

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2819

1 it.

2 \* Sec. 21. AS 47.10.092 is amended by adding new subsections to read:

3 (d) The obligations under (a) of this section remain in effect throughout the  
4 period that the child is in the custody of the department, including after the parent's  
5 parental rights have been terminated with respect to the child, unless the child's parent  
6 or legal guardian who made the disclosure under (a) of this section subsequently files  
7 a notice with the Department of Health and Social Services that the assistance of the  
8 state official or employee is no longer requested.

9 (e) The Department of Health and Social Services shall notify an official  
10 identified under (a) of this section of the opportunity for a parent to file a grievance  
11 under AS 47.10.098 when the official is denied access to all or part of a requested  
12 record.

13 \* Sec. 22. AS 47.10.093(a) is amended to read:

14 (a) Except as permitted [SPECIFIED] in AS 47.10.092 and in (b) - (g) and  
15 (k) - (n) [(b) - (g)] of this section and as provided under applicable court rules,  
16 regarding discovery in a child-in-need-of-aid proceeding, all information and social  
17 records pertaining to a child [MINOR] who is subject to this chapter or AS 47.17  
18 prepared by or in the possession of a federal, state, or municipal agency or employee  
19 in the discharge of the agency's or employee's official duty are privileged and may not  
20 be disclosed directly or indirectly to anyone without a court order.

21 \* Sec. 23. AS 47.10.093(b) is amended to read:

22 (b) A state or municipal agency or employee shall disclose appropriate  
23 confidential information regarding a case to

24 (1) [A GUARDIAN AD LITEM APPOINTED BY THE COURT;

25 (2)] a person or an agency requested by the department or the child's  
26 legal custodian to provide consultation or services for a child who is subject to the  
27 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of  
28 the consultation or services;

29 (2) an out-of-home care provider (3) FOSTER PARENTS OR  
30 RELATIVES WITH WHOM THE CHILD IS PLACED BY THE DEPARTMENT]  
31 as [MAY BE] necessary to enable the out-of-home care provider [FOSTER

1 PARENTS OR RELATIVES] to provide appropriate care to [FOR] the child [WHO  
2 IS THE SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE  
3 SUBJECT OF THE CASE], and to protect the safety and property of family members  
4 and visitors of the out-of-home care provider [FOSTER PARENTS OR  
5 RELATIVES];

6 (3) a [(4)] school official [OFFICIALS] as [MAY BE] necessary to  
7 enable the school to provide appropriate counseling and support services to a [THE]  
8 child who is the subject of the case, to protect the safety of the child [WHO IS THE  
9 SUBJECT OF THE CASE], and to protect the safety of school students and staff;

10 (4) [(5)] a governmental agency as [MAY BE] necessary to obtain that  
11 agency's assistance for the department in its investigation or to obtain physical custody  
12 of a child;

13 (5) [(6)] a law enforcement agency of this state or another jurisdiction  
14 as [MAY BE] necessary for the protection of any child or for actions by that agency to  
15 protect the public safety;

16 (6) a member [MEMBERS] of a multidisciplinary child protection  
17 team created under AS 47.14.300 as [MAY BE] necessary for the performance of the  
18 member's [THEIR] duties;

19 (7) [(8)] the state medical examiner under AS 12.65 as [MAY BE]  
20 necessary for the performance of the duties of the state medical examiner;

21 (8) [(9)] a person who has made a report of harm as required by  
22 AS 47.17.020 to inform the person that the investigation was completed and of action  
23 taken to protect the child who was the subject of the report; [AND]

24 (9) [(10)] the child support services agency established in  
25 AS 25.27.010 as [MAY BE] necessary to establish and collect child support for a child  
26 who is a child in need of aid under this chapter;

27 (10) a caregiver of a child or an entity responsible for ensuring the  
28 safety of children as necessary to protect the safety of a child; and

29 (11) a review panel established by the department, the legislature,  
30 or the governor for the purpose of reviewing the actions taken by the department  
31 in a specific case.

1 \* Sec. 24. AS 47.10.093(c) is repealed and reenacted to read:

2 (c) A state or municipal law enforcement agency shall disclose information  
3 regarding a case that is needed by the person or agency charged with making a  
4 preliminary investigation for the information of the court under AS 47.10.020.

5 \* Sec. 25. AS 47.10.093(f) is amended to read:

6 (f) The department may release to a person with a legitimate interest  
7 confidential information relating to children [MINORS] not subject to the  
8 jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT  
9 REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND  
10 IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

11 \* Sec. 26. AS 47.10.093(g) is amended to read:

12 (g) The department and affected law enforcement agencies shall work with  
13 school districts and private schools to develop procedures for the disclosure of  
14 confidential information to a school official [OFFICIALS] under (b)(3) [(b)(4)] of  
15 this section. The procedures must provide a method for informing the principal or the  
16 principal's designee of the school that the student attends as soon as it is reasonably  
17 practicable.

18 \* Sec. 27. AS 47.10.093 is amended by adding new subsections to read:

19 (k) The Department of Health and Social Services and the Department of  
20 Administration may disclose to the public, upon request, confidential information, as  
21 set out in (l) of this section, when

22 (1) the parent or guardian of a child who is the subject of a report of  
23 harm under AS 47.17 has made a public disclosure concerning the department's  
24 involvement with the family;

25 (2) the alleged perpetrator named in a report of harm under AS 47.17  
26 has been charged with a crime concerning the alleged abuse or neglect; or

27 (3) a report of harm under AS 47.17 has resulted in the fatality or near  
28 fatality of that child.

29 (l) The type of information that may be publicly disclosed under (k) of this  
30 section is information related to the determination, if any, made by the department  
31 regarding the validity of a report of harm under AS 47.17 and the department's

1 activities arising from the department's investigation of the report. The department

2 (1) may withhold disclosure of the child's name, picture, or other  
3 information that would readily lead to the identification of the child if the department  
4 determines that the disclosure would be contrary to the best interests of the child, the  
5 child's siblings, or other children in the child's household; or

6 (2) after consultation with a prosecuting attorney, may withhold  
7 disclosure of information that would reasonably be expected to interfere with a  
8 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a  
9 criminal proceeding.

10 (m) Except for a disclosure made under (k) of this section, a person to whom  
11 disclosure is made under this section may not disclose confidential information about  
12 the child or the child's family to a person not authorized to receive it.

13 (n) The Department of Health and Social Services and the Department of  
14 Administration may adopt regulations to implement and interpret the duties of the  
15 respective department under this section, including regulations governing the release  
16 of confidential information and identifying a sufficient legitimate interest under (f) of  
17 this section.

18 (o) A person may not bring an action for damages against the state, the  
19 commissioner, or the commissioner's designee based on the disclosure or  
20 nondisclosure of information under (k) of this section except for civil damages  
21 resulting from gross negligence or reckless or intentional misconduct.

22 \* Sec. 28. AS 47.10 is amended by adding a new section to read:

23 Sec. 47.10.098. Grievance procedure. (a) The department shall develop, in  
24 regulation, a grievance procedure for a parent to file a complaint based on

25 (1) the application of a department policy or procedure under this  
26 chapter;

27 (2) compliance with this chapter or a regulation adopted under this  
28 chapter; or

29 (3) an act or failure to act by the department under this chapter.

30 (b) The department shall prepare and distribute to each parent of a child who  
31 is under the jurisdiction of the department a written copy of the grievance procedure

1 developed under (a) of this section.

2 \* Sec. 29. AS 47.10.960 is repealed and reenacted to read:

3 Sec. 47.10.960. Civil liability. Failure to comply with a provision of this title  
4 does not constitute a basis for civil liability for damages.

5 \* Sec. 30. AS 47.10.990(16) is amended to read:

6 (16) "mental health professional" has the meaning given in  
7 AS 47.30.915, except that, if the child is placed in another state by the  
8 department, "mental health professional" also includes a professional listed in  
9 the definition of "mental health professional" in AS 47.30.915 who is not licensed  
10 to practice by a board of this state but is licensed by a corresponding licensing  
11 authority to practice in the state in which the child is placed:

12 \* Sec. 31. AS 47.10.990 is amended by adding new paragraphs to read:

13 (28) "adult family member" means a person who is 18 years of age or  
14 older and who is related to the child as the child's grandparent, aunt, uncle, or sibling;

15 (29) "family member" means a person of any age who is related to the  
16 child as the child's grandparent, aunt, uncle, or sibling;

17 (30) "near fatality" means physical injury or other harm, as certified by  
18 a physician, caused by an act or omission that created a substantial risk of death;

19 (31) "out-of-home care provider" means a foster parent or relative  
20 other than a parent with whom the child is placed.

21 \* Sec. 32. AS 47.12.990(10) is amended to read:

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

28 \* Sec. 33. AS 47.14.100(a) is amended to read:

29 (a) Subject to (e), (f), and (i) - (m) [(i) - (l)] of this section, the department  
30 shall arrange for the care of every child committed to its custody by placing the child  
31 in a foster home or in the care of an agency or institution providing care for children

1 inside or outside the state. The department may place a child in a suitable family  
2 home, with or without compensation, and may place a child released to it, in writing  
3 verified by the parent, or guardian or other person having legal custody, for adoptive  
4 purposes, in a home for adoption in accordance with existing law.

5 \* Sec. 34. AS 47.14.100(e) is repealed and reenacted to read:

6 (e) When a child is removed from a parent's home, the department shall place  
7 the child, in the absence of a showing of good cause to the contrary,

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

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

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

13 (A) an adult family member;

14 (B) a family friend who meets the foster care licensing  
15 requirements established by the department;

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

18 \* Sec. 35. AS 47.14.100(f) is amended to read:

19 (f) If an adult family member [A BLOOD RELATIVE] of the child  
20 specified under (e) of this section exists and agrees that the child should be placed  
21 elsewhere, before placement elsewhere, the department shall fully communicate the  
22 nature of the placement proceedings to the adult family member [RELATIVE].  
23 Communication under this subsection shall be made in the adult family member's  
24 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION  
25 OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR  
26 ADOPTIVE PURPOSES.]

27 \* Sec. 36. AS 47.14.100(j) is amended to read:

28 (j) For the purpose of determining whether the home of a relative meets the  
29 requirements for placement of a child, the department shall conduct a criminal  
30 background check from state and national criminal justice information available under  
31 AS 12.62. The department may conduct a fingerprint background check on any

1 member of the relative's household who is 16 [12] years of age or older when the  
2 relative requests placement of the child. For the purposes of obtaining criminal justice  
3 information under this subsection, the department is a criminal justice agency  
4 conducting a criminal justice activity under AS 12.62.

5 \* Sec. 37. AS 47.14.100 is amended by adding a new subsection to read:

6 (m) Prima facie evidence of good cause not to place a child with an adult  
7 family member or family friend under AS 47.10.088(i) or under (e) of this section  
8 includes grounds for denial of a foster care license under AS 47.35.019 or 47.35.021.  
9 Prima facie evidence of good cause not to place a child with an adult family member  
10 or adult family friend does not include poverty or inadequate or crowded housing. If  
11 the department denies a request for placement with an adult family member or a  
12 family friend, the department shall inform the adult family member or family friend of  
13 the basis for the denial and the right to request a hearing to review the decision. A  
14 non-party adult family member or family friend requesting a review hearing under  
15 AS 47.10.088(i) or under (e) of this section is not eligible for publicly appointed legal  
16 counsel.

17 \* Sec. 38. AS 47.14 is amended by adding a new section to article 3 to read:

18 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within  
19 the department a Citizen Review Panel. The panel shall be composed of volunteer  
20 members who are broadly representative of the state, including members who have  
21 expertise in the prevention and treatment of child abuse and neglect.

22 (b) The panel shall meet not less than once every three months. Meetings may  
23 take place telephonically and shall be closed to the public.

24 \* Sec. 39. AS 47.14 is amended by adding a new section to article 3 to read:

25 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate  
26 the extent to which the department is effectively discharging its child protection  
27 responsibilities under

28 (1) the state plan submitted to the United States Department of Health  
29 and Human Services under 42 U.S.C. 5106a(b);

30 (2) child protection standards under federal and state laws; and

31 (3) any other criteria that the panel considers important to ensuring the



1 protection of children, including the level and efficiency of coordination of foster care  
2 and adoption programs in the state and a review of child fatalities and near fatalities.

3 (b) In carrying out the responsibilities under (a) of this section, the state panel  
4 shall examine the policies, procedures, and practices of the department, and, where  
5 appropriate, evaluate specific cases of child abuse or neglect.

6 (c) The commissioner shall, by regulation, establish policies and procedures  
7 necessary to carrying out the duties of the state panel under this section.

8 \* Sec. 40. AS 47.14 is amended by adding a new section to article 3 to read:

9 Sec. 47.14.225. Cooperation with state panel. (a) The department shall  
10 provide the panel access to information on child abuse or neglect cases that is  
11 necessary for the panel to carry out its duties under AS 47.14.215.

12 (b) The department shall serve as staff to the state panel as requested by the  
13 panel members.

14 \* Sec. 41. AS 47.14 is amended by adding a new section to article 3 to read:

15 Sec. 47.14.235. Confidentiality. *A person attending a hearing of the state panel and*  
~~The~~ members and staff of the state panel  
16 may not disclose to any person, including a government agency or official, records or  
17 other information containing personally identifying or other information made  
18 confidential under state or federal law about a child or a witnesses involved in a case  
19 under review by the panel.

20 \* Sec. 42. AS 47.14 is amended by adding a new section to article 3 to read:

21 Sec. 47.14.245. Public outreach. The state panel shall conduct public  
22 outreach and gather public comment on current department procedures and practices  
23 involving children and family services.

24 \* Sec. 43. AS 47.14 is amended by adding a new section to article 3 to read:

25 Sec. 47.14.255. Report. (a) The state panel shall prepare and make available  
26 to the governor, the legislature, and to the public an annual report containing a  
27 summary of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and  
28 recommendations for the improvement of child protection services in the state.

29 (b) Not later than six months after the date on which the report is released  
30 under (a) of this section, the department shall submit a written response to the report.  
31 The department's response must include a description of whether and how the

1 department will incorporate the recommendations of the panel, where appropriate.

2 \* Sec. 44. AS 47.14 is amended by adding a new section to article 3 to read:

3 Sec. 47.14.265. Civil penalty for violation of AS 47.14.235. A violation  
4 under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

5 \* Sec. 45. AS 47.14 is amended by adding a new section to article 3 to read:

6 Sec. 47.14.275. Immunity. A member of the state panel and a person who  
7 furnishes services to or advises the state panel is not liable for damages or other relief  
8 in an action involving the performance or failure to perform a duty or other activity of  
9 the state panel.

10 \* Sec. 46. AS 47.14 is amended by adding a new section to article 3 to read:

11 Sec. 47.14.295. Definitions. In AS 47.14.205 - 47.14.295,

12 (1) "adult family member" has the meaning given in AS 47.10.990;

13 (2) "near fatality" has the meaning given in AS 47.10.990;

14 (3) "state panel" means the Citizen Review Panel established under  
15 AS 47.14.205.

16 \* Sec. 47. AS 47.17.025 is amended by adding a new subsection to read:

17 (c) Within 20 days after receiving a report of harm, whether or not the matter  
18 is referred to a local government agency, the department shall notify the person who  
19 made the report and who made a request to be notified, about the status of the  
20 investigation, without disclosing any confidential information.

21 \* Sec. 48. AS 47.17.027(a) is amended to read:

22 (a) If the department or a law enforcement agency provides written  
23 certification to the child's school officials that (1) there is reasonable cause to suspect  
24 that the child has been abused or neglected by a person responsible for the child's  
25 welfare or as a result of conditions created by a person responsible for the child's  
26 welfare; (2) an interview at school is a necessary part of an investigation to determine  
27 whether the child has been abused or neglected; and (3) the interview at school is in  
28 the best interests of the child, school officials shall permit the child to be interviewed  
29 at school by the department or a law enforcement agency before notification of, or  
30 receiving permission from, the child's parent, guardian, or custodian. A school official  
31 shall be present during an interview at the school unless the child objects or the

1 department or law enforcement agency determines that the presence of the school  
2 official will interfere with the investigation. The interview shall be conducted as  
3 required under AS 47.17.033. Immediately after conducting an interview authorized  
4 under this section, and after informing the child of the intention to notify the child's  
5 parent, guardian, or custodian, the department or agency shall make every reasonable  
6 effort to notify the child's parent, guardian, or custodian that the interview occurred  
7 unless it appears to the department or agency that notifying the child's parent,  
8 guardian, or custodian would endanger the child.

9 \* Sec. 49. AS 47.17.033 is amended by adding new subsections to read:

10 (c) An investigation by the department of child abuse or neglect reported  
11 under this chapter shall be conducted by a person trained to conduct a child abuse and  
12 neglect investigation and without subjecting a child to more than one interview about  
13 the abuse or neglect except when new information is obtained that requires further  
14 information from the child.

15 (d) An interview of a child conducted as a result of a report of harm shall be  
16 audiotaped or videotaped. However, if an interview of a child is to be audiotaped  
17 recorded and the interview concerns a report of sexual abuse of the child, the interview  
18 shall be videotaped, except that an interview of a child may not be videotaped if  
19 videotaping the interview is impracticable or will, in the opinion of the investigating  
20 agency, result in trauma to the child.

21 (e) An interview of a child that is audiotaped or videotaped under (d) of this  
22 section shall be conducted

23 (1) by a person trained and competent to conduct the interview;

24 (2) if available, at a child advocacy center; and

25 (3) by a person who is a party to a memorandum of understanding with  
26 the department to conduct the interview or who is employed by an agency that is  
27 authorized to conduct investigations.

28 (f) An interview of a child may not be videotaped more than one time unless  
29 the interviewer or the investigating agency determines that one or more additional  
30 interviews are necessary to complete an investigation. If additional interviews are  
31 necessary, the additional interviews shall be conducted, to the extent possible, by the

1 same interviewer who conducted the initial interview of the child.

2 (g) A recorded interview of a child shall be preserved in the manner and for a  
3 period provided by law for maintaining evidence and records of a public agency.

4 (h) A recorded interview of a child is subject to disclosure under the  
5 applicable court rules for discovery in a civil or criminal case.

6 \* Sec. 50. AS 47.18.300(a) is amended to read:

7 (a) The department, in coordination with local public and private agencies,  
8 shall design, develop, and implement a foster care transition program to provide  
9 support and services to individuals who

10 (1) reach or have reached the age of 16 or older while in state foster  
11 care and have not yet reached 23 years of age [THE AGE OF 21]; and

12 (2) meet other eligibility criteria established by the department under  
13 (b) of this section.

14 \* Sec. 51. The uncodified law of the State of Alaska is amended by adding a new section to  
15 read:

16 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of  
17 Aid Rules of Procedure, is amended to read:

18 (c) Presence of Grandparent or Foster Parent. A grandparent of a child  
19 and the foster parent or other out-of-home care provider are [IS] entitled to be heard  
20 at any hearing at which the person is present. However, the court may limit the  
21 presence of these persons in a hearing that has been closed to the public under  
22 (f)(2) of this rule [THE FOSTER PARENT OR CARE PROVIDER] to the time  
23 during which the person's testimony is being given if the court determines that such  
24 a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule [IT  
25 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO  
26 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE  
27 DETRIMENTAL TO THE CHILD].

28 \* Sec. 52. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of  
31 Aid Rules of Procedure, is repealed and reenacted to read:

1 (f) **General Public Access to Hearings.**

2 (1) Except as provided in (2) of this paragraph, and unless prohibited  
3 by federal or state statute or regulation, court order, or other court rule, hearings are  
4 open to the public.

5 (2) The following hearings are closed to the public:

6 (A) the initial court hearing after the filing of a petition that  
7 begins the child-in-need-of-aid case;

8 (B) a hearing following the initial hearing in which a parent,  
9 child, or other party to the case is present but has not had an opportunity to  
10 obtain legal representation;

11 (C) a hearing, or a part of a hearing, for which the court issues  
12 a written order finding that allowing the hearing, or part of the hearing, to be  
13 open to the public would reasonably be expected to stigmatize or be  
14 emotionally damaging to a child; inhibit a child's testimony in the hearing;  
15 disclose matters otherwise required to be kept confidential by state or federal  
16 statute or regulation, court order, or court rule; or interfere with a criminal  
17 investigation or proceeding or a criminal defendant's right to a fair trial in a  
18 criminal proceeding.

19 (3) Before ruling on a request under (2)(C) of this paragraph  
20 concerning potential interference with a criminal investigation or proceeding, the court  
21 shall give notice and an opportunity to be heard to the state or a municipal agency that  
22 is assigned to the criminal investigation or to the prosecuting attorney.

23 (4) If the court closes a hearing to the public under (2)(C) of this  
24 paragraph, the court shall close only the portions of the hearing necessary to prevent  
25 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,  
26 is open to the public, the court shall hear in camera any information offered regarding  
27 the location, or readily leading to the location, of a parent, child, or other party to the  
28 case who is a victim of domestic violence. Access to testimony heard in camera under  
29 this subparagraph is limited to the court and authorized court personnel.

30 (5) Notwithstanding any other provision of this rule, the court shall  
31 issue an order to prohibit all persons in a hearing open to the public from disclosing to

1 any person a name, picture, or other information that would readily lead to the  
2 identification of a child who is the subject of the proceeding. If a person violates the  
3 order, the court may impose any appropriate sanction, including contempt and closure  
4 of any further hearings in the proceeding to the person.

5 (6) A party to the proceeding may move the court to close to the public  
6 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this  
7 paragraph. A member of the public may request in writing to be served with a motion  
8 filed under this subparagraph. If such a request has been filed in advance of the filing  
9 of the motion, the party filing the motion must also serve the member of the public  
10 who requested notice under this subparagraph. The court may waive the service  
11 required under this subparagraph to a member of the public if a motion to close the  
12 hearing, or part of the hearing, is made under this subparagraph immediately before or  
13 during the hearing and the court finds that

14 (A) the need for closure was not reasonably foreseeable  
15 sufficiently in advance of the hearing to allow for notice;

16 (B) there is good cause not to delay the hearing in order to  
17 achieve notice, taking into consideration the age of the child and the potential  
18 adverse effect that a delay could have on the child; and

19 (C) whatever notice is practicable under the circumstances has  
20 occurred.

21 \* **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

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

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

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

31 (2) whether the parent or guardian has made substantial progress to

1 remedy the parent's or guardian's conduct or conditions in the home that made the  
2 child a child in need of aid; [AND]

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

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

8 \* Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in  
11 Need of Aid Rules of Procedure, is amended to read:

12 (d) Relinquishment.

13 (1) Notwithstanding other provisions of this rule, the court may  
14 terminate parental rights after a voluntary relinquishment pursuant to AS 47.10.089  
15 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the  
16 requirements set forth in 25 U.S.C. § 1913(c).

17 \* Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need  
20 of Aid Rules of Procedure, is amended to read:

21 (c) Child's Name or Picture. The name or picture of a child who is the  
22 subject of a CINA proceeding may not be made available to the public unless  
23 authorized by court order accompanied by a written statement reciting the  
24 circumstances which support such authorization, or unless to implement the  
25 permanency plan for the child after all parental rights of custody have been  
26 terminated.

27 \* Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to  
28 read:

29 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,  
30 is amended to read:

31 (a) Form. A consent or relinquishment must be in writing and must include:

1 (1) notice of the person's right to withdraw the consent or  
2 relinquishment as provided by paragraphs (g) and (h) of this rule;

3 (2) the address and telephone number of the court in which the  
4 adoption or relinquishment proceeding has or is expected to be filed;

5 (3) a statement of the right to counsel as stated in Rule 8;

6 (4) a statement concerning whether or not any visitation rights or  
7 other parental privileges are sought to be retained after the adoption;

8 (5) if a consent, the information required in AS 25.23.060; and

9 (6) if signed by a parent, a statement of whether the parent is a minor.

10 \* Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,  
13 is amended to read:

14 (g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

15 The parent of a non-Indian child may withdraw a consent or relinquishment by  
16 notifying in writing the court, or the person or agency obtaining the consent or  
17 relinquishment, within 10 days of the birth or signing of the consent or  
18 relinquishment, whichever is later. Notification is timely if received or postmarked on  
19 or before the last day of this time period. The parent may move the court to permit  
20 withdrawal of the consent or relinquishment after the 10 day period pursuant to  
21 AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a  
22 relinquishment.

23 \* Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption  
26 Rules, is amended to read:

27 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be  
28 entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089.  
29 The court shall enter findings of fact which must include a statement concerning  
30 whether visitation rights are being allowed under AS 25.23.130(c) or other privileges  
31 are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit



1 for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in  
2 the presence of the court, findings also must be entered as to whether the parent  
3 understood the consequences of the relinquishment, and whether the relinquishment  
4 was voluntarily signed.

5 In the case of a voluntary relinquishment of parental rights to an Indian child,  
6 the court shall make additional findings concerning whether any notice required by  
7 Rule 10(e) was timely given; whether the relinquishment was voluntary and in  
8 compliance with the requirements of 25 U.S.C. Section 1913; whether the child's  
9 placement complies with the preferences set out in 25 U.S.C. Section 1915 or good  
10 cause exists for deviation from the placement preference.

11 \* Sec. 59. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 INDIAN COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 2 of  
14 this Act, amends Rules 14 and 15, Alaska Rules of Probate Procedure, by providing that  
15 retained privileges be set out in the guardianship decree and by providing additional  
16 procedures related to a voluntary relinquishment of parental rights.

17 (b) AS 25.23.180(j) - (n) and AS 47.10.089, added by secs. 4 and 17 of this Act,  
18 amend Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set out  
19 in the relinquishment form and order and by providing additional procedures related to the  
20 relinquishment.

21 (c) AS 25.23.180(k) - (n) and AS 47.10.089(g), (h), and (j), added by secs. 4 and 17  
22 of this Act, amend Rule 13, Alaska Adoption Rules, by authorizing review hearings for  
23 voluntary relinquishments.

24 (d) AS 47.10.080(l), as amended by sec. 12 of this Act, amends Rule 17.2(f), Alaska  
25 Child in Need of Aid Rules of Procedure, by modifying the grounds for review of a  
26 permanent plan.

27 (e) AS 47.10.089, added by sec. 17 of this Act, amends Rule 18, Alaska Child in  
28 Need of Aid Rules of Procedure, by providing that a relinquishment be in writing, allowing  
29 for the withdrawal of the relinquishment, allowing for the retention of certain privileges, and  
30 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

31 \* Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 INDIRECT COURT RULE AMENDMENT. (a) Sections 9 and 10 of this Act, and  
3 AS 47.10.080(v), enacted by sec. 14 of this Act, have the effect of changing Rule 3, Alaska  
4 Child in Need of Aid Rules of Procedure, by allowing members of the public to attend court  
5 hearings except in certain circumstances.

6 (b) Sections 19 and 22 - 27 of this Act have the effect of changing Rule 22, Alaska  
7 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential  
8 information pertaining to a child, including a child's name or picture to be made public in  
9 certain circumstances.

10 \* Sec. 61. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 APPLICABILITY. (a) The amendment to Rule 3, Alaska Child in Need of Aid  
13 Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted  
14 on or after the effective date of secs. 51 and 52 of this Act.

15 (b) Sections 9 - 11, 14, 18, 19, 22 - 27, 51, 52, and 55 of this Act apply to all  
16 proceedings and hearings conducted on or after the effective date of those sections.

17 (c) Sections 9, 10, 14, and 19 - 27 of this Act apply to all information, records, and  
18 files created on or after the effective date of those section. however, if a file contains  
19 information and records that were created before the effective date of secs. 9, 10, 14, and 19 -  
20 27 of this Act, that information and those records retain the confidentiality that they had under  
21 the law on the day before the effective date of secs. 9, 10, 14, and 19 - 27 of this Act.

22 \* Sec. 62. The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 TRANSITION: REGULATIONS. The Department of Health and Social Services  
25 may proceed to adopt regulations necessary to implement the changes made by this Act. The  
26 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
27 effective date of the relevant statutory change.

28 \* Sec. 63. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the  
31 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to

1 "Involuntary termination of parental rights and responsibilities."

2 \* Sec. 64. The uncodified law of the State of Alaska is amended by adding a new section to  
3 read:

4 CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of  
5 Aid Rules of Procedure, made by secs. 51 and 52 of this Act, take effect only if secs. 51 and  
6 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
7 Constitution of the State of Alaska.

8 (b) Section 12 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as  
9 amended by sec. 53 of this Act, take effect only if sec. 53 and sec. 59(d) of this Act receive  
10 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the  
11 State of Alaska.

12 (c) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 54 of this  
13 Act, takes effect only if sec. 54 of this Act receives the two-thirds majority vote of each house  
14 required by art. IV, sec. 15, Constitution of the State of Alaska.

15 (d) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,  
16 made by sec. 55 of this Act take effect only if sec. 55 of this Act receives the two-thirds  
17 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

18 (e) Sections 9 and 10 of this Act, AS 47.10.080(v), enacted by sec. 14 of this Act, and  
19 secs. 19 and 22 - 27 of this Act, take effect only if secs. 51, 52, 53, and 60 of this Act receive  
20 the two-thirds majority vote of each house as required by art. IV, sec. 15, Constitution of the  
21 State of Alaska.

22 (f) Rule 9(a), Alaska Adoption Rules, as amended by sec. 56 of this Act, takes effect  
23 only if sec. 56 of this Act receives the two-thirds majority vote of each house required by art.  
24 IV, sec. 15, Constitution of the State of Alaska.

25 (g) Rule 9(g), Alaska Adoption Rules, as amended by sec. 57 of this Act, takes effect  
26 only if sec. 57 of this Act receives the two-thirds majority vote of each house required by art.  
27 IV, sec. 15, Constitution of the State of Alaska.

28 (h) Rule 13(a), Alaska Adoption Rules, as amended by sec. 58 of this Act, takes effect  
29 only if sec. 58 of this Act receives the two-thirds majority vote of each house required by art.  
30 IV, sec. 15, Constitution of the State of Alaska.

31 (i) AS 13.26.064, added by sec. 2 of this Act, AS 25.23.180(j) - (n), added by sec. 4

1 of this Act, and AS 47.10.089, added by sec. 17 of this Act, take effect only if sec. 59(a) and  
2 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
3 Constitution of the State of Alaska.

4 \* Sec. 65. If, under sec. 64 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(v), enacted  
5 by sec. 14 of this Act, and secs. 19 and 22 - 27 of this Act take effect, they take effect July 1,  
6 2005.

7 \* Sec. 66. Except as provided in sec. 65 of this Act, this Act takes effect immediately under  
8 AS 01.10.070(c).

adopted

4/26/05

AMENDMENT

1

DHSS

OFFERED IN THE HOUSE  
TO: CSSSHB53( ) version N

Page 1, line 3, following "court hearings,":

Insert "court records"

*adopted 4-26*

AMENDMENT

*2 Croft*

OFFERED IN THE HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE CROFT

TO: CSSSHB53( ) version N

Page 5, line 1, following "child":

Insert "to the fullest extent consistent with the child's best interests."

HB 53

*adopted 4-26*

AMENDMENT #

3

*Kelly*

OFFERED IN THE HOUSE FINANCE

1 Page 7, line 7, following "violence":

2 Insert: "or whose safety or welfare may be endangered by public release of

3 such information"

AMENDMENT

4  
with drawn  
4-26-05

OFFERED IN THE HOUSE

By Representative Hawker

TO: CS SS HB 53 (24-LS051\N)

1 Page 7, lines 14 through 20

2 Delete all material

3 Insert "(f) Notwithstanding any other provision of this chapter, a person attending a  
4 hearing open to the public may not disclose information obtained during the hearing except  
5 to the governor, the lieutenant governor, a legislator, the ombudsman appointed under AS  
6 24.55, the attorney general, a member of the Citizen Review Panel established under  
7 47.14.205, or the commissioner of health and social services, administration, or public safety,  
8 or an employee of these persons, for review or use in their official capacities. A person to  
9 whom disclosure is made under this section may not disclose confidential or privileged  
10 information about the child or the child's family to a person not authorized to receive it.  
11 A person who violates a provision of this section is guilty of a misdemeanor, and upon  
12 conviction is punishable by a fine of not more than \$500 or by imprisonment for not more  
13 than one year, or by both."

14

15 Make conforming changes to the court rule amendment on page 26, line 5 through page 27,  
16 line 4.

17



AMENDMENT

5 adopted  
4-26-05

OFFERED IN THE HOUSE

By Representative Hawker

TO: CS SS HB 53 (24-LS051\N)

Page 11 – Conceptual amendment to Section 16.

“The department’s duty to provide written notice of an adult family members’ rights and the procedures necessary to gain custody does not apply to a family member who has had parental rights terminated or who, to the department’s knowledge, would be denied a foster care license under AS 47.35.019 or 47.35.021.”

adopted 4/26/05

AMENDMENT 6

OFFERED IN THE HOUSE  
TO: CSSSHB53( ) version N

Page 15, line 15, following "section":

Delete "and as provided under applicable court rules, regarding discovery in a child-in-need-of-aid proceeding."

adopted 4/26/05

AMENDMENT

7

OFFERED IN THE HOUSE

By Representative Hawker

TO: CS SS HB 53 (24-LS051\N)

- 1 Page 15, line 24
- 2 Delete "[A GUARDIAN AD LITEM APPOINTED BY THE COURT;
- 3 (2)]"
- 4 Insert "a guardian ad litem appointed by the court;
- 5 (2)"

adopted 4/26/05

AMENDMENT

8

Kelly

OFFERED IN THE HOUSE  
TO: CSSSHB53( ) version N

Page 16, line 27, following "(10) a":

Insert "parent, guardian or"

HB 53

adopted 4/26/05  
as amend

AMENDMENT #

9 Kelly

OFFERED IN THE HOUSE FINANCE

1 Page 19, line 14:

2 Delete: "or sibling"

3

4 Insert:

5 ~~"sibling, legal guardian or parent of sibling"~~

6

7

8

9

10

Sibling, or legal guardian or parent of sibling

So it would techy be  
legal guardian of sibling  
or  
parent of sibling

~~or sibling~~

HB 53

adopted 4/26/05  
as amend

9 Kelly

AMENDMENT #

OFFERED IN THE HOUSE FINANCE

1 Page 19, line 14:

2 Delete: "or sibling"

3

4 Insert:

5 "sibling, legal guardian, <sup>or</sup> parent of sibling"

6

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adopted as 4/26  
amended

AMENDMENT

10

DHSS

OFFERED IN THE HOUSE  
TO: CSSSHB53( ) version N

Page 20, line 15, following "department;":

Insert "(C) a licensed foster home that is not an adult family or family friend or"

Page 20, line 16:

member

Delete "(C)"

Insert "(D)"

adopted 4/26

AMENDMENT

11

DHSS

OFFERED IN THE HOUSE  
TO: CSSSHB53( ) version N

Page 20, line 29, following "child,":

Insert "under AS 47.10.088(i) or under (e) of this section"



adopted 4/26

HB 53

Kelley

AMENDMENT #

12

OFFERED IN THE HOUSE FINANCE

- 1 Page 21, line 23
- 2 Delete: "and shall be closed to the public"

One of the main purposes of this bill is to open the process to the public. This amendment eliminates an oversight in the language of the citizens review panel that closes their meetings to the public.

4/26/05  
adopted as amended

AMENDMENT # 13 Kelly

OFFERED IN THE HOUSE FINANCE

1 Page 24, line 15:

2 Delete lines 15 through 20

3

4 Insert:

5 (d) An interview of a child conducted as a result of a report of harm <sup>alleging severe</sup>  
6 physical abuse by a parent or caregiver may be audiotaped or videotaped. If an  
7 interview of a child concerns a report of sexual abuse by a parent or caretaker, the  
8 interview shall be videotaped, <sup>unless</sup> except that an interview of a child may not be videotaped  
9 if <sup>videotaping</sup> videotaping the interview is not feasible or will, in the opinion of the investigating  
10 agency, result in trauma to the child.

OCS has assured us that they will utilize CAC's and videotaping as much as they possibly can but are cautious in statutorily mandating videotaping in all cases. The reason is that if Senator Steven's funding of CAC's dries up, that mandate would fall to the hands of the legislature and OCS to fund CAC's.

adopted 4/26/05 HB 53

AMENDMENT # 14

OFFERED IN THE HOUSE FINANCE

1 Page 25, after line 5:

2

3 Insert:

4 “ (i) ‘child advocacy center’ means a facility with a child-focused, community  
5 partnership committed to a multidisciplinary team approach that includes representatives  
6 from law enforcement, child protection, criminal prosecution, victim advocacy, and the  
7 medical and mental health fields who collaborate and assist in investigations of  
8 allegations of sexual or other abuse, and neglect of children:”

9

delete

10

Defines Child Advocacy Center. This language is compromise language  
between OCS, Department of Law, and the CAC's

AMENDMENT 15

OFFERED IN THE HOUSE FIN

BY REPRESENTATIVES CROFT & KELLY

TO: HB 53

1 Page 7, line 20, after the word "hearings"

2 Delete: "in the case"

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*adopted*

Amends the provision that if a person violates restrictions in the order that person could not only be barred from further hearings of the current parties, but additionally could be barred from any future hearings of any parties.

AMENDMENT 16

OFFERED IN THE HOUSE FIN

BY REPRESENTATIVES KELLY & CROFT

TO: HB 53

*Adopted*

1 Page 22, line 15, after the word "Confidentiality."

2 Delete lines 15 through 19

3

4 Insert:

5 "A person attending a meeting of the state panel, a member or staff of the state panel  
6 may not make any disclosure related to information obtained during a review by the panel  
7 unless authorized by AS 47.10.092 or 47.10.093.

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Addresses concerns of Representative Croft that panel members and staff were held to confidentiality but the section did not address the people attending a review panel meeting.

AMENDMENT 17

OFFERED IN THE HOUSE FIN

BY REPRESENTATIVES HAWKER

TO: HB 53

*Adopted*

1 Page 22, line 24:

2

3 Insert:

4 ( c) to read: " the citizen review panel is subject to the provisions of the

5 Open Meeting Act under AS 44.62.310.

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Addresses concerns that reviewing a case could result in disclosure of information that would tend to prejudice the reputation and character of a person being discussed. The executive session is allowable under these circumstances in the "Open Meetings Act".

**Section for CSSHB 53(FIN) Version N**

**Section 1.** Amends Title 13, Article 2 "Guardians of Minors" to add as a qualification for the court to appoint a guardian if an adult family member applies for guardianship, unless the court finds that appointment would not be in the best interest of the child.

**Sec. 2.** This section adds language to Title 13.26 (Guardians of Minors) bridging guardianship placement with voluntary relinquishment language in adoption (Sec. 5) and CINA (Sec. 20) sections of Version C.

**Sec. 3.** Gives preference to an adult family member who has cared for a child for twelve consecutive months or more to adopt the child(ren) unless the court finds there is good cause not to grant the adoption.

**Sec. 4.** Adds a new section to CINA law that allows for voluntary relinquishment of parental rights while retaining privileges for future contact, communication, and visitation with a child. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order—"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

HB 17 Rokeberg Placement with Relatives

HB 114 Governor Voluntary Relinquishment  
Indirect Rule Change  
Rules 14 and 15, Rules of Probate Procedure

HB 53 Coghill Relative Preference for Adoption

HB 114 Governor Voluntary Relinquishment

**Direct Rule Change:**  
Rule 9(a) Alaska Adoption Rules Sec. 54  
Rule 13(a) Alaska Adoption Rules Sec. 56

**Indirect Rule Change:**  
Rules 9 and 14, Alaska Adoption Rules

Finally it provides that a prospective adoptive parent may, after a termination order is entered, before the entry of an adoption or legal guardianship decree, and after notification of the biological parent if required, request that the court decline incorporation of a retained privilege in the adoption decree.

**Sec. 5.** Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

**Sec. 6.** Intent language for the Family Rights Act.

**Sec. 7.** This section allows the court to, on its own motion, appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

**Sec. 8.** Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

**Sec. 9.** Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

**Sec. 10.** Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

HB 114 Governor Protection of Child's Dividend

HB 53 Coghill Parent's Participation in the Upbringing of the Child

HB 114 Governor Improving the Process

HB 114 Governor Improving the Process

HB 113 Governor Open the Process

**Direct Rule Change**

**Rule 3 Alaska CINA Rules of Procedure Sec. 50**

HB 113 Governor Open the Process

**Direct Rule Change**

**Rule 3(f) Alaska CINA Rules of Procedure Sec. 50**



Grandparents, foster parents, or other out-of-home care providers may attend hearings otherwise closed to the public but may be limited in their participation in the hearing.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing.

Finally, this section clarifies that the right of an adult family member to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of an adult family member under Title 47.

**Sec. 11.** Legal has added some cleanup language to this section, including replacing the word "relative" with "adult family member".

**Sec. 12.** Provides that the court shall make one additional finding in the permanency plan, that being that the department has made reasonable efforts to finalize the permanent plan. It is needed to satisfy federal requirements for foster care reimbursement.

**Sec. 13.** This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial. New language by Department of Law clarifies that a non-party adult family member would not qualify for publicly appointed legal counsel.

**Sec. 14.** Amends AS 47.10.80 (Judgments and Orders) to add three provisions:

(1) The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

(2) Requires foster parents to provide regular visitation with family and to encourage foster parents to serve as mentors for facilitating family reunification

### **Indirect Rule Change**

**Rule 3 Alaska CINA Rules of Procedure Sec. 50**

LAA Legal Language Cleanup

Request of Department of Law to comply with federal law.

### **Direct Rule Change**

**Rule 3(c) Alaska CINA Rule of Procedure Sec. 49**  
**Rule 17.2(f) Alaska CINA Rules Sec. 51**

HB 17 Rokeberg Family Visitation

HB 53 Coghill Family Preservation

HB 53 Coghill Family Preservation

(v) It opens adjudication hearings to the public unless an exception in Section 12 applies.

**Sec. 15.** The section amends the residual rights section of Title 47, 10 to include language that defines "major medical treatment" to include "medication used to treat a diagnosed mental health disorder".

**Sec. 16.** Provides that before OCS can approve placement of a child for adoption, the department must attempt to locate all living adult family members. The department must provide written notice to all located family members of their right to adopt and those reason by which the department can deny adoption.

**Sec. 17.** Section 20 adds a new section to CINA statutes to provide for relinquishment of parental rights. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

It provides that parents can retain some privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order-"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

**Sec. 18.** Language clean up to statute providing for files of a child in custody being sealed when the child

HB 113 Governor Open the Process

HB 53 Governor Family Preservation

HB 17 Rokeberg Placement with Relatives

HB 114 Governor Voluntary Relinquishment

**Direct Rule Change:**

Rule 9(g) Alaska Adoption Rules Sec. 55

Rule 13(a) Alaska Adoption Rules Sec. 56

Rule 18(d)(1) Alaska CINA Rules Sec. 52

**Indirect Rule Change:**

Rules 9 and 14, Alaska Adoption Rules

Rule 18 Alaska CINA Rules

HB 113 Governor Improving the Process

**Sec. 19.** Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

**Sec. 20.** Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. TO obtain additional privileged information from Department of Health & Social Services or OPA or the public defender, a Disclosure of Information Release Form must be completed by a parent. Also attorney-client privileged would be protected.

**Sec. 21.** This section now provides that as long as the child is in state custody, disclosure to certain officials will stay in effect, unless a parent or legal guardian says it is not longer needed.

Additionally, in this section, the department will now be required to notify a state official or employee of the opportunity to file a grievance.

**Sec. 22.** The section inserts into AS 47.10.093(b), Disclosure of Agency records, mention of exceptions that are spelled out in Sections 26 & Section 27 and makes disclosure provisions inclusive of Court Rules.

**Sec. 23.** Language clean up to replace "foster parents" with "a foster parent" and "relatives" to "relative". Also disclosure of confidential agency records is expanded to include a caregiver, an entity responsible for ensuring the safety of children, and the citizen's review panel. The department is added language to subsection (12) to extend the authority to establish a review panel to the governor and the legislature.

**Sec. 24.** Language cleanup by legislative legal where four former subsections were repealed in 1996 and only one provision remained, which is disclosing to a person charged with making a preliminary investigation.

HB 113 Governor Improving the Process  
Direct Rule Change  
Rule 22(c) Alaska CINA Rules of Procedure  
Sec. 53

Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

HB 114 Rokeberg Family Preservation

HB 53 Coghill Improving the Process

HB 113 Governor Improving the Process  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Improving the Process  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

LAA Legal  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

**Sec. 25.** Clarifies that information made available to party with interest is confidential information. The regulatory language is deleted because it has been added to Section 30.

**Sec. 26.** The section directs OCS to work with law enforcement agencies in assisting schools, both public and private, in developing procedures for disclosure of confidential information to schools in an as expedited timeline as possible.

**Sec. 27.** The purposes for which confidential agency records can be disclosed to the public have been expanded to include public officials, but additionally, when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child. The agencies allowed to disclose confidential information have been expanded to include not only Health and Social Services, but also the Department of Administration.

The department may withhold disclosure of child's name, picture or other information that would readily identify the child if it determines it is in the best interest of the child or other children in the household. The department can also withhold information if it would interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial.

This section acknowledges that the person receiving confidential information has a fiduciary responsibility to keep the information confidential.

Gives Department of Health & Social Services and the Department of Administration authority to promulgate regulations.

**Sec. 28.** New language to this section establishes in statute a grievance process but leaves the ability to set policies and procedures to the regulatory process.

HB 113 Governor Language cleanup  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Improving the Process  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

HB 113 Governor Improving the Process  
Indirect Rule Change  
Rule 22 Alaska CINA Rules of Procedure

HB 53 Coghill Improving the Process

**Sec. 29.** Provides that there is no civil liability for timeline failures but there is a civil liability for gross negligence or reckless or intentional misconduct.

**Sec. 30.** Defines "mental health professional" in CINA statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

**Sec. 31.** Defines "adult family members" , "family members" , and "near fatality" in CINA statutes.

**Sec. 32.** Defines "mental health professional" in Delinquent minor statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

**Sec. 33.** Provides priorities for placement of a child when removed from the parent's home. Placement must be the least restrictive and in close proximity to parents to allow for reunification planning. Preferences for placement would be an adult family member, a family friend, or lastly, an institution with a program suitable for the child.

**Sec. 34.** Provides that when a child is placed in a home other than a home of a relative the department must fully disclose to the relative the nature of the placement.

**Sec. 35.** Established that poverty is not a reason to deny placement and if a person is denied placement they are to be informed of the reason and told that they have a right to a hearing but not to legal counsel.

**Sec. 36.** Creates a State Citizens Review Panel consisting of volunteers who are broadly representative of the state.

**Sec. 37.** Duties of the panel are to examine policies, procedures, and practices of state and local agencies in making or investigating a ROH; evaluate specific cases; and report annually to the governor all of their activities.

HB 53 Coghill Accountability

HB 114 Governor Improving the Process

HB 114 & LAA Legal

HB 114 Governor Improving the Process

HB 53 Coghill Family Preservation

HB 17 Rokeberg Improving the Process

HB 17 Rokeberg Improving the Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Sec. 38. Directs Department of Health & Social Services to cooperate with and provide records to the state panel to facilitate timely review of plans for children under the jurisdiction of the panel. The department shall serve as staff to the panel.

Sec. 39. Instructs panel that they may not disclose to ANYONE records or other information containing personally identifying or other information made confidential under state or federal law about a child or witnesses involved in a case under review by the panel.

Sec. 40. Directs the panel to conduct public outreach and gather information on the department's current procedures and practices.

Sec. 41. Directs the department to prepare an annual report and provide it to the governor. It also requires the department to submit a written response to the report to the governor within six months of the date the report is submitted to the governor.

Sec. 42. Imposes a civil penalty for violating the confidentiality clauses for up to \$2,500 per violation.

Sec. 43. Creates immunity for state panel members and persons provided support to the panel.

Sec. 44. Defines "adult family member", "state panel" as the Citizen Review Panel and "near fatality" in Title 47.14, Juvenile Programs and Institutions by reference to AS 47.10.990.

Sec. 45. Requires OCS to notify a person who has made a ROH with a status report within 20 days.

Sec. 46. Amends duties of school officials to direct schools to conduct interviews of children as provided for with trained interviewers and being videotaped or audiotaped.

Sec. 47. Creates standards for interviewing CINA children requiring audio or videotaping and requiring interviewers to be trained and competent to conduct the interview. It also limits interviews to one unless it is determined that an additional interview is

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 17 Rokeberg Improving the process

HB 53 Coghill Improving the process

HB 53 Coghill Improving the process

Sec. 48. Amends Title 47.18, "Foster Care Transition Program" to provide for a transition plan for children who have reached the age of sixteen but have not reached the age of 23. Formerly the age limit was 21.

Sec. 49. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 50. Repeals CINA Rule 3(f), General Public Excluded, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 51. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 52. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 53. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 54. Rule change for voluntary relinquishment with other parental privileges.

Sec. 55. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 56. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 57. Various indirect rule change provisions.

Sec. 58. Indirect rule changes for disclosure of confidential information.

Sec. 59. Applicability.

Sec. 60. Transition language to implement changes through regulation.

Sec. 61. Revisor's instructions.

Sec. 62. Conditional Effect.

Sec. 63-64. Effective dates.

HB 53

Kelly

AMENDMENT # 1

OFFERED IN THE HOUSE FINANCE

1 Page 24, line 15:

2 Delete lines 15 through 20

3

4 Insert:

5 (d) An interview of a child conducted as a result of a report of harm alleging severe  
6 physical abuse by a parent or caregiver shall be audiotaped or videotaped. If an  
7 interview of a child concerns a report of sexual abuse by a parent or caretaker, the  
8 interview shall be videotaped, except that an interview of a child may not be videotaped  
9 if videotaping the interview is impracticable or will, in the opinion of the investigating  
10 agency, result in trauma to the child.



HB 53

AMENDMENT # 2

Kelly

OFFERED IN THE HOUSE FINANCE

- 1 Page 7, line 7, following "violence":
- 2 Insert: "or whose safety or welfare may be endangered by public release of
- 3 such information"

HB 53

AMENDMENT # 3

Kelly

OFFERED IN THE HOUSE FINANCE

1 Page 19, line 14:

2 Delete: "or sibling"

3

4 Insert:

5 "sibling, legal guardian, or parent of sibling"

6

7

8

9

10

HB 53

AMENDMENT #

4 Kelly

OFFERED IN THE HOUSE FINANCE

1 Page 21, line 23

2 Delete: "and shall be closed to the public"

**HB**

**53**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

5/6/05

FURTHER:

DATE TURNED IN TO OFFICE: 8 May 2005

REPORTED OUT

MAY 8 2005

SENATE FINANCE COMMITTEE

Finance Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(FIN)

## HB 53 CHILDREN IN NEED OF AID/ADOPTION/GUARDIAN

\*An Act relating to child-in-need-of-aid proceedings, amending the construction of statutes pertaining to children in need of aid, relating to guardianships, relating to the confidentiality of investigations, court hearings, court records, and public agency records and information in child-in-need-of-aid matters and certain child protection matters, to immunity regarding disclosure of information in child-in-need-of-aid matters and certain child protection matters, to proceedings regarding voluntary relinquishment and termination of a parent and child relationship, to eligibility for permanent fund dividends for certain children in the custody of the state, and to juvenile delinquency proceedings and placements, reestablishing and relating to a state citizens' review panel, amending the obligation of a public agency to disclose agency information pertaining to a child in need of aid, relating to disclosure of confidential or privileged information about children and families involved with children's services within the Department of Health and Social Services to officials for review or use in official capacities, relating to reports of harm and to adoptions and foster care, relating to consent for the medication of children in state custody, prescribing the rights of family members related to child-in-need-of-aid cases and establishing a familial priority for adoption, modifying adoption and placement procedures in certain child-in-need-of-aid cases, amending Rules 9 and 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure, and providing for an effective date \*

and recommends:

- be replaced with S CS CS HB 53 (FIN)  
C.S. Forthcoming
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
Admin <sup>PDA</sup>	4/27/05	82.7			#12
Admin <sup>OPA</sup>	4/27/05	161.3			#13
Court	4/27/05	94.9			#14
HSB <sup>Child Sup</sup>	4/26/05	142.7			#15
HSB <sup>Front Line</sup>	4/27/05	106.2			#16
LAW	4/27/05	586.4			#17

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

REPORTED OUT

MAY 8 2005

SENATE FINANCE  
COMMITTEE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 12  
 Bill Version: CSSSHB 53(FIN)  
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected: Administration  
 Title An Act relating to child in need of RDU Legal and Advocacy Services  
aid proceedings. Component Public Defender Agency  
 Sponsor Reps. Coghill, Ramras,  
 Requester House Finance Component No. 1631

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	54.3	54.3	54.3	54.3	54.3	54.3
Travel	2.4	2.4	2.4	2.4	2.4	2.4
Contractual	18.0	18.0	18.0	18.0	18.0	18.0
Supplies	1.3	1.3	1.3	1.3	1.3	1.3
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>82.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	82.7	76.7	76.7	76.7	76.7	76.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>82.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>	<b>76.7</b>

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

CSSS HB53(JUD) is an omnibus bill significantly changing the child protective statutes (CINA) and in some instances the adoption and guardianship statutes. The portions of the bill having a fiscal impact on the operations of the Public Defender Agency will be discussed on the following page.

Prepared by: Linda K. Wilson, Deputy Director Phone: (907)-334-4416  
 Division: Public Defender Agency Date/Time: 4/27/05 7:25 AM  
 Approved by: Michael Tibbles, Deputy Commissioner Date: 4/27/2005  
 Agency: Department of Administration

FISCAL NOTE #12

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Fiscal Note Analysis for SS HB 53: (continued)

Various Sections of this bill change statutes and court rules concerning confidentiality in child protective proceedings (CINA). CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. The Agency opens over 900 new child protective proceedings a year. It is anticipated that in a significant number of the Agency's cases the attorney will be repeatedly moving to close hearings. This additional motion practice will also require service on a member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to a half-time attorney position, factoring in support staff. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled.

Other provisions of the bill will have a fiscal impact on the Agency as well, but the extent of the impact cannot be predicted with any accuracy. In various sections of the bill it provides for family members or friends to request and obtain a review hearing of denied visitation, denied temporary placement, or a denied adoption placement request. While these identified people are not considered parties who would be entitled to the appointment of counsel, if indigent, Agency attorneys representing parents in these cases will likely be involved or need to attend these requested review hearings. In addition, the bill provides for additional review hearings in guardianship, termination, and adoption proceedings when a parent voluntarily relinquishes their parental rights but retains privileges, like visitation or contact, and seeks enforcement or modification of the retained privilege, or in some termination instances vacation of the termination order. These additional hearings will result in a fiscal impact to the Agency, but again, the extent cannot be predicted with any accuracy.



REPORTED OUT  
MAY 8 2005  
SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 13  
Bill Version: CSSSHB 53 (FIN)  
(H) Publish Date: 4/29/05

Revision Date/Time (Note if correction):  
Title: An act relating to Child in Need of Aid proceedings, ...  
Sponsor: Rep. Coghill  
Requester: House Judiciary  
Dept. Affected: Administration  
RDU: Legal and Advocacy Services  
Component: Office of Public Advocacy  
Component No: 43

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	119.3	119.3	119.3	119.3	119.3	119.3
Travel	1.0	1.0	1.0	1.0	1.0	1.0
Contractual	35.0	35.0	35.0	35.0	35.0	35.0
Supplies	1.0	0.4	0.4	0.4	0.4	0.4
Equipment	5.0	0.5	0.5	0.5	0.5	0.5
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>161.3</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	161.3	156.2	156.2	156.2	156.2	156.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>161.3</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>	<b>156.2</b>

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

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

This omnibus Child-in-Need-of-Aid (CINA) legislation incorporates a number of changes to the CINA statutes and court rules. Two (2) changes would impact the Office of Public Advocacy, as delineated below.

Sections 8 and 9, as well as portions of numerous other sections, change statutes and court rules governing confidentiality in child protective proceedings (CINA) and some agency documents. CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. Approximately 1000 CINA cases are opened annually. OPA provides guardian ad litem representation in all CINA cases for the children (continued on page 2)

Prepared by: Joshua P. Fink, Director  
Division: Office of Public Advocacy  
Approved by: Michael Tibbles, Deputy Commissioner  
Agency: Department of Administration  
Phone: (907) 269-3500  
Date/Time: 4/27/05 7:21 AM  
Date: 4/27/2005

FISCAL NOTE #13

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

(continued from page 1)

and also provides parental representation for the parents where the Public Defender Agency has a conflict. In essence, every CINA case is the equivalent of two cases to OPA if not more (in cases where there are more than two parents). This representation for both children and parents is provided by staff attorneys and GALs, as well as contractors in areas of the state where OPA has no staff or where OPA staff have a conflict. It is anticipated that in a significant portion of OPA's cases the attorney representing either the child or parent will move to close the hearing. Prior to doing this, an investigation must be conducted up front to determine if an open hearing would be detrimental to the child's best interests. In addition, any motion practice regarding hearing closure must be served on any member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to one full time attorney (a half-time attorney for child advocacy and a half-time attorney for parental advocacy), factoring in a third of a support staff member. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled. Finally, contractors will bill additional hours for investigation, motion practice, and motion service regarding hearing closures. Additional contract funds have also been included. The costs for these confidentiality sections would be 161.3 the first year and 156.2 thereafter.

REPORTED OUT  
MAY 8 2005  
SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 14  
Bill Version: CSSSHB 53(FIN)  
(H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title Child in Need of Aid/Review Panels BRU Alaska Court System  
Component Trial Courts  
Sponsor Representative Coghill  
Requester \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	83.6	83.6	83.6	83.6	83.6	83.6
Travel	5.3	5.3	5.3	5.3	5.3	5.3
Contractual						
Supplies	6.0	2.8	2.8	2.8	2.8	2.8
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>94.9</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	94.9	91.7	91.7	91.7	91.7	91.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>94.9</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>	<b>91.7</b>

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary	4	4	4	4	4	4

**ANALYSIS:** (Attach a separate page if necessary)  
CSSSHB 53 (FIN) makes several changes to the statutes that govern Child in Need of Aid (CINA) proceedings. Most of those changes reflect a policy to presumptively open most CINA proceedings, and agency actions and records. Of particular interest to the court system are those sections that relate to court hearings. Under the bill, most CINA hearings will be open to the public unless a party files, and the court grants, a motion to close all or a portion of a hearing. An interested member of the public may notify the court and the parties that he or she would like to be served with any petitions to close. Additionally, if the court is considering closing a hearing out of concern that an open hearing might interfere with a criminal investigation then the court is to notify the criminal justice agency conducting the investigation and provide it with an opportunity to be heard. (Continued on page 2)

Prepared by: Doug Wooliver, Administrative Attorney Phone: 907-463-4750  
Division: Alaska Court System Date/Time: 4/27/05 9 22 AM  
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date: 4/27/2005  
Agency: Alaska Court System

FISCAL NOTE #14

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB (FIN)

ANALYSIS CONTINUATION

Each year the court system receives roughly 1,200 new CINA cases and 200 petitions to terminate parental rights. Both the Public Defender Agency and the Office of Public Advocacy, who represent the parties in these cases, anticipate filing motions to close in a significant percentage of these cases. This fiscal note reflects additional judicial and clerical time associated with ruling on motions to close, closing and then reopening hearings where only a portion of a hearing needs to be closed, notifying law enforcement agencies in those cases where closure is needed to protect a criminal investigation and clerical work associated with data input and scheduling changes. Specifically, this note asks for four months of a part-time court clerk in Anchorage and two months of part-time clerks in both Bethel and Fairbanks and corresponding pro tem time for judges in those same locations.

MAY 8 2005

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 15  
Bill Version: CSSH B 53(FIN) SENATE FINANCE  
( H ) Publish Date: 4/29/05 COMMITTEE

Revision Date/Time (Note if correction):

Dept. Affected: Health & Social Services

Title: RELATING TO CHILD-IN-NEED-OF AID MATTERS

RDU: Children's Services

Component: Children's Services Management

Sponsor: COGHILL

Requester: HOUSE (FIN)

Component No.: 2666

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	71.9	71.9	71.9	71.9	71.9	71.9
Travel						
Contractual	70.8	10.8	10.8	10.8	10.8	10.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>142.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	142.7	82.7	82.7	82.7	82.7	82.7
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>142.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>	<b>82.7</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

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

CSSH B 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Department's Office of Children's Services (OCS) budget are summarized below.

**Confidentiality**

Various amendments and additions in this bill are similar to those included in SB 84 that allow public access to CINA proceedings and confidential information

con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner

Phone 465-3191

Division: Office of Children's Services

Date/Time 04/20/2005

Approved by: Joel S. Gilbertson, Commissioner

Date 04/26/2005

Agency: Department of Health and Social Services

FISCAL NOTE

FN # 15

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Confidentiality - Analysis Con't

Should either bill become law, the Department anticipates that increase in public concern and requests for information will necessitate an additional position within the OCS to assist in the effort to respond in a timely manner. This position would be an Associate Coordinator, Range 18, under the current Program Coordinator for Community Relations at a cost of \$71.9 per fiscal year for salary and benefits with 15% service costs for a total of \$82.7 in general funds.

Sec. 46. Notification of Status of Investigations

Section 46 requires that when a person makes a report of harm and requests notification of the status of the investigation, OCS provide the status without disclosing confidential information. Because the OCS case management system (ORCA) does not now capture all addresses and does not report on the required data, system changes at a one-time cost of approximately \$60.0 would be required. These reports are not federally mandated and therefore not eligible for federal match.

MAY 8 2005

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 16  
Bill Version: CSSSHB 53(FIN)  
( H) Publish Date: 4/29/05

SENATE FINANCE  
COMMITTEE

Revision Date/Time (Note if correction): Rev 4/27/05 12:15p

Dept. Affected: Health & Social Services

Title: RELATING TO CHILD-IN-NEED-OF AID MATTERS

RDU Children's Services

Component: Front Line Social Workers

Sponsor: COGHILL

Requester: HOUSE (FIN)

Component No. 2305

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	33.7	33.7	33.7	33.7	33.7	33.7
Travel	28.0	28.0	28.0	28.0	28.0	28.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	0.6	0.6	0.6	0.6	0.6	0.6
Equipment	41.9					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>106.2</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	106.2	64.3	64.3	64.3	64.3	64.3
1037 CF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>106.2</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>	<b>64.3</b>

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

CS HB 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Office of Children's Services (OCS) budget are summarized below:

Section 13 provides that if a parent or family member of a child in state custody is denied visitation, the department will inform the parent or family member as to the reason for the denial and their right

Con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner  
Division: Office of Children's Services  
Approved by: Joel S. Gilbertson, Commissioner  
Agency: Department of Health and Social Services

Phone 465-3191  
Date/Time 04/26/2005  
Date 04/27/2005

FISCAL NOTE  
FN # 16

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Bill No. CSSSHB 53(FIN)

**ANALYSIS CONTINUATION**

to request a review hearing. The OCS believes there would be an increase in staff time required for hearing preparation and court time, but no data upon which to estimate the fiscal impact is available. Visitation denials are not tracked.

Section 38 provides that the department shall serve as staff to the Citizen Review Panel. The estimated cost to provide this support is:

.5 FTE staff support for CRP (Range 16)	\$33.7
Travel for 10 CRP members for 4 meetings	
Fairbanks	\$ 8.0
Anchorage x2	\$10.0
Juneau	\$10.0
Teleconferences (4 )	\$ 2.0
Supplies (brochures, flyers, paper)	\$ .6
	-----
Total	\$64.3

Section 49 provides that an interview of a child conducted as a result of a report of harm may be audiotaped or videotaped. When an interview concerns a report of sexual abuse by a parent or caretaker, the interview shall be videotaped unless it is not feasible to do so or unless the interview further harms the child. OCS estimates a need for video taping and viewing equipment in each of its 30 offices as follows:

	# needed	Pkg	Cost per	Ext
Camcorders w/ case, tripod, batteries & charger	30		815	24.6
Audio recorders w/ additional memory	30		269	8.1
Discs	3,500	150	75	.2
DVD players and monitors	30		300	9.0
Total				41.9



# FISCAL NOTE

REPORTED OUT

MAY 8 2005

SENATE FINANCE  
COMMITTEE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: 17  
 Bill Version: CSSSHB 53(FIN)  
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): Dept. Affected: LAW  
 Title "An Act relating to child-in-need-of-aid RDU CIVIL  
 proceedings..." Component Human Services  
 Sponsor Representative Coghill  
 Requester House Finance Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	484.0	484.0	484.0	484.0	484.0	484.0
Travel	1.2	1.2	1.2	1.2	1.2	1.2
Contractual	57.0	57.0	57.0	57.0	57.0	57.0
Supplies	7.5	7.5	7.5	7.5	7.5	7.5
Equipment	36.7	36.7	36.7	36.7	36.7	36.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>

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

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	586.4	586.4	586.4	586.4	586.4	586.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>	<b>586.4</b>

Estimate of any current year (FY2005) cost: 00  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time	4	4	4	4	4	4
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 This bill amends AS 47.10 (Children in Need of Aid). Passage of this legislation will impact the Department of Law in two ways.

1. It changes statutes that apply to confidentiality of child in need of aid matters. Longstanding policies, practices and procedures of every agency and branch of government involved in child welfare protection will be altered. As a result it is anticipated that disputes will arise over the interpretation and implementation of this legislation. The additional operating costs to resolve such disputes are estimated based on 400 additional attorney hours per year at a cost of \$49,696. Half of an attorney position is also requested in conjunction with the funding to allow the Department to add a part time attorney to handle the increased caseload.

Prepared by: Kathryn Daughheteo, Director Phone 465-3673  
 Division: Administrative Services Division Date/Time 4/27/05 12:16 PM  
 Approved by: Kathryn Daughheteo for David Marquoz, Attorney General Date 4/27/2005  
 Agency: Department of Law

FISCAL NOTE #17

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

2. It allows a parent, family member, or guardian who is denied visitation rights the right to request a review hearing thereby increasing the number of hearings attorneys must prepare for and alter 3. It includes a relative preference for adoption but adds three reasons why adoption may be denied to the relative. These sections will give rise to a number of contests and good cause findings. Taken together, these sections will cause an increase in the caseload that will add another 2 days of work to each CINA attorney's schedule and 1 day of work for each paralegal. This is a conservative estimate based on the assumption that some issues will be worked out early on in the placement process. That will cost \$536,759 which will fund 2.5 additional attorneys, 1 paralegal, and 1 law office assistant.

These costs are based on the Department of Law FY 2006 timekeeping and billing rate of \$107.99 per hour for attorneys and \$81.07 per hour for paraprofessionals. This rate includes overhead costs for leased space, office supplies, and 1 support staff (included in the position count and impact above) and \$6,500 per new position for one time costs for office furnishings and computer equipment.

adpted

SENATE FINANCE  
COMMITTEE #1  
Amendment Number: #1  
Bill Number: HB 53  
Sponsor: Green Date: 5/8/05  
Logged In By: Mindy

AMENDMENT

OFFERED IN SENATE FINANCE

BY Sen. Green

TO: SCS CSSSHB 53(JUD) Version M

- 1 Page 10, lines 20 through 23:
- 2 Delete all language
- 3
- 4 Renumber following subsections accordingly

- 5
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Eliminates Section 14, subsection (1)
---------------------------------------

SENATE FINANCE  
COMMITTEE #2  
Amendment Number: #2  
Bill Number: HB 53  
Sponsor: Carson Date: 5/8/05  
Logged In By: Mindy  
adopted

CONCEPTUAL AMENDMENT

OFFERED IN SENATE FINANCE

BY

TO: SCS CSSSHB 53(JUD) Version M

1 Page 17, line 6:

2 Delete:

3 “, the legislature, or the governor”

4

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To comply with federal law.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

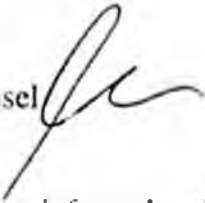
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 11, 2005

**SUBJECT:** Release of Confidential Information  
(CS HB 53(HES); CSHB 14(HES))

**TO:** Representative John Coghill, Jr.  
Attn: Rynnieva Moss

**FROM:** Jean Mischel  
Legislative Counsel 

You have questioned the validity of an informal opinion issued by the United States Department of Health and Human Services that objects, on the basis of federal law, to portions of the above referenced bills that allow expanded disclosure of confidential information pertaining to a child-in-need-of-aid.<sup>1</sup> Since the bills are scheduled to be heard in committee today and tomorrow I lack sufficient time to research this question fully but caution that an opinion on the eligibility of federal grant funds will ultimately be decided by the federal decision makers, and my opinion is largely irrelevant. Of course, judicial review of the opinion might override the federal decision makers, but that is a lengthy and uncertain prospect. An Attorney General Opinion may be persuasive in this instance.

Specifically, you question the interpretation of 42 U.S.C. 671 (a)(8) (Social Security Act), related regulations, and 42 U.S.C. 5101 et. seq. (Child Abuse Prevention and Treatment Act, as amended), as applied to the expansions of releases of confidential information pertaining to a child-in-need-of aid in CSHB 53(HES) and CSHB 14(HES).

Generally speaking, the purpose of the federal laws protecting confidentiality over children in need of aid is to encourage reporting and child protection, and to discourage sharing of damaging information about family finances and therapy. The exceptions involve, for social security purposes, government audits of funding programs, and, for child protection purposes, the carrying out of official duties involving child protection.

CSHB 53 (HES) and CSHB 14(HES) attempt to broaden the circle of disclosure for access by legislators and staff, caregivers, and unspecified review panels.

CSHB 53(HES), sec. 23 would authorize an "adult family member" to disclose to a legislator confidential information previously restricted to a parent and require the

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<sup>1</sup> The opinion affects secs. 23 and 26 of CSHB 53(HES) and all of CSHB 14(HES).

Representative John Coghill, Jr.

April 11, 2005

Page 2

Department of Administration to disclose information that is not attorney-client information to a legislator. Sec. 26 of the same bill requires the state or municipal agency to disclose "appropriate confidential information" to a caregiver or entity responsible for ensuring the safety of children and to a review panel established by the legislature, the department, or the governor for purposes of reviewing an action of the Department of Health and Social Services.

CSHB 14 (HES) authorizes a foster parent to disclose confidential information about a child to a legislator or a legislator's staff.


42 U.S.C. 671(a)(8)(D) restricts disclosure of confidential information to "any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity." Subparagraph (E) of that same section clarifies that:

reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any applicant or recipient [of federal foster care and adoption assistance].

You ask specifically about the phrase "to any committee or legislative body other than an agency referred to in clause (D) . . ." as it pertains to an individual legislator.

The individual legislator would need to meet *some* part of the exemption, whether or not the literal meaning of clause (E) would open disclosure up to an individual legislator that would otherwise be closed to a group to which the legislator belonged. Logically, however, the term "group," as used here, would include an individual who is a member of the group if the access is allowed only by virtue of the individual membership in the group. In this instance, it might be argued that a legislator has some role in an "activity" similar to an audit since legislators do share a statutory obligation to oversee department activities, but that role is fulfilled through a legislative body, the legislative budget and audit committee and the administrative regulations review committee, not officially by an individual legislator.

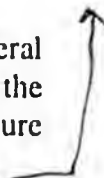
In addition to the Social Security Act, the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5106a(b)(2)(A) requires "methods to preserve the confidentiality of all records in order to protect the right of the child and of the child's parents or guardians" while allowing disclosure to "government entities . . . having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect" as well as to citizen review panels. The review panels referred to in CSHB 53 (HES), then, do not appear to be in conflict with federal disclosure laws if the panels are citizen review panels as contemplated in the Act. Certainly, the revival of citizen review



Representative John Coghill, Jr.

April 11, 2005

Page 3

panels at secs. 38 - 46 of the bill is intended to comply with additional federal requirements pertaining to those panels and would qualify under this exemption. On the other hand, a review panel established, as allowed in sec. 26 of the bill, by the legislature may not meet federal standards and therefore fail to meet this exemption. 

I find no other federal exemption that might give an individual legislator open access to the confidential records sought.

The question of federal compliance, as I see it, turns on the type of information disclosed (the Social Security Act is primarily concerned with identifying information) and whether or not a legislator and a legislator's staff member have as an official duty a role in the child protection system. Certainly, access has already been opened to legislators at least with respect to information disclosed by a parent or guardian and, in a general sense, a law maker has a duty to protect the public welfare. Whether that duty extends to specific cases, including identities of children, involving child abuse or neglect, is not entirely clear. A legislator may be said to owe a duty to more than the child in those cases and end up with conflicting duties which the federal law is concerned with.

The issuance of a federal opinion now is interesting in light of the history of the disclosure statutes and the concurrent attempt to open child protection hearings to the public under CSHB 53(HES). It may be that the interpretation given existing law allowing access by a legislator was restricted to those legislators who serve an audit function, or it may have been overlooked in the past. In any event, existing state law, if it is inconsistent with federal mandates, does not provide much protection over the \$29 million at stake.

If I may be further assistance, please advise.

JMM:jad  
05-201.jad

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES





## DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Administration for  
Children and Families2201 Sixth Avenue, RX-70  
Seattle, WA 98121

APR 13 2005

Tammy Sandoval  
Acting Deputy Commissioner  
Department of Health and Human Services  
Office of Children's Services  
PO Box 110630  
Juneau, AK 99811-0630

Dear Ms. Sandoval:

This is in response to your request for clarification regarding confidentiality requirements related to Federal child welfare programs. Federal legislation has been established to safeguard information for clients served by the state child welfare system. Federal confidentiality requirements are found in Title IV-E of the Social Security Act, in The Child Abuse Prevention and Treatment Act (CAPTA), and in federal regulations.

Section 471(a) (8) of Title IV-E of the Social Security Act prohibits the state child welfare agency from releasing information except in the limited situations specified in the Act. Further, this section specifically prohibits information from being disclosed to any legislative body except for purposes of a legislatively authorized audit.

CAPTA prohibits disclosure of information but also permits disclosure of information in some situations and requires disclosure in limited circumstances. To the extent that the CAPTA provisions require (not permit) disclosure, the CAPTA provisions would prevail in the event of a conflict with Title IV-E. There are two situations in which this might be the case: 1) child deaths or near deaths and 2) when an entity has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect. The intent of this second provision is to ensure that entities such as law enforcement and the public health authority are able to carry out their responsibilities under to law to protect children from abuse and neglect. A determination must be made that the entity has a need to know, that the entity has specific responsibilities for child protection under law, and the information released is for the purpose of protecting children from child abuse and neglect. We do not believe this second exception was intended to permit confidential information to be provided to legislators in their roles and responsibilities with regard to child welfare.

Title IV-E and IV-B State plan requirements in 45CFR 1355.30(3) also require that records are subject to the confidentiality provisions in 45CFR 205.50. These regulations restrict disclosure of information concerning individuals receiving financial assistance under the programs governed by this provision (including IV-E and IV-B). This regulation also

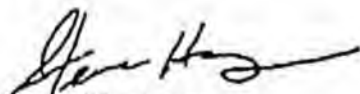
Tammy Sandoval  
Page 2

requires that authorized recipients of this information are in turn subject to the same confidentiality standards as the agencies administering those programs. It is important to note that foster parents who receive confidential information are therefore restricted from disclosing such information.

Failure to meet the federal confidentiality requirements would make the State of Alaska out of compliance with its Title IV E and Title IV B plans and would jeopardize Alaska's federal funding for these programs. In Federal Fiscal Year 2004 federal funding to Alaska for these programs was in excess of 25 million dollars.

We hope this information is helpful to you. If you have further questions please contact Lois Ward, Child Welfare Specialist, at 206-615-2603.

Sincerely,



Steve Henigson  
Regional Administrator

C: Joanne Gibbens

CONCEPTUAL AMENDMENT

adopted

OFFERED IN SENATE FINANCE BY

TO: SCS CSSSHB 53(JUD) Version M

- 1 Page 26, line 10:
- 2 Delete: "foster parent"
- 3
- 4 Insert: "out-of-home care provider"
- 5
- 6

- 7 Page 26, line 11:
- 9 Delete: "foster parent of other"
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15

16 Make language consistent in Court Rule and statutory change in Section 10.

17

18

CONCEPTUAL AMENDMENT

*adopted*

OFFERED IN SENATE FINANCE

BY

TO: SCS CSSSHB 53(JUD) Version M

1 Page 27, line 28:

2 Delete: "in the proceeding"

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Make language consistent in Court Rule and statutory change in Section 10.

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SENATE FINANCE  
COMMITTEE  
Amendment Number: #5  
Bill Number: HB 53  
Sponsor: Green Date: 5/8/05  
Logged In By: Robin

AMENDMENT

adopted

OFFERED IN SENATE FINANCE BY

TO: SCS CSSSHB 53(JUD) Version M

- 1 Page 31, lines 4 through 24:
- 2 Delete all language
- 3
- 4 Renumber following sections accordingly

- 5
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Eliminates Section 59.

SENATE CS FOR CS FOR SS FOR HOUSE BILL NO. 53(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES COGHILL, Ramras, Rokeberg, Kelly, McGuire, Lynn, Anderson, Holm, Neuman, LeDoux

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to child-in-need-of-aid proceedings; amending the construction of  
2 statutes pertaining to children in need of aid; relating to guardianships; relating to the  
3 confidentiality of investigations, court hearings, court records, and public agency  
4 records and information in child-in-need-of-aid matters and certain child protection  
5 matters, to immunity regarding disclosure of information in child-in-need-of-aid matters  
6 and certain child protection matters, to proceedings regarding voluntary relinquishment  
7 and termination of a parent and child relationship, to eligibility for permanent fund  
8 dividends for certain children in the custody of the state, and to juvenile delinquency  
9 proceedings and placements; reestablishing and relating to a state citizens' review panel;  
10 amending the obligation of a public agency to disclose agency information pertaining to  
11 a child in need of aid; relating to disclosure of confidential or privileged information  
12 about children and families involved with children's services within the Department of

1 Health and Social Services to officials for review or use in official capacities; relating to  
 2 reports of harm and to adoptions and foster care; relating to consent for the medication  
 3 of children in state custody; prescribing the rights of family members related to child-in-  
 4 need-of-aid cases and establishing a familial priority for adoption; modifying adoption  
 5 and placement procedures in certain child-in-need-of-aid cases; amending Rules 9 and  
 6 13, Alaska Adoption Rules, Rules 3, 17.2, 18, and 22, Alaska Child in Need of Aid Rules  
 7 of Procedure, and Rules 14 and 15, Alaska Rules of Probate Procedure; and providing  
 8 for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 13.26.055 is amended to read:

11       **Sec. 13.26.055. Court appointment of guardian of minor; qualifications;**  
 12       **priority of minor's nominee and adult family member.** The court may appoint as  
 13       guardian any adult [PERSON] whose appointment would be in the best interests of  
 14       the minor and is consistent with a priority given to an adult family member. The  
 15       court shall appoint a person nominated by the minor, if the minor is 14 years of age or  
 16       older, unless the court finds the appointment contrary to the best interests of the minor.  
 17       In this section, "adult family member" has the meaning given in AS 47.10.990.

18 \* Sec. 2. AS 13.26 is amended by adding a new section to read:

19       **Sec. 13.26.064. Guardianship after voluntary relinquishment; procedure.**  
 20       In addition to the applicable procedures under this chapter, a guardianship decree and  
 21       review of a guardianship decree are governed by the procedures established under  
 22       AS 25.23.180 and, for a child-in-need-of-aid, AS 47.10.089, pertaining to voluntary  
 23       relinquishment of parental rights and retaining of parental privileges in a guardianship  
 24       decree.

25 \* Sec. 3. AS 25.23 is amended by adding a new section to read:

26       **Sec. 25.23.127. Adult family member preference to adopt.** Taking into  
 27       consideration a child's stated preference under AS 25.23.125(a) and consent given  
 28       under AS 25.23.040(a)(5), and unless the court finds that a petition to adopt the child

1 by an adult family member is contrary to the best interest of the child, the court shall  
2 grant a petition to adopt a child by an adult family member who has had physical  
3 custody of the child for at least 12 consecutive months before the parental rights to the  
4 child have been terminated. In this section, "adult family member" has the meaning  
5 given in AS 47.10.990.

6 \* Sec. 4. AS 25.23.180 is amended by adding new subsections to read:

7 (j) In a relinquishment of parental rights executed under (a) of this section, a  
8 parent may retain privileges with respect to the child, including the ability to have  
9 future contact, communication, and visitation with the child. A retained privilege  
10 must be stated in writing with specificity. Not less than 10 days after the  
11 relinquishment is signed, the court may enter an order terminating parental rights if the  
12 court finds that termination of parental rights under the terms of the agreement is in  
13 the child's best interest. If a parent has retained one or more privileges, the court shall  
14 incorporate the retained privileges into the termination order with a recommendation  
15 that the retained privileges be incorporated in an adoption or legal guardianship  
16 decree.

17 (k) A voluntary relinquishment may not be withdrawn and a termination order  
18 may not be vacated on the ground that a retained privilege has been withheld from the  
19 relinquishing parent or that the relinquishing parent has been unable, for any reason, to  
20 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil  
21 Procedure.

22 (l) After a termination order is entered, a person who has voluntarily  
23 relinquished parental rights under this section may request a review hearing, upon a  
24 showing of good cause, to seek enforcement or modification of or to vacate a privilege  
25 retained in the termination order. The court may modify, enforce, or vacate the  
26 retained privilege if the court finds, by clear and convincing evidence, that it is in the  
27 best interest of the child to do so.

28 (m) After a termination order is entered and before the entry of an adoption or  
29 legal guardianship decree, a prospective adoptive parent or a guardian of a child who  
30 is the subject of an adoption decree may request, after providing notice as specified  
31 under this subsection, that the court decline to incorporate a privilege retained in a



1 termination order and recommended for incorporation in an adoption or guardianship  
 2 decree under (j) of this section. The request made under this subsection may only be  
 3 considered by the court after providing at least 20 days' notice by certified mail to the  
 4 last known address of the person who has voluntarily relinquished parental rights to  
 5 the child. The notice under this subsection must describe the request and explain that  
 6 the recipient of the notice may submit a written statement under penalty of perjury to  
 7 the court that the recipient either agrees with or opposes the request. The notice must  
 8 also include the deadline for submitting the statement and the mailing address of the  
 9 court. The court may decline to incorporate a retained privilege if the person who  
 10 retained the privilege agrees with the request or if the court finds that it is in the child's  
 11 best interest.

12 (n) A person who relinquished parental rights is entitled to the appointment of  
 13 an attorney if a hearing is requested under (l) or (m) of this section to the same extent  
 14 as if the parent's rights had not been terminated in a child-in-need-of-aid proceeding.

15 \* Sec. 5. AS 43.23.005(f) is amended to read:

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

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

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

26 \* Sec. 6. AS 47.10.005 is amended to read:

27 Sec. 47.10.005. ~~Instruction.~~ The provisions of this chapter shall be  
 28 liberally construed to

29 (1) achieve the end that a child coming within the jurisdiction of the  
 30 court under this chapter may receive the care, guidance, treatment, and control that  
 31 will promote the child's welfare and the parents' participation in the upbringing of

1 the child to the fullest extent consistent with the child's best interests; and

2 (2) follow the findings set out in AS 47.05.065.

3 \* Sec. 7. AS 47.10.020(a) is amended to read:

4 (a) Whenever circumstances subject a child to the jurisdiction of the court  
5 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency  
6 to make a preliminary inquiry and report for the information of the court to determine  
7 whether the best interests of the child require that further action be taken. The court  
8 shall make the appointment on its own motion or at the request of a person or  
9 agency having knowledge of the child's circumstances. If, under this subsection,  
10 the court appoints a person or agency to make a preliminary inquiry and to report to it,  
11 or if the department is conducting an investigation of a report of child abuse or  
12 neglect, the court may issue any orders necessary to aid the person, the agency,  
13 or the department in its investigation or in making the preliminary inquiry and  
14 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the  
15 court may

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

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

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

21 \* Sec. 8. AS 47.10.020 is amended by adding a new subsection to read:

22 (c) Nothing in this section requires the department to obtain authorization  
23 from the court before

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

25 (2) filing a petition.

26 \* Sec. 9. AS 47.10.070(a) is amended to read:

27 (a) The court may conduct the hearing on the petition in an informal manner.  
28 The court shall give notice of the hearing to the department, and it may send a  
29 representative to the hearing. The court shall also transmit a copy of the petition to the  
30 department. The department shall send notice of the hearing to the persons for whom  
31 notice is required under AS 47.10.030(b) and to each grandparent of the child entitled

1 to notice under AS 47.10.030(d). The department and the persons to whom the  
 2 department must send notice of the hearing are entitled to be heard at the hearing.  
 3 Except as provided in (c) of this section, and unless prohibited by federal or state  
 4 law, court order, or court rule, a hearing is open to the public [HOWEVER, THE  
 5 COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER  
 6 OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE  
 7 CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING  
 8 GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2)  
 9 NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES  
 10 AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE  
 11 EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION,  
 12 MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR  
 13 ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE  
 14 CHILD].

15 \* Sec. 10. AS 47.10.070 is amended by adding new subsections to read:

16 (c) Except as provided in (c) of this section, the following hearings in child-in-  
 17 need-of-aid cases are closed to the public:

18 (1) the initial court hearing after the filing of a petition to commence  
 19 the child-in-need-of-aid case;

20 (2) a hearing following the initial hearing in which a parent, child, or  
 21 other party to the case is present but has not had an opportunity to obtain legal  
 22 representation;

23 (3) a hearing, or a part of a hearing, for which the court issues a written  
 24 order finding that allowing the hearing, or part of the hearing, to be open to the public  
 25 would reasonably be expected to

26 (A) stigmatize or be emotionally damaging to a child;

27 (B) inhibit a child's testimony in that hearing;

28 (C) disclose matters otherwise required to be kept confidential  
 29 by state or federal statute or regulation, court order, or court rule; or

30 (D) interfere with a criminal investigation or proceeding or a  
 31 criminal defendant's right to a fair trial in a criminal proceeding; before ruling

1 on a request under this subparagraph, the court shall give notice and an  
2 opportunity to be heard to the state or a municipal agency that is assigned to  
3 the criminal investigation or to the prosecuting attorney.

4 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not  
5 closed under (c) of this section, the court shall hear in camera any information offered  
6 regarding the location, or readily leading to the location, of a parent, child, or other  
7 party to the case who is a victim of domestic violence or whose safety or welfare may  
8 be endangered by public release of the information. Access to testimony heard in  
9 camera under this subsection is limited to the court and authorized court personnel.

10 (e) The grandparents of the child and an out-of-home care provider may attend  
11 hearings that are otherwise closed to the public under (c) of this section. However, the  
12 court shall limit the presence of these persons in a hearing closed to the public to the  
13 time during which the person's testimony is being given if the court determines that  
14 the limitation is necessary under (c)(3) of this section.

15 (f) Notwithstanding any other provision of this chapter, a person attending a  
16 hearing open to the public may not disclose a name, picture, or other information that  
17 would readily lead to the identification of a child who is the subject of the child-in-  
18 need-of-aid case. At the beginning of the hearing, the court shall issue an order  
19 specifying the restrictions necessary to comply with this subsection. If a person  
20 violates the order, the court may impose any appropriate sanction, including contempt  
21 and closure of any further hearings to the person.

22 \* Sec. 11. AS 47.10.080(c) is amended to read:

23 (c) If the court finds that the child is a child in need of aid, the court shall

24 (1) order the child committed to the department for placement in an  
25 appropriate setting for a period of time not to exceed two years or in any event not to  
26 extend past the date the child becomes 19 years of age, except that the department or  
27 the child's guardian ad litem may petition for and the court may grant in a hearing

28 (A) one year extensions of commitment that do not extend  
29 beyond the child's 19th birthday if the extension is in the best interests of the  
30 child; and

31 (B) an additional one-year period of state custody past [AGE]

1           19 years of age if the continued state custody is in the best interests of the  
2 person and the person consents to it;

3           (2) order the child released to a parent, adult family member  
4 [RELATIVE], or guardian of the child or to another suitable person, and, in  
5 appropriate cases, order the parent, adult family member [RELATIVE], guardian, or  
6 other person to provide medical or other care and treatment; if the court releases the  
7 child, it shall direct the department to supervise the care and treatment given to the  
8 child, but the court may dispense with the department's supervision if the court finds  
9 that the adult to whom the child is released will adequately care for the child without  
10 supervision; the department's supervision may not exceed two years or in any event  
11 extend past the date the child reaches [AGE] 19 years of age, except that the  
12 department or the child's guardian ad litem may petition for and the court may grant in  
13 a hearing

14                   (A) one-year extensions of supervision that do not extend  
15 beyond the child's 19th birthday if the extensions are in the best interests of the  
16 child; and

17                   (B) an additional one-year period of supervision past [AGE] 19  
18 years of age if the continued supervision is in the best interests of the person  
19 and the person consents to it; or

20           (3) order, under the grounds specified in (c) of this section or  
21 AS 47.10.088, the termination of parental rights and responsibilities of one or both  
22 parents and commit the child to the custody of the department, and the department  
23 shall report quarterly to the court on efforts being made to find a permanent placement  
24 for the child.

25 \* Sec. 12. AS 47.10.080(f) is amended to read:

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

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

31                   (2) when establishing the permanent plan for the child, the court shall