

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2820

1 make appropriate written findings, including findings related to whether

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

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

7 (C) the child should be placed in another planned, permanent
8 living arrangement and what steps are necessary to achieve the new
9 arrangement;

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

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

14 (A) whether the department has made the reasonable efforts
15 required under AS 47.10.080 to offer appropriate family support services to
16 remedy the parent's or guardian's conduct or conditions in the home that made
17 the child a child in need of aid under this chapter;

18 (B) whether the parent or guardian has made substantial
19 progress to remedy the parent's or guardian's conduct or conditions in the home
20 that made the child a child in need of aid under this chapter; [AND]

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

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

26 (5) the court shall hold a hearing to review the permanent plan at least
27 annually until successful implementation of the plan; if the plan approved by the court
28 changes after the hearing, the department shall promptly apply to the court for another
29 permanency hearing, and the court shall conduct the hearing within 30 days after
30 application by the department.

31 * Sec. 13. AS 47.10.080(p) is amended to read:

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(p) If a child is removed from the parental home, the department shall provide reasonable visitation between the child and the child's parents, guardian, and family. When determining what constitutes reasonable visitation with a family member, the department shall consider the nature and quality of the relationship that existed between the child and the family member before the child was committed to the custody of the department. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents, guardian, or family members if there is clear and convincing evidence that visits are not in the child's best interests. If the department denies visitation to a parent or family member of a child, the department shall inform the parent or family member of a reason for the denial and of the parent's or adult family member's right to request a review hearing as an interested person. A parent, adult family member, or guardian who is denied visitation may request a review hearing. A non-party adult family member requesting a review hearing under this subsection is not eligible for publicly appointed legal counsel.

* Sec. 14. AS 47.10.080 is amended by adding new subsections to read:

(t) For a child who is placed in foster care, when the department finds that it is in the best interest of a child and that the foster family will not be placed in undue risk of harm, the department shall require foster parents to provide regular opportunities for visitation with the child by the parents of the child and encourage foster parents to serve as mentors for facilitating family reunification.

(u) A hearing conducted under this section is open to the public unless an exception provided in AS 47.10.070(c) applies to make the hearing closed to the public or unless prohibited by federal or state statute or regulation.

* Sec. 15. AS 47.10.084(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling

Amend #1
Language deleted

1 under AS 25.20.025, and the responsibility for support, except if by court order any
 2 residual right and responsibility has been delegated to a guardian under (b) of this
 3 section. In this subsection, "major medical treatment" includes the
 4 administration of medication used to treat a mental health disorder.

5 * Sec. 16. AS 47.10.088(i) is amended to read:

6 (i) The department shall concurrently identify, recruit, process, and approve a
 7 qualified person or family for an adoption whenever a petition to terminate a parent's
 8 rights to a child is filed. Before identifying a placement of the child in an adoptive
 9 home, the department shall attempt to locate all living adult family members of
 10 the child and, if an adult family member expresses an interest in adopting the
 11 child, investigate the adult family member's ability to care for the child. The
 12 department shall provide to all adult family members of the child located by the
 13 department written notice of the adult family members' rights under this chapter
 14 and of the procedures necessary to gain custody of the child, but the
 15 department's obligation to provide written notice under this subsection does not
 16 apply to a parent of the child whose parental rights are being or have been
 17 terminated or to an adult family member who is known by the department to be
 18 ineligible for a foster care license under AS 47.35.019 or 47.35.021. If an adult
 19 family member of the child requests that the department approve the adult
 20 family member for an adoption, the department shall approve the request unless
 21 there is good cause not to approve the adoption. If the court issues an order to
 22 terminate under (j) of this section, the department shall report within 30 days on the
 23 efforts being made to recruit a permanent placement for the child if a permanent
 24 placement was not approved at the time of the trial under (j) of this section. The
 25 report must document recruitment efforts made for the child.

26 * Sec. 17. AS 47.10 is amended by adding a new section to read:

27 Sec. 47.10.089. Voluntary relinquishment of parental rights and
 28 responsibilities. (a) When a child is committed to the custody of the department
 29 under AS 47.10.080(e)(1) or (3) or released under AS 47.10.080(e)(2), the rights of a
 30 parent with respect to the child, including parental rights to control the child, to
 31 withhold consent to an adoption, or to receive notice of a hearing on a petition for

1 adoption, may be voluntarily relinquished to the department and the relationship of
2 parent and child terminated in a proceeding as provided under this section.

3 (b) A voluntary relinquishment must be in writing and signed by a parent,
4 regardless of the age of the parent, in the presence of a representative of the
5 department or in the presence of a court of competent jurisdiction with the knowledge
6 and approval of the department. A copy of the signed relinquishment shall be given to
7 the parent.

8 (c) A voluntary relinquishment may be withdrawn within 10 days after it is
9 signed. The relinquishment is invalid unless the relinquishment contains the right of
10 withdrawal as specified under this subsection.

11 (d) A parent may retain privileges with respect to the child, including the
12 ability to have future contact, communication, and visitation with the child in a
13 voluntary relinquishment executed under this section. A retained privilege must be in
14 writing and stated with specificity.

15 (e) Not less than 10 days after a voluntary relinquishment is signed, the court
16 shall enter an order terminating parental rights if the court determines that termination
17 of parental rights under the terms of the relinquishment is in the child's best interest.
18 If a parent has retained one or more privileges under (d) of this section, the court shall
19 incorporate the retained privileges in the termination order with a recommendation
20 that the retained privileges be incorporated in an adoption or legal guardianship
21 decree.

22 (f) A voluntary relinquishment may not be withdrawn and a termination order
23 may not be vacated on the ground that a retained privilege has been withheld from the
24 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
25 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
26 Procedure.

27 (g) After a termination order is entered, a person who has voluntarily
28 relinquished parental rights under this section may request a review hearing, upon a
29 showing of good cause, to seek enforcement or modification of or to vacate a privilege
30 retained in the termination order. The court may modify, enforce, or vacate the
31 retained privilege if the court finds, by clear and convincing evidence, that it is in the

1 best interest of the child to do so.

2 (h) After a termination order is entered and before the entry of an adoption or
3 legal guardianship decree, a person who voluntarily relinquished parental rights to a
4 child under this section may request a review hearing, upon a showing of good cause,
5 to vacate the termination order and reinstate parental rights relating to that child. A
6 court shall vacate a termination order if the person shows, by clear and convincing
7 evidence, that reinstatement of parental rights is in the best interest of the child and
8 that the person is rehabilitated and capable of providing the care and guidance that will
9 serve the moral, emotional, mental, and physical welfare of the child.

10 (i) A person who relinquished parental rights is entitled to the appointment of
11 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same
12 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
13 proceeding.

14 (j) After a termination order is entered and before the entry of an adoption or
15 legal guardianship decree, a prospective adoptive parent or a guardian of a child who
16 is the subject of the adoption or guardianship decree may request, after providing
17 notice as specified under this subsection, that the court decline to incorporate a
18 privilege retained in a termination order and recommended for incorporation in an
19 adoption or guardianship decree under (e) of this section. The request made under this
20 subsection may only be considered by the court after providing at least 20 days' notice
21 by certified mail to the last known address of the person who has voluntarily
22 relinquished parental rights to the child. The notice under this subsection must
23 describe the request and explain that the recipient of the notice may submit a written
24 statement under penalty of perjury to the court that the recipient either agrees with or
25 opposes the request. The notice must also include the deadline for submitting the
26 statement and the mailing address of the court. The court may decline to incorporate a
27 retained privilege if the person who retained the privilege agrees with the request or if
28 the court finds that it is in the child's best interest.

29 * Sec. 18. AS 47.10.090(e) is amended to read:

30 (e) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
31 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]

1 18th birthday, within 30 days after [OF] the date on which the court releases
 2 jurisdiction over the child [MINOR], the court shall order all the court's official
 3 records pertaining to that child [MINOR] in a proceeding under this chapter sealed. A
 4 person may not use these sealed records unless authorized by order of [FOR ANY
 5 PURPOSE EXCEPT THAT] the court upon a finding of [MAY ORDER THEIR
 6 USE FOR] good cause [SHOWN].

7 * Sec. 19. AS 47.10.090(d) is amended to read:

8 (d) The name or picture of a child [MINOR] under the jurisdiction of the court
 9 may not be made public in connection with the child's [MINOR'S] status as a child in
 10 need of aid unless authorized by order of the court or unless to implement the
 11 permanency plan for a child after all parental rights of custody have been
 12 terminated. This subsection does not prohibit the release of aggregate
 13 information for statistical or other informational purposes if the identity of any
 14 particular person is not revealed by the release.

15 * Sec. 20. AS 47.10.092(a) is amended to read:

16 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
 17 a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose
 18 confidential or privileged information about the child or the child's family, including
 19 information that has been lawfully obtained from agency or court files, to the
 20 governor, the lieutenant governor, a legislator, the ombudsman appointed under
 21 AS 24.55, the attorney general, and the commissioner [COMMISSIONERS] of health
 22 and social services, administration, or public safety, or an employee of these persons,
 23 for review or use in their official capacities. The Department of Health and Social
 24 Services and the Department of Administration [DEPARTMENT] shall disclose
 25 additional confidential or privileged information, excluding privileged attorney-
 26 client information, and make copies of documents available for inspection about the
 27 child or the child's family to these state officials or employees for review or use in
 28 their official capacities upon request of the official or employee and submission of
 29 satisfactory evidence that a parent or legal guardian of the child has requested the state
 30 official's assistance in the case as part of the official's duties. A person to whom
 31 disclosure is made under this section may not disclose confidential or privileged

1 information about the child or the child's family to a person not authorized to receive
2 it.

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

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

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

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

15 (a) Except as permitted [SPECIFIED] in AS 47.10.092 and in (b) - (g) and
16 (k) - (n) [(b) - (g)] of this section, all information and social records pertaining to a
17 child [MINOR] who is subject to this chapter or AS 47.17 prepared by or in the
18 possession of a federal, state, or municipal agency or employee in the discharge of the
19 agency's or employee's official duty are privileged and may not be disclosed directly
20 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 (3) an out-of-home care provider [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 (4) a school official [OFFICIALS] as [MAY BE] necessary to enable
 7 the school to provide appropriate counseling and support services to a [THE] child
 8 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 (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 (6) a law enforcement agency of this state or another jurisdiction as
 14 [MAY BE] necessary for the protection of any child or for actions by that agency to
 15 protect the public;

16 (7) 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 (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 (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 (10) the child support services agency established in AS 25.27.010 as
 25 [MAY BE] necessary to establish and collect child support for a child who is a child in
 26 need of aid under this chapter;

27 (11) a parent, guardian, or caregiver of a child or an entity
 28 responsible for ensuring the safety of children as necessary to protect the safety
 29 of a child; and

30 (12) a review panel established by the department for the purpose
 31 of reviewing the actions taken by the department in a specific case.

Amend
 #2
 language
 deleted

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 commissioner of health and social services or the commissioner's
20 designee or the commissioner of administration or the commissioner's designee, as
21 appropriate, may disclose to the public, upon request, confidential information, as set
22 out in (l) of this section, when

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

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

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

30 (l) The type of information that may be publicly disclosed under (k) of this
31 section is information related to the determination, if any, made by the department

1 regarding the validity of a report of harm under AS 47.17 and the department's
 2 activities arising from the department's investigation of the report. The commissioner
 3 or the commissioner's designee

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

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

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

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

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

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

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

27 (1) the application of a department policy or procedure under this
 28 chapter;

29 (2) compliance with this chapter or a regulation adopted under this
 30 chapter; or

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

1 (b) The department shall prepare and distribute to each parent of a child who
 2 is under the jurisdiction of the department a written copy of the grievance procedure
 3 developed under (a) of this section.

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

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

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

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

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

15 (28) "adult family member" means a person who is 18 years of age or
 16 older and who is

17 (A) related to the child as the child's grandparent, aunt, uncle,
 18 or sibling; or

19 (B) the child's sibling's legal guardian or parent;

20 (29) "family member" means a person of any age who is

21 (A) related to the child as the child's grandparent, aunt, uncle,
 22 or sibling; or

23 (B) the child's sibling's legal guardian or parent;

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

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

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

29 (10) "mental health professional" has the meaning given in
 30 AS 47.30.915, except that, if the minor is placed in another state by the
 31 department, "mental health professional" also includes a professional listed in

1 the definition of "mental health professional" in AS 47.30.915 who is not licensed
 2 to practice by a board of this state but is licensed by a corresponding licensing
 3 authority to practice in the state in which the minor is placed;

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

5 (a) Subject to (c), (f), and (i) - (m) [(i) - (l)] of this section, the department
 6 shall arrange for the care of every child committed to its custody by placing the child
 7 in a foster home or in the care of an agency or institution providing care for children
 8 inside or outside the state. The department may place a child in a suitable family
 9 home, with or without compensation, and may place a child released to it, in writing
 10 verified by the parent, or guardian or other person having legal custody, for adoptive
 11 purposes, in a home for adoption in accordance with existing law.

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

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

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

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

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

20 (A) an adult family member;

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

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

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

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

28 (f) If an adult family member [A BLOOD RELATIVE] of the child
 29 specified under (e) of this section exists and agrees that the child should be placed
 30 elsewhere, before placement elsewhere, the department shall fully communicate the
 31 nature of the placement proceedings to the adult family member [RELATIVE].

1 Communication under this subsection shall be made in the adult family member's
2 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION
3 OR IN (e) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR
4 ADOPTIVE PURPOSES.]

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

6 (j) For the purpose of determining whether the home of a relative meets the
7 requirements for placement of a child under (e) of this section or under
8 AS 47.10.088(i), the department shall conduct a criminal background check from state
9 and national criminal justice information available under AS 12.62. The department
10 may conduct a fingerprint background check on any member of the relative's
11 household who is 16 [12] years of age or older when the relative requests placement of
12 the child. For the purposes of obtaining criminal justice information under this
13 subsection, the department is a criminal justice agency conducting a criminal justice
14 activity under AS 12.62.

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

16 (m) Prima facie evidence of good cause not to place a child with an adult
17 family member or family friend under AS 47.10.088(i) or under (e) of this section
18 includes grounds for denial of a foster care license under AS 47.35.019 or 47.35.021.
19 Prima facie evidence of good cause not to place a child with an adult family member
20 or adult family friend does not include poverty or inadequate or crowded housing. If
21 the department denies a request for placement with an adult family member or a
22 family friend, the department shall inform the adult family member or family friend of
23 the basis for the denial and the right to request a hearing to review the decision. A
24 non-party adult family member or family friend requesting a review hearing under
25 AS 47.10.088(i) or under (e) of this section is not eligible for publicly appointed legal
26 counsel.

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

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

1 (b) The panel shall meet not less than once every three months. Meetings may
2 take place telephonically.

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

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

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

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

10 (3) any other criteria that the panel considers important to ensuring the
11 protection of children, including the level and efficiency of coordination of foster care
12 and adoption programs in the state and a review of child fatalities and near fatalities.

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

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

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

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

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

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

25 **Sec. 47.14.235. Confidentiality.** (a) A person attending a meeting of the
26 state panel or a member or staff of the state panel may not make any disclosure related
27 to information obtained during a review by the state panel unless authorized under
28 AS 47.10.092 or 47.10.093.

29 (b) Meetings of the state panel are subject to AS 44.62.310 and 44.62.312.

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

31 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public

1 outreach and gather public comment on current department procedures and practices
2 involving children and family services.

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

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

8 (b) Not later than six months after the date on which the report is released
9 under (a) of this section, the department shall submit a written response to the report.
10 The department's response must include a description of whether and how the
11 department will incorporate the recommendations of the panel, where appropriate.

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

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

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

16 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who
17 furnishes services to or advises the state panel is not liable for damages or other relief
18 in an action involving the performance or failure to perform a duty or other activity of
19 the state panel.

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

21 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

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

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

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

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

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

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

1 (a) If the department or a law enforcement agency provides written
2 certification to the child's school officials that (1) there is reasonable cause to suspect
3 that the child has been abused or neglected by a person responsible for the child's
4 welfare or as a result of conditions created by a person responsible for the child's
5 welfare; (2) an interview at school is a necessary part of an investigation to determine
6 whether the child has been abused or neglected; and (3) the interview at school is in
7 the best interests of the child, school officials shall permit the child to be interviewed
8 at school by the department or a law enforcement agency before notification of, or
9 receiving permission from, the child's parent, guardian, or custodian. A school official
10 shall be present during an interview at the school unless the child objects or the
11 department or law enforcement agency determines that the presence of the school
12 official will interfere with the investigation. The interview shall be conducted as
13 required under AS 47.17.033. Immediately after conducting an interview authorized
14 under this section, and after informing the child of the intention to notify the child's
15 parent, guardian, or custodian, the department or agency shall make every reasonable
16 effort to notify the child's parent, guardian, or custodian that the interview occurred
17 unless it appears to the department or agency that notifying the child's parent,
18 guardian, or custodian would endanger the child.

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

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

25 (d) An interview of a child conducted as a result of a report of harm may be
26 audiotaped or videotaped. If an interview of a child concerns a report of sexual abuse
27 of the child by a parent or caretaker of the child, the interview shall be videotaped,
28 unless videotaping the interview is not feasible or will, in the opinion of the
29 investigating agency, result in trauma to the child.

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

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

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

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

6 (f) An interview of a child may not be videotaped more than one time unless
7 the interviewer or the investigating agency determines that one or more additional
8 interviews are necessary to complete an investigation. If additional interviews are
9 necessary, the additional interviews shall be conducted, to the extent possible, by the
10 same interviewer who conducted the initial interview of the child.

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

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

15 (i) In this section, "child advocacy center" means a facility operated with a
16 child-focused, community partnership committed to a multidisciplinary team approach
17 that includes representatives from law enforcement, child protection, criminal
18 prosecution, victim advocacy, and the medical and mental health fields who
19 collaborate and assist in investigating allegations of sexual or other abuse and neglect
20 of children.

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

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

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

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

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

31 DIRECT COURT RULE AMENDMENT. Rule 3(e), Alaska Child in Need of

Amend #3

this language deleted

1 Aid Rules of Procedure, is amended to read:

2 (c) Presence of Grandparent or out-of-home care provider [FOSTER
 3 PARENT]. A grandparent of a child and the [FOSTER PARENT OR OTHER]
 4 out-of-home care provider are [IS] entitled to be heard at any hearing at which the
 5 person is present. However, the court may limit the presence of these persons in a
 6 hearing that has been closed to the public under (f)(2) of this rule [THE FOSTER
 7 PARENT OR CARE PROVIDER] to the time during which the person's testimony is
 8 being given if the court determines that such a limitation is necessary under the
 9 circumstances listed in (f)(2)(C) of this rule [IT IS (1) IN THE BEST INTEREST
 10 OF THE CHILD; OR (2) NECESSARY TO PROTECT THE PRIVACY
 11 INTERESTS OF THE PARTIES AND WILL NOT BE DETRIMENTAL TO THE
 12 CHILD].

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

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

17 (f) General Public Access to Hearings.

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

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

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

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

27 (C) a hearing, or a part of a hearing, for which the court issues
28 a written order finding that allowing the hearing, or part of the hearing, to be
29 open to the public would reasonably be expected to stigmatize or be
30 emotionally damaging to a child; inhibit a child's testimony in the hearing;
31 disclose matters otherwise required to be kept confidential by state or federal

1 statute or regulation, court order, or court rule; or interfere with a criminal
 2 investigation or proceeding or a criminal defendant's right to a fair trial in a
 3 criminal proceeding.

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

8 (4) If the court closes a hearing to the public under (2)(C) of this
 9 paragraph, the court shall close only the portions of the hearing necessary to prevent
 10 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
 11 is open to the public, the court shall hear in camera any information offered regarding
 12 the location, or readily leading to the location, of a parent, child, or other party to the
 13 case who is a victim of domestic violence or whose safety or welfare may be
 14 endangered by the public release of information. Access to testimony heard in camera
 15 under this subparagraph is limited to the court and authorized court personnel.

16 (5) Notwithstanding any other provision of this rule, the court shall
 17 issue an order to prohibit all persons in a hearing open to the public from disclosing to
 18 any person a name, picture, or other information that would readily lead to the
 19 identification of a child who is the subject of the proceeding. If a person violates the
 20 order, the court may impose any appropriate sanction, including contempt and closure
 21 of any further hearings to the person.

22 (6) A party to the proceeding may move the court to close to the public
 23 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this
 24 paragraph. A member of the public may request in writing to be served with a motion
 25 filed under this subparagraph. If such a request has been filed in advance of the filing
 26 of the motion, the party filing the motion must also serve the member of the public
 27 who requested notice under this subparagraph. The court may waive the service
 28 required under this subparagraph to a member of the public if a motion to close the
 29 hearing, or part of the hearing, is made under this subparagraph immediately before or
 30 during the hearing and the court finds that

31 (A) the need for closure was not reasonably foreseeable

Amend
 #4
 language
 deleted

1 sufficiently in advance of the hearing to allow for notice;

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

5 (C) whatever notice is practicable under the circumstances has
6 occurred.

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

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

11 (f) **Additional Findings.** In addition to the findings required under paragraph
12 (e), the court shall also make written findings related to

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

17 (2) whether the parent or guardian has made substantial progress to
18 remedy the parent's or guardian's conduct or conditions in the home that made the
19 child a child in need of aid; **[AND]**

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

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

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

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

29 (d) **Relinquishment.**

30 (1) Notwithstanding other provisions of this rule, the court may
31 terminate parental rights after a voluntary relinquishment pursuant to AS 47.10.089

1 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the
2 requirements set forth in 25 U.S.C. § 1913(c).

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

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

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

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

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

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

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

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

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

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

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

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

27 * Sec. 57. 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(g), Alaska Adoption Rules,
30 is amended to read:

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

1 The parent of a non-Indian child may withdraw a consent or relinquishment by
 2 notifying in writing the court, or the person or agency obtaining the consent or
 3 relinquishment, within 10 days of the birth or signing of the consent or
 4 relinquishment, whichever is later. Notification is timely if received or postmarked on
 5 or before the last day of this time period. The parent may move the court to permit
 6 withdrawal of the consent or relinquishment after the 10 day period pursuant to
 7 AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a
 8 relinquishment.

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

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

13 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be
 14 entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089.
 15 The court shall enter findings of fact which must include a statement concerning
 16 whether visitation rights are being allowed under AS 25.23.130(c) or other privileges
 17 are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit
 18 for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in
 19 the presence of the court, findings also must be entered as to whether the parent
 20 understood the consequences of the relinquishment, and whether the relinquishment
 21 was voluntarily signed.

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

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

30 INDIRECT COURT RULE AMENDMENT. (a) AS 13.26.064, added by sec. 2 of
 31 this Act, amends Rules 14 and 15, Alaska Rules of Probate Procedure, by providing that

Amended
language
deleted

1 retained privileges be set out in the guardianship decree and by providing additional
2 procedures related to a voluntary relinquishment of parental rights.

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

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

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

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

17 * **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

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

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

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

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

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

3 (c) Sections 9, 10, 14, and 19 - 27 of this Act apply to all information, records, and
4 files created on or after the effective date of those sections; however, if a file contains
5 information and records that were created before the effective date of secs. 9, 10, 14, and 19 -
6 27 of this Act, that information and those records retain the confidentiality that they had under
7 the law on the day before the effective date of secs. 9, 10, 14, and 19 - 27 of this Act.

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

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

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

16 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
17 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to
18 "Involuntary termination of parental rights and responsibilities."

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

21 CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of
22 Aid Rules of Procedure, made by secs. 51 and 52 of this Act, take effect only if secs. 51 and
23 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
24 Constitution of the State of Alaska.

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

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

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

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

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

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

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

17 (i) AS 13.26.064, added by sec. 2 of this Act, AS 25.23.180(j) - (n), added by sec. 4
18 of this Act, and AS 47.10.089, added by sec. 17 of this Act, take effect only if sec. 59(a) and
19 (b) of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
20 Constitution of the State of Alaska.

21 * **Sec. 65.** If, under sec. 64 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(u), enacted
22 by sec. 14 of this Act, and secs. 19 and 22 - 27 of this Act take effect, they take effect July 1,
23 2005.

24 * **Sec. 66.** Except as provided in sec. 65 of this Act, this Act takes effect immediately under
25 AS 01.10.070(e).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 8 May 2005 TIME: 7:10 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 6

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

SCS ~~CS~~ HB 53 (FIN) 24-LS0251 \M

Plus 5 amendments - attached

Thx
Mindy

Conceptual Amendment

Page 17, line 6:

Delete: ", the legislature, or the governor"

Rationale:

To comply with federal law

Conceptual Amendment

Page 26, line 10

Delete: "Foster Parent"

Insert: "out-of-home care provider"

Page 26

Line, 11

Delete: "foster parent or other"

Rationale:

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

Conceptual Amendment

~~7/2~~

Page 27, Line 28:

Delete: " in the proceeding "

Rationale:

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

ALASKA STATE HOUSE OF REPRESENTATIVES

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Session Contact:
(907)-465-3719
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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

FAMILY RIGHTS ACT

SCS CSSHB 53(JUD)

Sponsor Statement

My belief that children belong to their parents and that families should be preserved was why I ran for office the first time in 1998. To protect vulnerable children the government requires parents to raise their children by certain standards, and I believe government should be held to those high standards when they take children into their custody. Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

HB 53 is an omnibus bill that does many things. It deletes language from the law that implies there is no duty and standard of care for social workers making decisions for children in state custody. I believe the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 953 P.2d 871 (Alaska 1998) does create a duty to children in state custody and believe there is a civil liability for wrongdoing.

HB 53 is a consolidation of legislation introduced or proposed by Governor Murkowski, Representative Rokeberg, Representative McGuire, and myself. I wanted to consolidate the bills so we didn't come up with four bills that wanted to accomplish the same things in different way, and ended by creating chaos in the system.

The bill creates a transparent process by making confidential information currently unavailable accessible to certain people, and making court proceedings open to the public. When a person attends a CINA hearing the court issues an order for confidentiality outlining what information can be revealed to the public and what the sidebars are. If a person violates the court order they are subject to sanctions that include being barred from any further CINA proceedings.

An additional safeguard to transparency and due process is the re-establishment of a state review panel that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS.

This legislation also strengthens the rights of adult family members (including grandparents), especially those who have already been instrumental in raising the child. Many times when parents run awry of OCS, grandparents or other adult relatives get placement of the child. If parental rights are terminated, those raising the child should have preference for

adoption. Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Other adult family members and grandparents also gain accessibility to information and hearings in CINA cases through this legislation.

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to have been sexually abused. This creates accountability in interviewing and protects the child from multiple interrogations. It requires mandatory videotaping of suspected victims of sexual abuse. The bill also defines CAC's in state statute for the first time.

Senate Judiciary amended the bill to add a new court rule that would allow the admissibility into evidence videotaped statements made by victims of crime that are less than 16 years of age.

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

FISCAL NOTE TOTALS

SCS CSSSHB 53(JUD)

Fiscal Note No.	Dept.	Component		Fiscal Impact	
12	DOA	Public Defender	\$	82,700.00	x
13	DOA	OPA	\$	161,300.00	x
14	Courts	Trial Courts	\$	94,900.00	x
15	OCS	Children's Services Management	\$	142,700.00	x
16	OCS	Front Line Workers	\$	106,200.00	x
17	Law	Civil Human Services	\$	586,400.00	x
		Total Fiscal Impact	\$	1,174,200.00	

FAMILY RIGHTS ACT
SCS CSSSHB 53(JUD)

Reference to HB 114 = SB 83

Reference to HB 113 = SB 84

*****CONSOLIDATION OF BILLS*****

HB 53 is a consolidation of legislation introduced or proposed by Governor Murkowski, Representative Rokeberg, Representative McGuire, and myself. I wanted to consolidate the bills so we didn't come up with four or five bills that wanted to accomplish the same things in different ways and ended up creating chaos in the system.

This bill is an excellent example of why the committee process is so important to debate the policy issues of our state. Four committees in the House have in whole or in part scrutinized this bill. Probably half of this body has contributed language to this bill.

*****ELIMINATES NO DUTY LANGUAGE*****

It eliminates from the law language that implies there is no duty and standard of care for social workers making decisions for children in state custody. I believe the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 953 P.2d 871 (Alaska 1998) does create a duty to children in state custody and believe there is a civil liability for wrongdoing. (Sec. 29) Coghill

*****STRENGTHENS FAMILIES*****

This legislation also strengthens the rights of adult family members (including grandparents), especially those who have already been instrumental in raising the child. Many times when parents run awry of OCS, grandparents or other adult relatives get placement of the child. If parental rights are terminated, those raising the child should have preference for adoption. (Sec. 3) Coghill

Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Other adult family members and grandparents also gain accessibility to information and hearings in CINA cases through this legislation. (Sec. 10) Governor

It provides for the least restrictive placement in close proximity of the parents for reunification purposes. The preference for placement is: (Sec. 33) Coghill

1. an adult family member
2. a family friend
3. a licensed foster home
4. an institution

It requires OCS to do everything possible to provide parental and family visitation for children and if OCS denies visitation they must provide a reason. The family members will be informed of their right to a hearing if denied. (Sec. 13) Rokeberg

HB 53 puts into statute provisions that allow for a voluntary relinquishment of parental rights that carries with it a right to retain certain parental rights such as visitation or the ability to contact the child at a later date. OCS currently allows for voluntary relinquishment but the court has said OCS does not have statutory authority to do it. (Sec. 4 and Sec. 17) Governor

It establishes that poverty is not a reason to deny placement with relatives.
(Sec. 37) Department of Law Amendment

It established that parental rights cannot be terminated solely on the basis that the parent did not get treatment is the treatment was not available and OCS did not provide treatment. (Sec. 14) Coghill

We encourage OCS to provide the training for foster parents to become mentors to encourage family reunification without placing foster homes at risk.
(Sec. 14) Coghill

HB 53 amends the definition of "major medical treatment to include medication used to treat a diagnosed mental health disorder. (Sec. 15) Governor

*****MAKE THE PROCESS TRANSPARENT*****

The bill creates a transparent process by making currently unavailable confidential information currently available to certain people and making court proceedings open to the public. (Sec. 9) Governor

There are sideboards for such proceedings: (Sec. 10) Governor

1. If a child could be stigmatized or emotionally damaged
2. If it would interfere with a criminal investigation
3. If disclosure would violate state or federal law

When a person attends a CINA hearing the court issues an order for confidentiality outlining what information can be revealed to the public and what the sidebars are. The Finance Committee strengthened sanctions if a person violates the court order. Now those persons are subject to sanctions that include being barred from any future CINA proceedings regardless of who the parties are. (Sec. 10) Governor

A grievance process is established in law and the department is required to provide to each parent a copy of the grievance procedures. (Sec.

28) Coghill

An additional safeguard to transparency and due process is the establishment of a state review panel that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS. The panel will be subject to the Open Meetings Act and will have the ability to meet in executive session. (Sec. 38 - 44) Coghill

It enacts provisions that would allow OCS to disclose confidential information to the public under certain circumstances: (Sec. 27) Governor

1. When the parents have disclosed confidential information about OCS's involvement in a case to the public.
2. When the perpetrator has been charged with a crime
3. When a report of harm has resulted in a death or near fatality

*****VIDEOTAPING & CAC'S*****

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to be children in need of aid (CINA). This creates accountability in interviewing and protects the child from multiple interrogations. It requires mandatory videotaping of suspected victims of sexual abuse.

(Sec. 49) Coghill

The bill defines Child Advocacy Centers in state statute. The definition is language agreed upon by the Department of Law, OCS, and the Child Advocacy Centers. (Sec. 49) Coghill

Established criteria for schools to follow when a child is to be interviewed and directs OCS to work with law enforcement and schools in establishing procedures for interviewing. (Sec. 26) Governor

*****RESPONSIVE TO THE PUBLIC*****

It requires OCS to within 20 days respond to a voluntary reporter whether or not OCS has opened a case. (Sec. 47) Rokeberg

Requires OCS to work with legislative offices and the Ombudsman's Office when dealing with constituent cases. (Sec. 20) Rokeberg

Provides that legislative offices can remain a non-party participant of a case even when the parental rights have been terminated. (Sec. 21) Coghill

*****CONCLUSION*****

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

Sectional for SCS CSSSHB 53(HSS)

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

SB 83 Governor Voluntary Relinquishment
Indirect Rule Change
Rules 14 and 15, Rules of Probate Procedure

HB 53 Coghill Relative Preference for Adoption

SB 83 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.

If an open hearing could stigmatize or emotionally damage the child, inhibit a child's testimony, interfere with a criminal investigation, or disclose information protected as confidential by state or federal law, the hearing can be closed.

SB 83 Governor Protection of Child's Dividend

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

SB 83 Governor Improving the Process

SB 83 Governor Improving the Process

SB 84 Governor Open the Process

Direct Rule Change
Rule 3 Alaska CINA Rules of Procedure Sec. 50

SB 84 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. An amendment in House Finance would permit the court to bar a violator or the court restrictions from all future hearings regardless of who the parties are.

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:

(t) 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.

(u) Requires foster parents to provide regular

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

with family and to encourage foster parents to serve as mentors for facilitating family reunification.

(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. Adult family members who have had parental rights terminated or are ineligible for foster care licensing do not have to be notified.

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.

SB 84 Governor Open the Process

HB 53 Governor Family Preservation

HB 17 Rokeberg Placement with Relatives

SB 83 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

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

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. Provides that unless information and records are available through the changes in law in HB 53, information and records of government agencies are confidential and cannot be disclosed without a court order.

Sec. 23. Language clean up to replace "foster parents" with "a foster parent" and "relatives" to "out-of-home care provider". 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. The House Finance added guardians ad litem back into this category and clarified that caregivers include parents or guardians.

SB 84 Governor Improving the Process

SB 84 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

SB 83 Rokeberg Family Preservation

HB 53 Coghill Improving the Process

SB 84 Governor

SB 84 Governor Improving the Process
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

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.

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 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.

LAA Legal

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Language cleanup

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

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.

Sec. 29. Provides that failure to comply with a provision of this title [AS 47] does not constitute a basis for civil liability for damages and does nothing to change the Alaska Supreme Court's opinion that OCS has a duty to children in state custody.

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. House Finance amended the definition of "adult family member to include a sibling's parent or legal guardian.

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, a licensed foster home, 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. Expands the requirement of OCS fully communicating information about placement of the child elsewhere to not only the parents, but also to adult family members.

HB 53 Coghill Improving the Process

HB 53 Coghill Accountability

SB 83 Governor Improving the Process

SB 83 & LAA Legal

SB 83 Governor Improving the Process

HB 53 Coghill Family Preservation

HB 17 Rokeberg Improving the Process

HB 17 Rokeberg Improving the Process

Sec. 36. Provides that criminal background checks are required for both temporary placements and adoptive placements including finger print background check on anyone residing at the home who is 16 or older.

Sec. 37. Established that poverty is not a Prima facie evidence (a fact presumed to be true unless disproved by evidence to the contrary) 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. o

Sec. 38. Creates a State Citizens Review Panel consisting of volunteers who are broadly representative of the state.

Sec. 39. 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.

Sec. 40. 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. 41. Instructs the members of the panel, panel staff, and attendees of panel meetings 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. It also clarifies that the panel would be covered by the Open Meetings Act and would have the ability to call executive sessions.

Sec. 42. Directs the panel to conduct public outreach and gather information on the department's current procedures and practices.

Department of Law amendment

Department of Law amendment

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

Sec. 43. 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. 44 Imposes a civil penalty for violating the confidentiality clauses for up to \$2,500 per violation.

Sec. 45. Creates immunity for state panel members and persons provided support to the panel.

Sec. 46. 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. 47. Requires OCS to notify a person who has made a ROH with a status report within 20 days.

Sec. 48. 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. 49. 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 necessary. The House Finance Committee discussed "may" versus "shall" for videotaping. They agreed to be permissive for many Reports of Harm, but if the report of harm is that involved a report of sexual abuse, the interview "shall" be videotaped, unless the interview is not feasible or will result in trauma to the child.

Since HB 53 encourages OCS to utilize child advocacy centers, the House Finance Committee added a subsection to this section that created a definition for child advocacy centers.

Sec. 50. 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.

HB 53 Coghill Improving the Process

HB 53 Coghill Due Process

HB 53 Coghill Improving the process

HB 53 Coghill Improving the process

HB 17 Rokeberg Improving the process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Department of Law

Court Rules Changes Due to Legislation

Sec. 51. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 52. 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. 53. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 54. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 55. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 56. Rule change for voluntary relinquishment with other parental privileges.

Sec. 57. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 58. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 59. Various indirect rule change provisions.

Sec. 60. Indirect rule changes for disclosure of confidential information.

Sec. 61. Applicability.

Sec. 62. Transition language to implement changes through regulation.

Sec. 63. Revisor's instructions.

Sec. 64. Conditional Effect.

Sec. 65-66. Effective dates.

HB 53



DEPARTMENT OF HEALTH & 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

Provided by Rep. Rokeberg

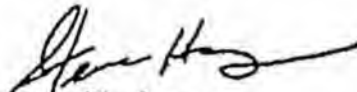
Tammy Sandoval
Page 2

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

SCS CSSSHB 53(FIN)

Family Rights Act



Senate Records

ALASKA STATE HOUSE OF REPRESENTATIVES

Interim Address:
3340 Badger Road
North Pole, AK 99705
(907)-488-5725
Fax# (907)-488-4271



Session Contact:
(907)-465-3719
FAX# (907)-465-3258
State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

FAMILY RIGHTS ACT

SCS CSSHIB 53(JUD)

Sponsor Statement

My belief that children belong to their parents and that families should be preserved was why I ran for office the first time in 1998. To protect vulnerable children the government requires parents to raise their children by certain standards, and I believe government should be held to those high standards when they take children into their custody. Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

HB 53 is an omnibus bill that does many things. It deletes language from the law that implies there is no duty and standard of care for social workers making decisions for children in state custody. I believe the Alaska Supreme Court's ruling in *Karen L. v Alaska DFYS*, 953 P.2d 871 (Alaska 1998) does create a duty to children in state custody and believe there is a civil liability for wrongdoing.

HB 53 is a consolidation of legislation introduced or proposed by Governor Murkowski, Representative Rokeberg, Representative McGuire, and myself. I wanted to consolidate the bills so we didn't come up with four bills that wanted to accomplish the same things in different ways and ended by creating chaos in the system.

The bill creates a transparent process by making confidential information currently unavailable accessible to certain people, and making court proceedings open to the public. When a person attends a CINA hearing the court issues an order for confidentiality outlining what information can be revealed to the public and what the sidebars are. If a person violates the court order they are subject to sanctions that include being barred from any further CINA proceedings.

An additional safeguard to transparency and due process is the re-establishment of a state review panel that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS.

This legislation also strengthens the rights of adult family members (including grandparents), especially those who have already been instrumental in raising the child. Many times when parents run awry of OCS, grandparents or other adult relatives get placement of the child. If parental rights are terminated, those raising the child should have preference for

adoption. Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Other adult family members and grandparents also gain accessibility to information and hearings in CINA cases through this legislation.

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to have been sexually abused. This creates accountability in interviewing and protects the child from multiple interrogations. It requires mandatory videotaping of suspected victims of sexual abuse. The bill also defines CAC's in state statute for the first time.

Senate Judiciary amended the bill to add a new court rule that would allow the admissibility into evidence videotaped statements made by victims of crime that are less than 16 years of age.

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

* Pencilled in amendments or attached amendments

24-LS0251\O

SENATE CS FOR CS FOR SS FOR HO ^{JUD} LL NO. 53(~~HES~~)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/4/05

Referred: Judiciary, Finance

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 placement; 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 interest 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 47.16 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. Construction. 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 (e) 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

1 make appropriate written findings, including findings related to whether

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

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

7 (C) the child should be placed in another planned, permanent
8 living arrangement and what steps are necessary to achieve the new
9 arrangement;

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

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

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

18 (B) whether the parent or guardian has made substantial
19 progress to remedy the parent's or guardian's conduct or conditions in the home
20 that made the child a child in need of aid under this chapter; [AND]

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

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

26 (5) the court shall hold a hearing to review the permanent plan at least
27 annually until successful implementation of the plan; if the plan approved by the court
28 changes after the hearing, the department shall promptly apply to the court for another
29 permanency hearing, and the court shall conduct the hearing within 30 days after
30 application by the department.

31 * Sec. 13. AS 47.10.080(p) is amended to read:

1 (p) If a child is removed from the parental home, the department shall provide
 2 reasonable visitation between the child and the child's parents, guardian, and family.
 3 When determining what constitutes reasonable visitation with a family member, the
 4 department shall consider the nature and quality of the relationship that existed
 5 between the child and the family member before the child was committed to the
 6 custody of the department. The court may require the department to file a visitation
 7 plan with the court. The department may deny visitation to the parents, guardian, or
 8 family members if there is clear and convincing evidence that visits are not in the
 9 child's best interests. If the department denies visitation to a parent or family
 10 member of a child, the department shall inform the parent or family member of a
 11 reason for the denial and of the parent's or adult family member's right to
 12 request a review hearing as an interested person. A parent, adult family member,
 13 or guardian who is denied visitation may request a review hearing. A non-party
 14 adult family member requesting a review hearing under this subsection is not
 15 eligible for publicly appointed legal counsel.

16 * Sec. 14. AS 47.10.080 is amended by adding new subsections to read:

17 (t) The court may not terminate parental rights solely on the basis that the
 18 parent did not complete treatment required of the parent by the department for
 19 reunification with the child if the treatment required was unavailable to the parent and
 20 the department did not provide the treatment.

21 (u) For a child who is placed in foster care, when the department finds that it
 22 is in the best interest of a child and that the foster family will not be placed in undue
 23 risk of harm, the department shall require foster parents to provide regular
 24 opportunities for visitation with the child by the parents of the child and encourage
 25 foster parents to serve as mentors for facilitating family reunification.

26 (v) A hearing conducted under this section is open to the public unless an
 27 exception provided in AS 47.10.070(c) applies to make the hearing closed to the
 28 public or unless prohibited by federal or state statute or regulation.

29 * Sec. 15. AS 47.10.084(c) is amended to read:

30 (c) When there has been transfer of legal custody or appointment of a guardian
 31 and parental rights have not been terminated by court decree, the parents shall have

1 residual rights and responsibilities. These residual rights and responsibilities of the
 2 parent include, but are not limited to, the right and responsibility of reasonable
 3 visitation, consent to adoption, consent to marriage, consent to military enlistment,
 4 consent to major medical treatment except in cases of emergency or cases falling
 5 under AS 25.20.025, and the responsibility for support, except if by court order any
 6 residual right and responsibility has been delegated to a guardian under (b) of this
 7 section. In this subsection, "major medical treatment" includes the
 8 administration of medication used to treat a mental health disorder.

9 * Sec. 16. AS 47.10.088(i) is amended to read:

10 (i) The department shall concurrently identify, recruit, process, and approve a
 11 qualified person or family for an adoption whenever a petition to terminate a parent's
 12 rights to a child is filed. Before identifying a placement of the child in an adoptive
 13 home, the department shall attempt to locate all living adult family members of
 14 the child and, if an adult family member expresses an interest in adopting the
 15 child, investigate the adult family member's ability to care for the child. The
 16 department shall provide to all adult family members of the child located by the
 17 department written notice of the adult family members' rights under this chapter
 18 and of the procedures necessary to gain custody of the child, but the
 19 department's obligation to provide written notice under this subsection does not
 20 apply to a parent of the child whose parental rights are being or have been
 21 terminated or to an adult family member who is known by the department to be
 22 ineligible for a foster care license under AS 47.35.019 or 47.35.021. If an adult
 23 family member of the child requests that the department approve the adult
 24 family member for an adoption, the department shall approve the request unless
 25 there is good cause not to approve the adoption. If the court issues an order to
 26 terminate under (j) of this section, the department shall report within 30 days on the
 27 efforts being made to recruit a permanent placement for the child if a permanent
 28 placement was not approved at the time of the trial under (j) of this section. The
 29 report must document recruitment efforts made for the child.

30 * Sec. 17. AS 47.10 is amended by adding a new section to read:

31 Sec. 47.10.089. Voluntary relinquishment of parental rights and

1 responsibilities. (a) When a child is committed to the custody of the department
2 under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a
3 parent with respect to the child, including parental rights to control the child, to
4 withhold consent to an adoption, or to receive notice of a hearing on a petition for
5 adoption, may be voluntarily relinquished to the department and the relationship of
6 parent and child terminated in a proceeding as provided under this section.

7 (b) A voluntary relinquishment must be in writing and signed by a parent,
8 regardless of the age of the parent, in the presence of a representative of the
9 department or in the presence of a court of competent jurisdiction with the knowledge
10 and approval of the department. A copy of the signed relinquishment shall be given to
11 the parent.

12 (c) A voluntary relinquishment may be withdrawn within 10 days after it is
13 signed. The relinquishment is invalid unless the relinquishment contains the right of
14 withdrawal as specified under this subsection.

15 (d) A parent may retain privileges with respect to the child, including the
16 ability to have future contact, communication, and visitation with the child in a
17 voluntary relinquishment executed under this section. A retained privilege must be in
18 writing and stated with specificity.

19 (e) Not less than 10 days after a voluntary relinquishment is signed, the court
20 shall enter an order terminating parental rights if the court determines that termination
21 of parental rights under the terms of the relinquishment is in the child's best interest.
22 If a parent has retained one or more privileges under (d) of this section, the court shall
23 incorporate the retained privileges in the termination order with a recommendation
24 that the retained privileges be incorporated in an adoption or legal guardianship
25 decree.

26 (f) A voluntary relinquishment may not be withdrawn and a termination order
27 may not be vacated on the ground that a retained privilege has been withheld from the
28 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
29 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
30 Procedure.

31 (g) After a termination order is entered, a person who has voluntarily

1 relinquished parental rights under this section may request a review hearing, upon a
2 showing of good cause, to seek enforcement or modification of or to vacate a privilege
3 retained in the termination order. The court may modify, enforce, or vacate the
4 retained privilege if the court finds, by clear and convincing evidence, that it is in the
5 best interest of the child to do so.

6 (h) After a termination order is entered and before the entry of an adoption or
7 legal guardianship decree, a person who voluntarily relinquished parental rights to a
8 child under this section may request a review hearing, upon a showing of good cause,
9 to vacate the termination order and reinstate parental rights relating to that child. A
10 court shall vacate a termination order if the person shows, by clear and convincing
11 evidence, that reinstatement of parental rights is in the best interest of the child and
12 that the person is rehabilitated and capable of providing the care and guidance that will
13 serve the moral, emotional, mental, and physical welfare of the child.

14 (i) A person who relinquished parental rights is entitled to the appointment of
15 an attorney if a hearing is requested under (g), (h), or (j) of this section to the same
16 extent as if the parent's rights had not been terminated in a child-in-need-of-aid
17 proceeding.

18 (j) After a termination order is entered and before the entry of an adoption or
19 legal guardianship decree, a prospective adoptive parent or a guardian of a child who
20 is the subject of the adoption or guardianship decree may request, after providing
21 notice as specified under this subsection, that the court decline to incorporate a
22 privilege retained in a termination order and recommended for incorporation in an
23 adoption or guardianship decree under (e) of this section. The request made under this
24 subsection may only be considered by the court after providing at least 20 days' notice
25 by certified mail to the last known address of the person who has voluntarily
26 relinquished parental rights to the child. The notice under this subsection must
27 describe the request and explain that the recipient of the notice may submit a written
28 statement under penalty of perjury to the court that the recipient either agrees with or
29 opposes the request. The notice must also include the deadline for submitting the
30 statement and the mailing address of the court. The court may decline to incorporate a
31 retained privilege if the person who retained the privilege agrees with the request or if

1 the court finds that it is in the child's best interest.

2 * Sec. 18. AS 47.10.090(c) is amended to read:

3 (c) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
4 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]
5 18th birthday, within 30 days after [OF] the date on which the court releases
6 jurisdiction over the child [MINOR], the court shall order all the court's official
7 records pertaining to that child [MINOR] in a proceeding under this chapter scale 1. A
8 person may not use these sealed records unless authorized by order of [FOR ANY
9 PURPOSE EXCEPT THAT] the court upon a finding of [MAY ORDER THEIR
10 USE FOR] good cause [SHOWN].

11 * Sec. 19. AS 47.10.090(d) is amended to read:

12 (d) The name or picture of a child [MINOR] under the jurisdiction of the court
13 may not be made public in connection with the child's [MINOR'S] status as a child in
14 need of aid unless authorized by order of the court or unless to implement the
15 permanency plan for a child after all parental rights of custody have been
16 terminated. This subsection does not prohibit the release of aggregate
17 information for statistical or other informational purposes if the identity of any
18 particular person is not revealed by the release.

19 * Sec. 20. AS 47.10.092(a) is amended to read:

20 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
21 a child subject to a proceeding under AS 47.10.005 - 47.10.142 may disclose
22 confidential or privileged information about the child or the child's family, including
23 information that has been lawfully obtained from agency or court files, to the
24 governor, the lieutenant governor, a legislator, the ombudsman appointed under
25 AS 24.55, the attorney general, and the commissioner [COMMISSIONERS] of health
26 and social services, administration, or public safety, or an employee of these persons,
27 for review or use in their official capacities. The Department of Health and Social
28 Services and the Department of Administration [DEPARTMENT] shall disclose
29 additional confidential or privileged information, excluding privileged attorney-
30 client information, and make copies of documents available for inspection about the
31 child or the child's family to these state officials or employees for review or use in

1 their official capacities upon request of the official or employee and submission of
2 satisfactory evidence that a parent or legal guardian of the child has requested the state
3 official's assistance in the case as part of the official's duties. A person to whom
4 disclosure is made under this section may not disclose confidential or privileged
5 information about the child or the child's family to a person not authorized to receive
6 it.

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

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

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

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

19 (a) Except as permitted [SPECIFIED] in AS 47.10.092 and in (b) - (g) and
20 (k) - (n) [(b) - (g)] of this section, all information and social records pertaining to a
21 child [MINOR] who is subject to this chapter or AS 47.17 prepared by or in the
22 possession of a federal, state, or municipal agency or employee in the discharge of the
23 agency's or employee's official duty are privileged and may not be disclosed directly
24 or indirectly to anyone without a court order.

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

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

28 (1) a guardian ad litem appointed by the court;

29 (2) a person or an agency requested by the department or the child's
30 legal custodian to provide consultation or services for a child who is subject to the
31 jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of

1 the consultation or services;

2 (3) an out-of-home care provider [FOSTER PARENTS OR
3 RELATIVES WITH WHOM THE CHILD IS PLACED BY THE DEPARTMENT]
4 as [MAY BE] necessary to enable the out-of-home care provider [FOSTER
5 PARENTS OR RELATIVES] to provide appropriate care to [FOR] the child [WHO
6 IS THE SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE
7 SUBJECT OF THE CASE], and to protect the safety and property of family members
8 and visitors of the out-of-home care provider [FOSTER PARENTS OR
9 RELATIVES];

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

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

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

20 (7) a member [MEMBERS] of a multidisciplinary child protection
21 team created under AS 47.14.300 as [MAY BE] necessary for the performance of the
22 member's [THEIR] duties;

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

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

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

31 (11) a parent, guardian, or caregiver of a child or an entity

1 responsible for ensuring the safety of children as necessary to protect the safety
2 of a child; and

3 (12) a review panel established by the department, the legislature,
4 or the governor for the purpose of reviewing the actions taken by the department
5 in a specific case.

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

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

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

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

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

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

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

24 ~~(k) The Department of Health and Social Services and the Department of~~
25 ~~Administration may disclose to the public, upon request, confidential information, as~~
26 ~~set out in (l) of this section, when~~
insert Amendment #1
Commissioner of the Department of Health & Social Services or the
Commissioner's designee or the commissioner of the Dept of Administration or the
designee as appropriate

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

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

AMENDMENT 1

OFFERED IN THE SENATE JUD

BY SENATOR SEEKINS

TO: HB 53 Version O

1 Page 17, line 24:

2 Delete:

3 "Department of Health and Social Services and the Department of Administration"

4

5 Insert:

6 Commissioner of the Department of Health and Social Services or the

7 Commissioner's designee or the commissioner of the Department of Administration

8 or the commissioner of Administration or the commissioner's designee as

9 appropriate"

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Changes the term "the department" to "the commissioner or the commissioner's designee".

17

18

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

3 (l) The type of information that may be publicly disclosed under (k) of this
4 section is information related to the determination, if any, made by the department
5 regarding the validity of a report of harm under AS 47.17 and the department's
6 activities arising from the department's investigation of the report. The department

7 (1) ~~may~~ ^{shall} withhold disclosure of the child's name, picture, or other
8 information that would readily lead to the identification of the child if the department
9 determines that the disclosure would be contrary to the best interests of the child, the
10 child's siblings, or other children in the child's household; or

11 (2) after consultation with a prosecuting attorney, ~~may~~ ^{shall} withhold
12 disclosure of information that would reasonably be expected to interfere with a
13 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a
14 criminal proceeding.

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

18 (n) The Department of Health and Social Services and the Department of
19 Administration shall adopt regulations to implement and interpret the duties of the
20 respective department under this section, including regulations governing the release
21 of confidential information and identifying a sufficient legitimate interest under (f) of
22 this section.

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

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

28 Sec. 47.10.098. Grievance procedure. (a) The department shall develop, in
29 regulation, a grievance procedure for a parent to file a comp. based on

30 (1) the application of a department policy or procedure under this
31 chapter;

Amendment #2

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

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

4 (b) The department shall prepare and distribute to each parent of a child who
5 is under the jurisdiction of the department a written copy of the grievance procedure
6 developed under (a) of this section.

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

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

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

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

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

18 (28) "adult family member" means a person who is 18 years of age or
19 older and who is

20 (A) related to the child as the child's grandparent, aunt, uncle,
21 or sibling; or

22 (B) the child's sibling's legal guardian or parent;

23 (29) "family member" means a person of any age who is

24 (A) related to the child as the child's grandparent, aunt, uncle,
25 or sibling; or

26 (B) the child's sibling's legal guardian or parent;

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

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

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

1 (10) "mental health professional" has the meaning given in
 2 AS 47.30.915, except that, if the minor is placed in another state by the
 3 department, "mental health professional" also includes a professional listed in
 4 the definition of "mental health professional" in AS 47.30.915 who is not licensed
 5 to practice by a board of this state but is licensed by a corresponding licensing
 6 authority to practice in the state in which the minor is placed;

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

8 (a) Subject to (e), (f), and (i) - (m) [(i) - (f)] of this section, the department
 9 shall arrange for the care of every child committed to its custody by placing the child
 10 in a foster home or in the care of an agency or institution providing care for children
 11 inside or outside the state. The department may place a child in a suitable family
 12 home, with or without compensation, and may place a child released to it, in writing
 13 verified by the parent, or guardian or other person having legal custody, for adoptive
 14 purposes, in a home for adoption in accordance with existing law.

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

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

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

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

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

23 (A) an adult family member;

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

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

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

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

31 (f) If an adult family member [A BLOOD RELATIVE] of the child

1 specified under (c) of this section exists and agrees that the child should be placed
 2 elsewhere, before placement elsewhere, the department shall fully communicate the
 3 nature of the placement proceedings to the adult family member [RELATIVE].
 4 Communication under this subsection shall be made in the adult family member's
 5 [RELATIVE'S] native language, if necessary. [NOTHING IN THIS SUBSECTION
 6 OR IN (c) OF THIS SECTION APPLIES TO CHILD PLACEMENT FOR
 7 ADOPTIVE PURPOSES.]

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

9 (j) For the purpose of determining whether the home of a relative meets the
 10 requirements for placement of a child under (c) of this section or under
 11 AS 47.10.088(i), the department shall conduct a criminal background check from state
 12 and national criminal justice information available under AS 12.62. The department
 13 may conduct a fingerprint background check on any member of the relative's
 14 household who is 16 [12] years of age or older when the relative requests placement of
 15 the child. For the purposes of obtaining criminal justice information under this
 16 subsection, the department is a criminal justice agency conducting a criminal justice
 17 activity under AS 12.62.

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

19 (m) Prima facie evidence of good cause not to place a child with an adult
 20 family member or family friend under AS 47.10.088(i) or under (c) of this section
 21 includes grounds for denial of a foster care license under AS 47.35.019 or 47.35.021.
 22 Prima facie evidence of good cause not to place a child with an adult family member
 23 or adult family friend does not include poverty or inadequate or crowded housing. If
 24 the department denies a request for placement with an adult family member or a
 25 family friend, the department shall inform the adult family member or family friend of
 26 the basis for the denial and the right to request a hearing to review the decision. A
 27 non-party adult family member or family friend requesting a review hearing under
 28 AS 47.10.088(i) or under (c) of this section is not eligible for publicly appointed legal
 29 counsel.

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

31 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within

1 the department a Citizen Review Panel. The panel shall be composed of volunteer
 2 members who are broadly representative of the state, including members who have
 3 expertise in the prevention and treatment of child abuse and neglect.

4 (b) The panel shall meet not less than once every three months. Meetings may
 5 take place telephonically.

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

7 Sec. 47.14.215. Duties of the state panel. (a) The state panel shall evaluate
 8 the extent to which the department is effectively discharging its child protection
 9 responsibilities under

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

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

13 (3) any other criteria that the panel considers important to ensuring the
 14 protection of children, including the level and efficiency of coordination of foster care
 15 and adoption programs in the state and a review of child fatalities and near fatalities.

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

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

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

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

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

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

28 Sec. 47.14.235. Confidentiality. (a) A person attending a meeting of the
 29 state panel or a member or staff of the state panel may not make any disclosure related
 30 to information obtained during a review by the state panel unless authorized under
 31 AS 47.10.092 or 47.10.093.

1 (b) Meetings of the state panel are subject to AS 44.62.310 and 44.62.312.

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

3 Sec. 47.14.245. **Public outreach.** The state panel shall conduct public
4 outreach and gather public comment on current department procedures and practices
5 involving children and family services.

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

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

11 (b) Not later than six months after the date on which the report is released
12 under (a) of this section, the department shall submit a written response to the report.
13 The department's response must include a description of whether and how the
14 department will incorporate the recommendations of the panel, where appropriate.

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

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

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

19 Sec. 47.14.275. **Immunity.** A member of the state panel and a person who
20 furnishes services to or advises the state panel is not liable for damages or other relief
21 in an action involving the performance or failure to perform a duty or other activity of
22 the state panel.

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

24 Sec. 47.14.295. **Definitions.** In AS 47.14.205 - 47.14.295,
25 (1) "adult family member" has the meaning given in AS 47.10.990;
26 (2) "near fatality" has the meaning given in AS 47.10.990;
27 (3) "state panel" means the Citizen Review Panel established under
28 AS 47.14.205.

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

30 (c) Within 20 days after receiving a report of harm, whether or not the matter
31 is referred to a local government agency, the department shall notify the person who

1 made the report and who made a request to be notified, about the status of the
2 investigation, without disclosing any confidential information.

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

4 (a) If the department or a law enforcement agency provides written
5 certification to the child's school officials that (1) there is reasonable cause to suspect
6 that the child has been abused or neglected by a person responsible for the child's
7 welfare or as a result of conditions created by a person responsible for the child's
8 welfare; (2) an interview at school is a necessary part of an investigation to determine
9 whether the child has been abused or neglected; and (3) the interview at school is in
10 the best interests of the child, school officials shall permit the child to be interviewed
11 at school by the department or a law enforcement agency before notification of, or
12 receiving permission from, the child's parent, guardian, or custodian. A school official
13 shall be present during an interview at the school unless the child objects or the
14 department or law enforcement agency determines that the presence of the school
15 official will interfere with the investigation. The interview shall be conducted as
16 required under AS 47.17.033. Immediately after conducting an interview authorized
17 under this section, and after informing the child of the intention to notify the child's
18 parent, guardian, or custodian, the department or agency shall make every reasonable
19 effort to notify the child's parent, guardian, or custodian that the interview occurred
20 unless it appears to the department or agency that notifying the child's parent,
21 guardian, or custodian would endanger the child.

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

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

28 (d) An interview of a child conducted as a result of a report of harm may be
29 audiotaped or videotaped. If an interview of a child concerns a report of sexual abuse
30 of the child by a parent or caretaker of the child, the interview shall be videotaped,
31 unless videotaping the interview is not feasible or will, in the opinion of the

1 investigating agency, result in trauma to the child.

2 (c) An interview of a child that is audiotaped or videotaped under (d) of this
3 section shall be conducted

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

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

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

9 (f) An interview of a child may not be videotaped more than one time unless
10 the interviewer or the investigating agency determines that one or more additional
11 interviews are necessary to complete an investigation. If additional interviews are
12 necessary, the additional interviews shall be conducted, to the extent possible, by the
13 same interviewer who conducted the initial interview of the child.

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

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

18 (i) In this section, "child advocacy center" means a facility operated with a
19 child-focused, community partnership committed to a multidisciplinary team approach
20 that includes representatives from law enforcement, child protection, criminal
21 prosecution, victim advocacy, and the medical and mental health fields who
22 collaborate and assist in investigating allegations of sexual or other abuse and neglect
23 of children.

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

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

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

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

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

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

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

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

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

19 (f) General Public Access to Hearings.

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

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

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

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

29 (C) a hearing, or a part of a hearing, for which the court issues
30 a written order finding that allowing the hearing, or part of the hearing, to be
31 open to the public would reasonably be expected to stigmatize or be

1 emotionally damaging to a child; inhibit a child's testimony in the hearing;
2 disclose matters otherwise required to be kept confidential by state or federal
3 statute or regulation, court order, or court rule; or interfere with a criminal
4 investigation or proceeding or a criminal defendant's right to a fair trial in a
5 criminal proceeding.

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

10 (4) If the court closes a hearing to the public under (2)(C) of this
11 paragraph, the court shall close only the portions of the hearing necessary to prevent
12 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
13 is open to the public, the court shall hear in camera any information offered regarding
14 the location, or readily leading to the location, of a parent, child, or other party to the
15 case who is a victim of domestic violence or whose safety or welfare may be
16 endangered by the public release of information. Access to testimony heard in camera
17 under this subparagraph is limited to the court and authorized court personnel.

18 (5) Notwithstanding any other provision of this rule, the court shall
19 issue an order to prohibit all persons in a hearing open to the public from disclosing to
20 any person a name, picture, or other information that would readily lead to the
21 identification of a child who is the subject of the proceeding. If a person violates the
22 order, the court may impose any appropriate sanction, including contempt and closure
23 of any further hearings in the proceeding to the person.

24 (6) A party to the proceeding may move the court to close to the public
25 a hearing, or part of the hearing to avoid the harm specified in (2)(C) of this
26 paragraph. A member of the public may request in writing to be served with a motion
27 filed under this subparagraph. If such a request has been filed in advance of the filing
28 of the motion, the party filing the motion must also serve the member of the public
29 who requested notice under this subparagraph. The court may waive the service
30 required under this subparagraph to a member of the public if a motion to close the
31 hearing, or part of the hearing, is made under this subparagraph immediately before or

1 during the hearing and the court finds that

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

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

7 (C) whatever notice is practicable under the circumstances has
8 occurred.

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

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

13 (f) **Additional Findings.** In addition to the findings required under paragraph
14 (e), the court shall also make written findings related to

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

19 (2) whether the parent or guardian has made substantial progress to
20 remedy the parent's or guardian's conduct or conditions in the home that made the
21 child a child in need of aid; [AND]

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

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

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

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

31 (d) **Relinquishment.**

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

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

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

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

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

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

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

- 20 (1) notice of the person's right to withdraw the consent or
 21 relinquishment as provided by paragraphs (g) and (h) of this rule;
 22 (2) the address and telephone number of the court in which the
 23 adoption or relinquishment proceeding has or is expected to be filed;
 24 (3) a statement of the right to counsel as stated in Rule 8;
 25 (4) a statement concerning whether or not any visitation rights or
 26 other parental privileges are sought to be retained after the adoption;
 27 (5) if a consent, the information required in AS 25.23.060; and
 28 (6) if signed by a parent, a statement of whether the parent is a minor.

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

31 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,

1 is amended to read:

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

3 The parent of a non-Indian child may withdraw a consent or relinquishment by
 4 notifying in writing the court, or the person or agency obtaining the consent or
 5 relinquishment, within 10 days of the birth or signing of the consent or
 6 relinquishment, whichever is later. Notification is timely if received or postmarked on
 7 or before the last day of this time period. The parent may move the court to permit
 8 withdrawal of the consent or relinquishment after the 10 day period pursuant to
 9 AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a
 10 relinquishment.

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

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

15 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be
 16 entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089.
 17 The court shall enter findings of fact which must include a statement concerning
 18 whether visitation rights are being allowed under AS 25.23.130(c) or other privileges
 19 are being retained under AS 25.23.180 or AS 47.10.089, and whether the time limit
 20 for withdrawal of the relinquishment has elapsed. If the relinquishment was signed in
 21 the presence of the court, findings also must be entered as to whether the parent
 22 understood the consequences of the relinquishment, and whether the relinquishment
 23 was voluntarily signed.

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

30 *New Sec 59. Amendment #3*
 * Sec. ~~58~~ ⁶⁰. The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

AMENDMENT # 3

OFFERED IN THE SENATE

BY SENATOR FRENCH

TO: SCS CSSSHB 53(HES)

1 Page 2, line 7, following "Probate Procedure;":

2 Insert "relating to the admissibility into evidence of the prior recorded statement
3 of a crime victim less than 16 years of age; and amending Rule 801, Alaska Rules of
4 Evidence."
5

6 Page 30, following line 29:

7 Insert a new bill section to read:

8 "* Sec. 59. The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 DIRECT COURT RULE AMENDMENT. Rule 801(d), Alaska Rules of
11 Evidence, is amended by adding a new paragraph to read:

12 (3) Recorded Statement by Child Victims of Crime. The statement is a
13 recorded statement by the victim of a crime who is less than 16 years of age and

14 (A) the recording was made before the proceeding;

15 (B) the victim is available for cross-examination;

16 (C) the prosecutor and any attorney representing the defendant
17 were not present when the statement was taken;

18 (D) the recording is on videotape or other format that records
19 both the visual and aural components of the statement;

20 (E) each person who participated in the taking of the statement
21 is identified on the recording;

22 (F) the taking of the statement as a whole was conducted in a
23 manner that would avoid undue influence of the victim;