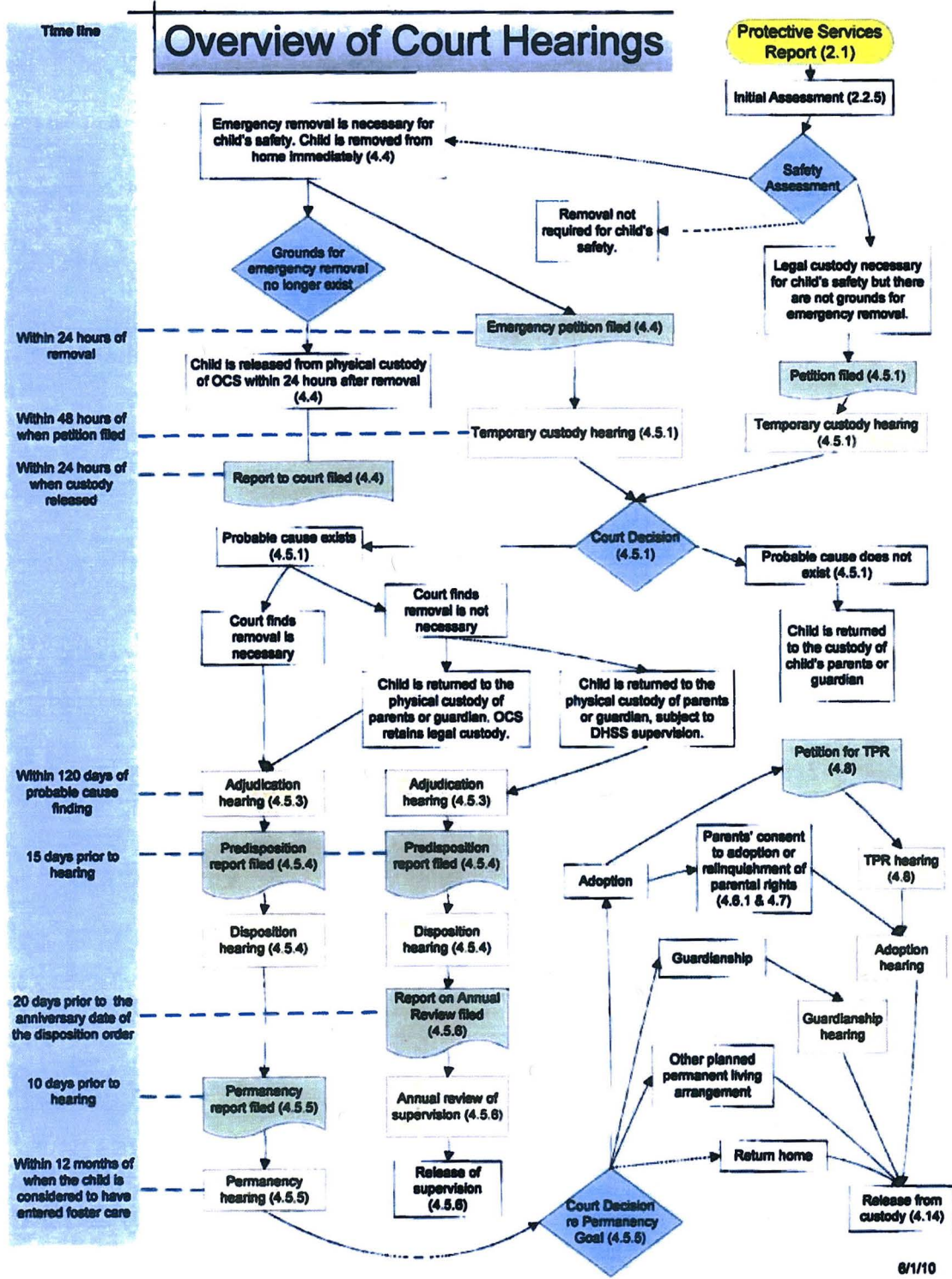
V

- ✦ **Voluntary:** In Indian child welfare, this term refers to the process by which a parent consents to *relinquish custody* of a *child* over to a state or private agency. A child may be returned to the parent at her/his request, as long as there is no risk of imminent harm or danger presented. Valid consent of a voluntary placement must be given in writing, recorded before a judge, and executed after the child is ten days old.



G13248-1

ALASKA OFFICE OF CHILDREN'S SERVICES



**Alaska State Legislature
House of Representatives
Representative Tammie Wilson**



Rep.Tammie.Wilson@akleg.gov

**HB 10
Sectional Analysis**

Section 1. AS 47.05.065

This section is amended to ensure that remedial and rehabilitative programs are offered to all families so they have the opportunity to remedy the parental conduct or condition in the home that placed the child at risk of damage or harm and that the more stringent requirement of “active” efforts (as opposed to “reasonable” efforts) are made. That the child is placed in a safe, secure, and stable environment that is in the least restrictive setting that most approximates a family home in which the child’s needs may be met and that is within reasonable proximate to the child’s home

Sec. 2. AS 47.10.011

This section is amended to ensure that the more stringent standards are used by the court when determining, by a preponderance of the evidence, that a child is in need of aid.

Sec. 3. AS 47.10.011

This section is amended by adding a new subsection so that the same standards used to make a determination of physical damage or harm are parallel to the more stringent standards of U.S.C. 1901-1963, as set forth in the Indian Child Welfare Act of 1978, (ICWA) regardless of whether the child is an Indian child.

Sec. 4. AS 47.10.013(a)

This section is amended to require that the court substantiate the more stringent standards of “serious” risk, as opposed to “substantial” risk. It also adds “emotional or physical damage,” in addition to “harm” to parallel ICWA standards.

Sec. 5. AS 47.10.015.

This section is amended to ensure that the more stringent standards of ICWA are used by the court when determining, by a preponderance of the evidence, that a child was a victim of harm or neglect from the conduct by, or conditions created by a parent,

guardian or custodian.

Sec. 6. AS 47.10.030(c)

This section is amended to require the court to make a finding that the conditions or surroundings that prevention of imminent physical damage or harm to the child requires the immediate assumption of custody by the court, the court may order, by endorsement upon the summons, that the officer serving the summons shall take the child into custody and make temporary placement of the child that the court directs.

Sec. 7. AS 47.10.080(c)

AS 47.10.80(1) requires the department to place the child in a setting as provided under AS 47.14.100 or 25 U.S.C. 1915(b) and requires active efforts to find a permanent placement for the child.

Sec. 8. AS 47.10.080(f)

This section is amended to require an additional finding by the court as to whether the child should be returned to the custody of the parent or guardian.

Sec. 9. AS 47.10.080(l)

It requires a more stringent standard that when the department is establishing the permanent plan for the child, the court shall make appropriate written findings, including findings related to whether "returning the child to the child's parent or guardian is likely to result in serious emotional or physical damage to the child".

Sec. 10. AS 47.10.080(p)

This section is amended to require the more stringent standards of ICWA in that active efforts must provide opportunities for and to facilitate reasonable visitation if the child is removed from the parental home.

Sec. 11. AS 47.10.080 NEW SUB SECTION

AS 47.10.080 is amended by adding a new subsection which would require that an order issued under this section not allow removal of a child from the child's home or continued placement of the child outside the child's home unless there is, at the time the order is issued, clear and convincing evidence, including the testimony of a qualified expert witness who is not employed by the department, that the child is likely to suffer serious emotional or physical damage if left with or returned to the child's parent or guardian.

Sec. 12. AS 47.10.081(b)

This section has been revised to require the determination of whether continued custody of the child by the child's parent or guardian is likely to result in serious emotional or physical damage and be included in the disposition report.

Sec. 13. AS 47.10.086(a)

This section has been repealed and reenacted to identify family support services; and that remedial services and rehabilitative programs may include services and programs provided by the community, or other organizations. It also requires "active" measures in referring and obtaining support services for a parent or guardian. The department's duty to make active efforts under this subsection includes the duty to assist the child's parent or guardian through the steps of a case plan and with accessing or developing the resources necessary to satisfy the case plan. The department shall tailor its active efforts to the facts and circumstances of the case and list the efforts.

Sec. 14. AS 47.10.086(b)

This section is amended to parallel the more stringent standards as in ICWA.

Sec. 15. AS 47.10.086(d)

This section is amended to parallel the more stringent standards as in ICWA.

Sec. 16. AS 47.10.086(e)

This section is amended to parallel the more stringent standards as in ICWA.

Sec. 17. AS 47.10.086(f)

This section is amended to parallel the more stringent standards as in ICWA.

Sec. 18. AS 47.10.088(a)

This section is amended to parallel the more stringent standards as in ICWA.

It requires that evidence beyond a reasonable doubt, including the testimony of a qualified expert witness, who is not employed by the department, that continued custody of the child by the parent or guardian is likely to result in serious physical or emotional damage to the child.

Sec. 19. AS 47.10.088(b)

This section is amended for house-keeping purposes and to parallel the more stringent standards as in ICWA.

Sec. 20. AS 47.10.088(d)

The section is amended to read that the department shall petition for termination of a parent's rights to a child, without making further active efforts, when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011 and the court has made a finding under AS 47.10.086(b) that the best interests of the child do not require further active efforts by the department unless the department had documented a compelling reason for determining that the petition would not be in the best interest of the child. A compelling reason under this subsection may include care by a relative for the child.

Sec. 21. AS 47.10.088(g)

This section is amended so that the department must parallel the ICWA standards. In filing a petition to terminate parental rights, the department must determine that continued custody of the child by the child's parents or guardian would likely result in serious emotional or physical damage.

Sec. 22. AS 47.10.142(a)

This section is amended to parallel the more stringent standards as in ICWA.

Sec. 23. AS 47.10.142(b)

This section is amended to allow for the department to take emergency custody of a minor from the minor's parent or guardian only if it is necessary to prevent the imminent physical damage or harm to the child.

Sec. 24. AS 47.10.142(d)

This section is amended to parallel the more stringent standards as in ICWA.

The court must determine that allowing the department's continuing temporary legal custody of the child is based on the necessity to prevent imminent physical damage or harm to the child.

Sec. 25. AS 47.10.142(e)

This section is amended to direct the court to also determine at the temporary custody hearing whether (1) by a preponderance of the evidence, removal of the child is necessary to prevent imminent physical damage or harm to the child, or (2) by clear and convincing evidence, including the testimony of a qualified expert witness who is not employed by the department, the child would likely suffer serious physical or emotional damage if left in the child's home.

If the Court finds that probable cause exists for believing that the child is a child in need of aid and that a sufficient showing has been made under either (1) or (2) of this subsection, it shall order the child committed to the department for temporary placement outside the home of the child's parent or guardian. If the court finds that probable cause does not exist for believing the child is a child in need of aid, but that a sufficient showing has not been made under (1) or (2) of their subsection the court shall order the child to be either committed to the custody of the department with temporary placement to be in the child's home or returned to the custody of the child's parent or guardian.

Sec. 26. AS 47.10.142(f)

This section is amended for house-keeping purposes to parallel the more stringent standards as in ICWA.

The provision, except as provided in (i) of this section, limits the temporary placement under this section to 30 days.

Sec. 27. AS 47.10.142(h)

This section is amended to change the timeline for court review of the placement plan and actual placement of the child under AS 47.10.080 (I) to occur within 30 days, as opposed to 12 months, after a child is committed to the department.

Sec. 28. AS 47.10.142

This section is amended by adding a new paragraph to read: The court may only order a child committed to for temporary placement under (e) and (f) of this section for more than 30 days if the court determines by clear and convincing evidence, including the testimony of a qualified expert witness who is not employed by the department, that custody of the child by the child's parent or guardian is likely to result in imminent physical damage or harm to the child or that extraordinary circumstances exist.

Sec. 29. AS 47.10.990

This section is amended by adding a new paragraphs to define "active effort," "emotional damage," and "remedial services and rehabilitative programs".

Sec. 30. AS 47.14.100(r) is amended to read:

This section is amended to parallel the more stringent efforts as in ICWA.

Sec. 31. AS 47.17.290(3)

This section is amended to parallel the more stringent definition of "child abuse or neglect".

Sec. 32. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 6(a), Alaska Child in Need of Aid Rules of Procedure; amends the "Emergency Custody Without Court Order" standards to parallel the ICWA standards.

Sec. 33. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 6(b)(2), Alaska Child in Need of Aid Rules of Procedure; amends the "Form, Contents of Motion" standards for removal of a child to parallel the ICWA standards.

Sec. 34. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 6(b)(2), Alaska Child in Need of Aid Rules of Procedure, is amended to read: (3) Order; amends the standards for emergency orders of removal of a child to parallel ICWA standards.

Sec. 35. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 10(c)(2), Alaska Child in Need of Aid Rules of Procedure; amends the standards for removal of a child to parallel the ICWA standards.

Sec. 36. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 10(c)(3), Alaska Child in Need of Aid Rules of Procedure; amends the standards for removal of a child to parallel the ICWA standards.

Sec. 37. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 10(e)(2), Alaska Child in Need of Aid Rules of Procedure; amends that standards for the return of the child to the child's home to parallel ICWA standards.

Sec. 38. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 10.1(a)(1), Alaska Child in Need of Aid Rules of Procedure; amends Findings to parallel ICWA standards.

Sec. 39. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 15(f)(2), Alaska Child in Need of Aid Rules of Procedure; amends the inquiry and findings required by CINA Rule 10.1 to parallel ICWA standards.

Sec. 40. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 17(c), Alaska Child in Need of Aid Rules of Procedure; amends the Requirements for Disposition to parallel ICWA standards.

Sec. 41. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 17(d)(2), Alaska Child in Need of Aid Rules of Procedure; amends the standards the court uses to approve the removal of the child from the child's home to parallel ICWA standards.

Sec. 42. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.1(b), Alaska Child in Need of Aid Rules of Procedure, amends the standard used by the court in determining if a continuation of active efforts is not in the best interest of the child by paralleling them to the ICWA standard.

Sec. 43. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.1(d)(3), Alaska Child in Need of Aid Rules of Procedure; amends the standard to determine the Child's Best Interests to parallel the ICWA standard.

Sec. 44. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.2(a), Alaska Child in Need of Aid Rules of Procedure; amends the standards for Purpose and Timing of the Hearing for a child in need of aid to parallel ICWA standards.

Sec. 45. The uncodified law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 17.2(e), Alaska Child in Need of Aid Rules of Procedure; amends the standards used by the court for making written findings to parallel ICWA standards.

Sec. 46. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need of Aid Rules of Procedure; amends the standards used to apply additional findings to parallel ICWA standards.

Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 17(3), Alaska Child in Need of Aid Rules of Procedure; amends the standard applied to petition or proxy for adoption or legal guardianship of a child under AS 47.10.111

Sec. 48. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 18(c), Alaska Child in Need of Aid Rules of Procedure; amends the standard applied to Burden of Proof to parallel ICWA standards.

Sec. 49. The uncodified law of the State of Alaska is amended by adding a new section:

DIRECT COURT RULE AMENDMENT. Rule 19.1(c), *Alaska Child in Need of Aid Rules of Procedure*; amends the standard applied for Disposition Order, pursuant to AS 47.10.100(a) to parallel ICWA standards.

Sec. 50. The uncodified law of the State of Alaska is amended by adding a new section:

REPEAL OF COURT RULES. Rule 17.1(a), 17.1(c), and 17.1(d)(2), *Alaska Child in Need of Aid Rules of Procedure*, are repealed.

Sec. 51. AS 47.10.086(c), 47.10.086(g), 47.10.088(e), 47.10.990(11), 47.10.990(21), 47.10.990(27) and 47.10.990(30) are repealed.

Sec. 52. The uncodified law of the State of Alaska is amended by adding a new section:

TWO-THIRDS VOTE NOT REQUIRED. Because the provisions of Rules 6(a), 6(b)(2) and (3), 10(c)(2) and (3), 10(e)(2), 10.1, 15(f)(2), 17(c), 17(d)(2), 17.1(a), 17.1(b), 17.1(c), 17.1(d)(2) and (3), 17.2(a), 17.3 and 18(c), *Alaska Child in Need of Aid Rules of Procedure*, that are affected by the provisions of this Act were adopted under the Alaska Supreme Court's interpretive authority exercised under art. IV, sec. 1, Constitution of the State of Alaska, secs. 32 - 45, 48, and 50 of this Act take effect even if secs. 32 - 45, 47, 48, and 50 of this Act do not receive the two-thirds majority vote normally applicable to changing court rules under art. IV, sec. 15, Constitution of the State of Alaska.

Sec. 53. The uncodified law of the State of Alaska is amended by adding a new section:

APPLICABILITY. This Act applies to child-in-need-of-aid petitions filed or pending on or after the effective date of this Act.

Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section:

CONDITIONAL EFFECT. AS 47.10.080(l), as amended by sec. 9 of this Act, AS 47.10.081(b), as amended by sec. 12 of this Act, and AS 47.10.142(d), as amended by sec. 24 of this Act take effect only if secs. 9, 12, and 24 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-CSM-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Children's Services Management
OMB Component Number: 2666

Expenditures/Revenues

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

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(99.4)		(263.1)	(614.0)	(883.0)	(1,385.9)	(1,783.5)
1004 Gen Fund (UGF)	99.4		263.1	614.0	883.0	1,385.9	1,783.5
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By: Christy Lawton, Director Phone: (907)465-3170
Division: Office of Children's Services Date: 03/29/2017 01:00 PM
Approved By: Shawnda O'Brien, Asst. Commissioner Date: 03/31/17
Agency: Health and Social Services

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010 _____

Analysis

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, and then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Children's Services Management - HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 11,695.1	39.6%	\$ 4,625.4	
2018	\$ 11,695.1	38.7%	\$ 4,526.0	\$ 99.4
2019	\$ 11,695.1	37.3%	\$ 4,362.3	\$ 263.1
2020	\$ 11,695.1	34.3%	\$ 4,011.4	\$ 614.0
2021	\$ 11,695.1	32.0%	\$ 3,742.4	\$ 883.0
2022	\$ 11,695.1	27.7%	\$ 3,239.5	\$ 1,385.9
2023	\$ 11,695.1	24.3%	\$ 2,841.9	\$ 1,783.5

The estimated reduction to federal revenue is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-FCAR-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Foster Care Augmented Rate
OMB Component Number: 2237

Expenditures/Revenues

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

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates				
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES							
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(41.1)		(94.7)	(183.5)	(240.5)	(289.1)	(289.1)
1004 Gen Fund (UGF)	41.1		94.7	183.5	240.5	289.1	289.1
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Christy Lawton, Director	Phone: (907)465-3170
Division: Office of Children's Services	Date: 03/29/2017 01:00 PM
Approved By: Shawnda O'Brien, Asst. Commissioner	Date: 03/31/17
Agency: Health and Social Services	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010 _____

Analysis

Section 20 amends AS 47.10.088 as related to permanency requirements for children in care and, as written, could result in a longer stay of care, which increases general fund expenditures of payments to foster parents. The bill, as proposed, removes federal mandates in regard to the termination of parental rights by removing the reason for filing being the parents' responsibility to remedy their conduct. The Department finds that costs associated with this section indeterminate.

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, and then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Foster Care Augmented Rate - HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 1,676.0	17.3%	\$ 289.1	
2018	\$ 1,676.0	14.8%	\$ 248.0	\$ 41.1
2019	\$ 1,676.0	11.6%	\$ 194.4	\$ 94.7
2020	\$ 1,676.0	6.3%	\$ 105.6	\$ 183.5
2021	\$ 1,676.0	2.9%	\$ 48.6	\$ 240.5
2022	\$ 1,676.0	0.0%	\$ -	\$ 289.1
2023	\$ 1,676.0	0.0%	\$ -	\$ 289.1

The estimated reduction to federal revenue is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion.

Any loss in federal revenue would increase the need for general fund expenditures.

Section 25 amends AS 47.10.142 to require that the court "dismiss" the petition, should the court find there is no longer "probable cause" to believe the Child is In Need of Aid at the temporary custody hearing. Although several hearings may occur prior, the temporary custody hearing often does not occur until a few months after the removal. During this time,

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

the Office of Children's Services provides case management services and claims for federal reimbursement for associated expenditures. Should the court later "dismiss" the petition, then all federal funds for the duration of the case must be returned to the federal government. With the passage of HB 010, the Office of Children's Services would be required to return all federal funding for specific eligible children when the case is dismissed. Since the Office of Children's Services cannot determine the rate for which Child in Need of Aid petitions will be dismissed or receive a release of custody order, the fiscal impact for this section is unknown at this time.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-CST-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Children's Services Training
OMB Component Number: 2667

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services	261.3		522.7	784.0	784.0	784.0	784.0
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	261.3	0.0	522.7	784.0	784.0	784.0	784.0

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(61.0)		(202.0)	(353.2)	(530.8)	(598.2)	(634.3)
1004 Gen Fund (UGF)	322.3		724.7	1,137.2	1,314.8	1,382.2	1,418.3
Total	261.3	0.0	522.7	784.0	784.0	784.0	784.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By:	Christy Lawton, Director	Phone:	(907)465-3170
Division:	Office of Children's Services	Date:	03/29/2017 01:00 PM
Approved By:	Shawnda O'Brien, Asst. Commissioner	Date:	03/31/17
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis

Sections 9, 10, 29, 39, 40, 46 address changes from "reasonable efforts" findings to "active efforts" findings by the courts. This change from "reasonable" to "active efforts will require more caseworkers to achieve, as reflected in the Front Line Social Worker component. These additional staff will require new worker training in their first year of employment. The multiple week training is offered through University of Alaska Anchorage, Child Welfare Academy. New staff that live and work outside of Anchorage (30 – 40 percent) would require funds for travel to the training including airfare, lodging, ground transportation, and per diem. (The travel associated with training is included in the Front Line Social Workers fiscal note).

It is anticipated that the division would bring on 28 staff in 2018, 28 staff in 2019 and 28 staff in 2020. Additional training costs would be \$784.0. The division projected one third of that cost in the first year, two thirds in the second year and a total of \$784.0 2020 and forward. See chart on page 3 of the fiscal note.

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Children's Services Training- HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 1,427.2	45.7%	\$ 651.5	
2018	\$ 1,427.2	44.1%	\$ 475.3	\$ 176.3
2019	\$ 1,427.2	33.3%	\$ 275.4	\$ 376.1
2020	\$ 1,427.2	19.3%	\$ 147.0	\$ 504.5
2021	\$ 1,427.2	10.3%	\$ 40.0	\$ 611.6
2022	\$ 1,427.2	2.8%	\$ 31.4	\$ 620.1
2023	\$ 1,427.2	2.2%	\$ -	\$ 651.5

The estimated loss in the federal portion is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion. Any loss in the federal portion would increase the need for general fund

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

The same average federal recovery rate is applied to the additional training costs discussed above ,and then adjusted by the estimated reduction in base nudget federal revenues to generate the component's total fiscal impact.

Cost of Training for New Staff

	<i>FY2018 est cost of training</i>	<i>avg fed recovery rate</i>	<i>est fed portion of new cost</i>	<i>balance = est GF portion of new cost</i>	<i>est reduction of CST base budget from above</i>	<i>adjusted est fed portion of new cost</i>	<i>adjusted est GF portion of new cost</i>
2018 - current	\$ 261.3	45.7%	\$ 119.4	\$ 141.9			
2018	\$ 261.3	44.1%	\$ 115.2	\$ 146.1	\$ 176.3	\$ (61.1)	\$ 322.4
2019	\$ 522.7	33.3%	\$ 174.1	\$ 348.6	\$ 376.1	\$ (202.0)	\$ 724.7
2020	\$ 784.0	19.3%	\$ 151.3	\$ 632.7	\$ 504.5	\$ (353.2)	\$ 1,137.2
2021	\$ 784.0	10.3%	\$ 80.8	\$ 703.2	\$ 611.6	\$ (530.8)	\$ 1,314.8
2022	\$ 784.0	2.8%	\$ 22.0	\$ 762.0	\$ 620.1	\$ (598.1)	\$ 1,382.1
2023	\$ 784.0	2.2%	\$ 17.2	\$ 766.8	\$ 651.5	\$ (634.3)	\$ 1,418.3

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-FCSN-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Foster Care Special Need
OMB Component Number: 2238

Expenditures/Revenues

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

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services	2,281.2		2,281.2	2,281.2	2,281.2	2,281.2	2,281.2	2,281.2
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	2,281.2	0.0	2,281.2	2,281.2	2,281.2	2,281.2	2,281.2	2,281.2

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	54.5		26.7	(14.7)	(36.5)	(337.3)	(337.3)
1004 Gen Fund (UGF)	2,226.7		2,254.5	2,295.9	2,317.7	2,618.5	2,618.5
Total	2,281.2	0.0	2,281.2	2,281.2	2,281.2	2,281.2	2,281.2

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>Christy Lawton, Director</u>	Phone: <u>(907)465-3170</u>
Division: <u>Office of Children's Services</u>	Date: <u>03/29/2017 01:00 PM</u>
Approved By: <u>Shawnda O'Brien, Asst. Commissioner</u>	Date: <u>03/31/17</u>
Agency: <u>Health and Social Services</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010

Analysis

Section 16 addresses termination of parental rights and may cause the financial consequence of a longer stay of care, for the child which would result in an indeterminate amount of necessary Foster Care Special Need payments while children remain in custody.

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, and then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Foster Care Special Need - HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 11,711.3	2.9%	\$ 337.3	
2018	\$ 11,711.3	2.8%	\$ 327.9	\$ 9.4
2019	\$ 11,711.3	2.6%	\$ 304.5	\$ 32.8
2020	\$ 11,711.3	2.3%	\$ 269.4	\$ 67.9
2021	\$ 11,711.3	2.2%	\$ 251.8	\$ 85.5
2022	\$ 11,711.3	0.0%	\$ -	\$ 337.3
2023	\$ 11,711.3	0.0%	\$ -	\$ 337.3

The estimated reduction to federal revenue is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion.

Sections 11, 18, 25, 28, 33, 34, 36, 37, 41, 48, and 49 change the requirement for an expert witness for the removal of a child. The division has identified costs associated with retaining expert witnesses. The average witness fee is \$600.00, and it is estimated that there would be a necessity for two expert witnesses per child per year.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

The same average federal recovery rate is applied to the component's new witness fee expenditures discussed above, and then adjusted by subtracting the above federal reduction to the current budget.

\$600.00 witness fee x 2 per year x 1,901 open cases = \$2,281.2

	<i>FY2018 est expert witness new cost</i>	<i>avg fed recovery rate</i>	<i>est fed portion of new cost</i>	<i>balance = est GF portion of new cost</i>	<i>Est reduction of FCSN base budget from above</i>	<i>adjusted est fed portion of new cost</i>	<i>adjusted est GF portion of new cost</i>
2018 - current	\$ 2,281.2	2.9%	\$ 65.7	\$ 2,215.5			
2018	\$ 2,281.2	2.8%	\$ 63.9	\$ 2,217.3	\$ 9.4	\$ 54.5	\$ 2,226.7
2019	\$ 2,281.2	2.6%	\$ 59.5	\$ 2,221.7	\$ 32.8	\$ 26.7	\$ 2,254.5
2020	\$ 2,281.2	2.3%	\$ 53.2	\$ 2,228.0	\$ 67.9	\$ (14.7)	\$ 2,295.9
2021	\$ 2,281.2	2.2%	\$ 49.0	\$ 2,232.2	\$ 85.5	\$ (36.5)	\$ 2,317.7
2022	\$ 2,281.2	0.0%	\$ -	\$ 2,281.2	\$ 337.3	\$ (337.3)	\$ 2,618.5
2023	\$ 2,281.2	0.0%	\$ -	\$ 2,281.2	\$ 337.3	\$ (337.3)	\$ 2,618.5

Any loss in federal revenue would increase the need for general fund expenditures.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-FLSW-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

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)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services	2,512.9		5,025.8	7,538.7	7,538.7	7,538.7	7,538.7	7,538.7
Travel	80.0		160.0	224.0	224.0	224.0	224.0	224.0
Services	246.4		492.8	739.2	739.2	739.2	739.2	739.2
Commodities	190.4		201.6	212.8	33.6	33.6	33.6	33.6
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	3,029.7	0.0	5,880.2	8,714.7	8,535.5	8,535.5	8,535.5	8,535.5

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(1,090.7)		(2,199.2)	(4,217.9)	(4,882.3)	(5,343.2)	(5,855.4)
1004 Gen Fund (UGF)	4,120.4		8,079.4	12,932.6	13,417.8	13,878.7	14,390.9
Total	3,029.7	0.0	5,880.2	8,714.7	8,535.5	8,535.5	8,535.5

Positions

Full-time	28.0		56.0	84.0	84.0	84.0	84.0
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By:	Christy Lawton, Director	Phone:	(907)465-3170
Division:	Office of Children's Services	Date:	03/29/2017 01:00 PM
Approved By:	Shawnda O'Brien, Asst. Commissioner	Date:	03/31/17
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis

Section 26 relates to AS 47.10.142(f) and specifies the duration of temporary placement to "not exceed 30 days." This would substantially increase the amount of court orders required to determine Title IV-E eligibility beyond the scope of what the current staffing level could manage. An increase in staff, including Eligibility Technicians, would be necessary to manage the 30-day court orders and make the eligibility determinations accordingly.

qty	title	BU	range	location	salary & benefits	TOTAL
3	Eligibility Technician II	GP	14	Anchorage / Wasilla	\$ 80.5	\$ 241.5

Sections 1,7,9,13,14, 15, 16, 17, 18, 19, 20, 30, 39, 42, 43, 44 of the proposed legislation change all "reasonable efforts" to "active efforts," requiring that the worker take the parents through all steps of the case planning with "remedial services and rehabilitative programs." The recommended language jeopardizes federal funding under Title IV-E, which in this component matches general fund expenditures at an average rate of 25 percent. The financial burden to the division, notwithstanding the potential loss of federal match funds, is significant.

While staffing is not specifically addressed in the bill, with this proposed legislation, the division anticipates a necessary increase of Protective Service Specialist positions due to the increased case requirements to meet the "active efforts" standard. These positions would be required to maintain reasonable workloads to achieve the higher standard of "active efforts" findings as required in this legislation. In order to have the best chance at achieving that standard, the division would need to ensure caseloads are on average no more than 12 families per worker, which falls in line with national caseload recommendations. To ensure "active efforts" can be achieved, optimal staffing ratios across all key job classes are necessary to ensure the caseworker has the supervision, support and resources to meet the higher standard of required effort. Providing for optimal staffing levels within the Protective Service Specialist, Social Services Associate, and Office Assistant job classifications will help ensure "active efforts" standards are met, such that Alaska can receive the necessary federal revenue versus relying on state general funds in any case where "active efforts" findings are not granted.

This equates to 46 Protective Services Specialists I/II, along with the proper supervisory and support staff with ratios identified as necessary in a 2008/2012 Hornby, Zeller and Associates workload reports (one Protective Services Specialist IV for every five Protective Services Specialist I/II, one Social Services Associate II for every four Protective Services Specialist I/II, and one Office Assistant II for every 3.7 Protective Services Specialist I/II), including alignment with existing positions.

qty	title	BU	range	location	salary & benefits	TOTAL
30	Protective Services Specialist I/II	GP	15/17	Anchorage / Wasilla	\$ 94.9	\$ 2,847.0
10	Protective Services Specialist I/II	GP	15/17	Fairbanks	\$ 97.2	\$ 972.0
6	Protective Services Specialist I/II	GP	15/17	Juneau	\$ 98.8	\$ 592.8
6	Social Services Associate II	GP	12	Anchorage / Wasilla	\$ 72.1	\$ 432.6
6	Social Services Associate II	GP	12	Fairbanks	\$ 74.3	\$ 445.8
1	Social Services Associate II	GP	12	Juneau	\$ 75.3	\$ 75.3
5	Office Assistant II	GP	10	Wasilla	\$ 65.8	\$ 329.0
5	Office Assistant II	GP	10	Fairbanks	\$ 67.3	\$ 336.5
3	Office Assistant II	GP	10	Juneau	\$ 68.7	\$ 206.1
4	Protective Services Specialist IV	SU	20	Wasilla	\$ 115.9	\$ 463.6
4	Protective Services Specialist IV	SU	20	Fairbanks	\$ 118.9	\$ 475.6
1	Protective Services Specialist IV	SU	20	Juneau	\$ 120.9	\$ 120.9

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

Personal Services

FY2018 - \$2,512.9 for 28 staff, FY2019 - \$5,025.8 for 56 staff), FY2020 forward - \$7,538.7 for 84 staff

Travel

The division's current training occurs through the University of Alaska Anchorage, Child Welfare Academy, over a period of three weeks in Anchorage. Training is provided for Protective Services Specialist and Social Services Associate classifications. Staff assigned to locations outside of Anchorage will incur airfare, lodging, and per diem costs for travel. Client related travel would likely increase as well.

FY2018 - \$80.0 (10 staff x \$8.0), FY2019 - \$160.0 (20 staff x \$8.0), FY2020 forward - \$224.0 (28 staff x \$8.0)

Services

Leased space, IT, telecommunications, phones, utilities

FY2018 - \$246.4 (28 staff x \$8.8), FY2019 - \$492.8 (56 staff x \$8.8), FY2020 forward - \$739.2 (84 staff x \$8.8)

Commodities

General office supplies, share of a multi-function printer, filing, and network

FY2018 - \$11.2 (28 staff x \$0.4), FY2019 - \$22.4 (56 staff x \$0.4), FY2020 forward - \$33.6 (84 staff x \$0.4)

One Time Office Set Up

Workstation, furniture, computer, software, phone, and printer

FY2018, FY2019, FY2020 - \$179.2 one-time (28 staff x \$6.4) each year.

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, and then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year. For the Front Line Social Workers component, the average federal recovery is currently 34.53 percent, or \$19,076.1.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

Below is the fiscal impact to the component's proposed FY2018 budget.

Front Line Social Workers - HB010 Impact on Federal Revenue				
FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$55,250.00	34.5%	\$ 19,061.3	
2018	\$ 55,250.40	32.0%	\$ 17,680.1	\$ 1,381.1
2019	\$ 55,250.40	31.3%	\$ 17,293.4	\$ 1,767.9
2020	\$ 55,250.40	25.8%	\$ 14,254.6	\$ 4,806.6
2021	\$ 55,250.40	21.4%	\$ 11,823.6	\$ 7,237.7
2022	\$ 55,250.40	18.7%	\$ 10,331.8	\$ 8,729.4
2023	\$ 55,250.40	15.7%	\$ 8,674.3	\$ 10,386.9

The estimated loss in federal portion is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion. Any loss in the federal portion would increase the need for general fund expenditures.

The same average federal recovery rate is applied to the new positions' personal services and support costs discussed above, and then adjusted by the estimated reduction in base budget federal revenues to generate the component's total fiscal impact.

Total Cost of NEW FLSW Positions Required for "Active" Efforts

	FY2018 Total Cost of New Positions	Average Federal Recovery Rate	Estimated Federal Portion of New Cost	Balance = Estimated GF Portion of New Cost	Estimated Reduction of FLSW Base Budget From Above	Adjusted Estimated Federal Portion of New Cost	Adjusted Estimated GF Portion of New Cost
2018 - Current	\$ 3,029.7	34.5%	\$ 1,045.25	\$ 1,984.45			
2018	\$ 3,029.7	32.0%	\$ 969.50	\$ 2,060.20	\$ 1,381.1	\$ (1,090.7)	\$ 4,120.4
2019	\$ 5,880.2	31.3%	\$ 1,840.50	\$ 4,039.70	\$ 1,767.9	\$ (2,199.2)	\$ 8,079.4
2020	\$ 8,714.7	25.8%	\$ 2,248.39	\$ 6,466.31	\$ 4,806.6	\$ (4,217.9)	\$ 12,932.6
2021	\$ 8,535.5	21.4%	\$ 1,826.60	\$ 6,708.90	\$ 7,237.7	\$ (4,882.3)	\$ 13,417.8
2022	\$ 8,535.5	18.7%	\$ 1,596.14	\$ 6,939.36	\$ 8,729.4	\$ (5,343.2)	\$ 13,878.7
2023	\$ 8,535.5	15.7%	\$ 1,340.07	\$ 7,195.43	\$ 10,386.9	\$ (5,855.4)	\$ 14,390.9

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-FP-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Family Preservation
OMB Component Number: 1628

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(215.6)		(431.1)	(653.9)	(812.0)	(1,243.1)	(1,747.5)
1004 Gen Fund (UGF)	215.6		431.1	653.9	812.0	1,243.1	1,747.5
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: <u>Christy Lawton, Director</u>	Phone: <u>(907)465-3170</u>
Division: <u>Office of Children's Services</u>	Date: <u>03/29/2017 01:00 PM</u>
Approved By: <u>Shawnda O'Brien, Asst. Commissioner</u>	Date: <u>03/31/17</u>
Agency: <u>Health and Social Services</u>	

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010 _____

Analysis

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardianship programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Family Preservation - HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 14,371.0	18.16%	\$ 2,609.8	
2018	\$ 14,371.0	16.66%	\$ 2,394.2	\$ 215.6
2019	\$ 14,371.0	15.16%	\$ 2,178.6	\$ 431.1
2020	\$ 14,371.0	13.61%	\$ 1,955.9	\$ 653.9
2021	\$ 14,371.0	12.51%	\$ 1,797.8	\$ 812.0
2022	\$ 14,371.0	9.51%	\$ 1,366.7	\$ 1,243.1
2023	\$ 14,371.0	6.00%	\$ 862.3	\$ 1,747.5

The estimated reduction to federal revenue is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion.

HB010, as written, will have an impact on reciprocal services agreements, grants, and contracts that are funded in whole, or in part, and provide direct services to children and families. These services are funded through Title IV-E dollars; with the proposed elimination of "contrary to the welfare" findings noted in sections 24, 25,36, 37, 41, 49 these federal funds will reduce to zero by year five. Thus, funding to continue these services will require general fund dollars.

1) Title IV-E pass-through funding for the Department of Law will gradually reduce due to the penetration rate reductions. The reciprocal services agreement currently funded through Title IV-E will need to be funded through general fund dollars. This reciprocal services agreement assists Office of Children's Services with legal services. (\$2,000.0)

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB010

Analysis Continued

2) Foster and Adoptive Training and Support for statewide training to all OCS foster parents, relative caregivers and adoptive or guardianship families will be reduced by the reduction/loss of the federal funding due to the decrease in the eligibility penetration rate so that by year 5 will require that 100% general fund dollars will be needed for this grant. (\$680.0)

3) Services for Adoption Support provides post-adoption support services through federal Title IV-E funding. The reduction of the eligibility penetration rate due the elimination of "contrary to the welfare" findings will mean this funding will need to be through general fund dollars. (\$250.0)

Tribal Title IV-E pass-through administrative and maintenance funding that assists Tribes with supporting children in Tribal child welfare services in the amount of \$1,000.0 will also be affected if HB010 is adopted. The Tribes would incur the loss of the federal portion, not the Department.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-JUD-ACS-4-04-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House Health & Social Services Committee

Department: Judiciary
Appropriation: Alaska Court System
Allocation: Trial Courts
OMB Component Number: 768

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

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:

Initial version.

Prepared By:	Nancy Meade, General Counsel	Phone:	(907)463-4736
Division:	Alaska Court System	Date:	04/04/2017 10:00 AM
Approved By:	Nancy Meade for Christine Johnson, Administrative Director	Date:	04/04/17
Agency:	Alaska Court System		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 10

Analysis

House Bill 10 would make significant changes to the Child in Need of Aid statutes and procedural court rules. It would increase the levels of evidence needed before the court could determine that a child is in need of aid, and increases the level of proof that a court must find at many stages of a child in need of aid proceeding.

For one example, Section 2 of HB 10 would change the determination of whether a child is in need of aid (the "adjudication" phase under AS 47.10.011) from a finding that the child has suffered "substantial physical harm or mental injury" to instead require the more stringent finding that the child suffered "serious emotional or physical damage or harm." Section 3 requires that the findings be made using the standards of the Indian Child Welfare Act of 1978 (ICWA), regardless of whether the child is an Indian child. The court is able to apply the heightened standards without a fiscal impact.

In addition to increasing the level of proof required at the different stages of the CINA proceedings, HB 10 requires the Office of Children's Services to use "active efforts" in its duties to attempt to rehabilitate the parents, the standard required by the ICWA, instead of the "reasonable efforts" that they must use under current law for non-Indian children. This will affect the OCS and will alter the court's inquiries and findings. The court anticipates that it can apply this aspect of HB 10 without fiscal impact.

HB 10 also requires the Office of Children's Services to use expert witnesses at many stages of the proceedings at hearings that are currently conducted without the aid of a "qualified expert witness," and specifies that the OCS social worker regularly assigned to the child may not serve as the expert witness. This appears, for example, in Sections 11 (adjudication phase), 18 (termination of parental rights), and 25 and 28 (temporary custody hearing after an emergency removal). The requirement for expert witnesses is also added to numerous court rules in sections 33-37, 41, 48, and 49. The requirement for expert witness to provide testimony at the various hearings could add to the logistical challenges of handling the hearings (scheduling delays, etc.), but at this time the court system anticipates that it could accommodate this without fiscal impact.

HB 10 would change the level of proof required for the court's findings, the inquiries that the court would make of the OCS and parents at hearings, and the overall conduct and scheduling of the hearings (because of, for example, the expert witness requirement). It also contains 17 sections with direct court rule amendments (sections 32-49), and repeals three court rule subsections (section 50). The court system will monitor the impacts of these changes, including any impact on the length of cases and of particular hearings. At this time, however, the court system believes it could make the changes and apply the new provisions without fiscal impact.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 10
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB010-DHSS-FCBR-03-31-17
Title: CHILD IN NEED OF AID/PROTECTION; DUTIES
Sponsor: WILSON
Requester: House HSS

Department: Department of Health and Social Services
Appropriation: Children's Services
Allocation: Foster Care Base Rate
OMB Component Number: 2236

Expenditures/Revenues

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

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

1002 Fed Rcpts (Fed)	(272.1)		(804.9)	(2,821.7)	(4,115.6)	(5,219.2)	(5,219.2)
1004 Gen Fund (UGF)	272.1		804.9	2,821.7	4,115.6	5,219.2	5,219.2
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 (separate supplemental appropriation required)
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 (separate capital appropriation required)
(discuss reasons and fund source(s) in analysis section)

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? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By: Christy Lawton, Director Phone: (907)465-3170
Division: Office of Children's Services Date: 03/29/2017 01:00 PM
Approved By: Shawnda O'Brien, Asst. Commissioner Date: 03/31/17
Agency: Health and Social Services

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010 _____

Analysis

Section 20 amends AS 47.10.088 as related to permanency requirements for children in care and as written could result in a longer stay of care, which increases general fund expenditures of payments to foster parents. The bill, as proposed, removes federal mandates in regard to the termination of parental rights by removing the reason for filing being the parents' responsibility to remedy their conduct. The Department finds that costs associated with this section indeterminate.

Sections 24, 25, 36, 37, 41 and 49 eliminate the federally required judicial finding that it is "contrary to the welfare" of the minor to remain in the home. Removal of this finding eliminates the ability of the division to access Title IV-E funding for any children who enter custody of the state. Currently, there are over 3,000 children in the Title IV-E adoption and guardianship assistance programs. Subsidies for the children determined Title IV-E eligible prior to this law going into effect will continue to be eligible for the federal share of their subsidy payment for the entire duration of their agreement. No children entering the foster care, adoption or guardian programs after this law takes effect will be eligible for federal funds. As a result, the division's federal claiming will decrease each year as the existing Title IV-E population ages out of the program, eventually resulting in \$0.0 of Title IV-E revenue.

Based upon recent removal to discharge ratios, the division estimates that in the first year the foster care penetration rate would slowly stagger down from 66.5% to 46.3%, and then decrease to averages of 46.1%, 25.2%, 11.5% and finally 0.0% by FY2022 and all subsequent years. From FY2022 forward, the division will no longer receive any Title IV-E foster care revenue; the federal revenue received will be based upon the subsidy agreements in place prior to this law taking effect. These numbers take into consideration the expectation that the division will remove fewer children from home each year.

The division estimated the loss of federal claiming based on the expected penetration rate and its effect on the average federal recovery rates for each budgetary component, as eligible children drop out of the program and non-eligible children enter.

Foster Care Base Rate - HB010 Impact to Federal Revenue

FY	FY2018 Proposed Budget	Average Federal Recovery Rate	Estimated Federal Portion	Estimated Reduction of Federal Revenue w/ HB010
2018 - Current	\$ 19,027.3	27.4%	\$ 5,219.2	
2018	\$ 19,027.3	26.0%	\$ 4,947.1	\$ 272.1
2019	\$ 19,027.3	23.2%	\$ 4,414.3	\$ 804.9
2020	\$ 19,027.3	12.6%	\$ 2,397.4	\$ 2,821.7
2021	\$ 19,027.3	5.8%	\$ 1,103.6	\$ 4,115.6
2022	\$ 19,027.3	0.0%	\$ -	\$ 5,219.2
2023	\$ 19,027.3	0.0%	\$ -	\$ 5,219.2

The estimated reduction to federal revenue is determined by reducing the estimated federal portion for each year from the "2018 - Current" estimated federal portion.

Any loss in federal revenue would increase the need for general fund expenditures.

Section 25 amends AS 47.10.142 to require that the court "dismiss" the petition, should the court find there is no longer "probable cause" to believe the Child is In Need of Aid at the temporary custody hearing. Although several hearings may occur prior, the temporary custody hearing often does not occur until a few months after the removal. During this time, the Office of Children's Services provides case management services and claims for federal reimbursement for associated

FISCAL NOTE ANALYSIS

**STATE OF ALASKA
2017 LEGISLATIVE SESSION**

BILL NO. HB010

Analysis Continued

expenditures. Should the court later "dismiss" the petition, then all federal funds for the duration of the case must be returned to the federal government. With the passage of HB 010, the Office of Children's Services would be required to return all federal funding for specific eligible children when the case is dismissed. Since the Office of Children's Services cannot determine the rate for which Child in Need of Aid petitions will be dismissed or receive a release of custody order, the fiscal impact for this section is unknown at this time.