

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2821

1 (G) the defense has been provided a reasonable opportunity to
2 view the recording before the proceeding; and

3 (H) the court has had an opportunity to view the recording and
4 determine that it is sufficiently reliable and trustworthy and that the interests of
5 justice are best served by admitting the recording into evidence."
6

7 Renumber the following bill sections accordingly.

8

9 Page 32, line 28:

10 Delete "sec. 59(d)"

11 Insert "sec. 60(d)"

12

13 Page 33, line 7:

14 Delete "60"

15 Insert "61"

16

17 Page 33, line 20:

18 Delete "sec. 59(a)"

19 Insert "sec. 60(a)"

20

21 Page 33, line 23:

22 Delete: "sec. 64"

23 Insert "sec. 65"

24

25 Page 33, line 26:

26 Delete "sec. 65"

27 Insert "sec. 66"

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

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

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

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

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

19 * Sec. ^{b1}~~61~~. The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

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

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

29 * Sec. ^{b2-}~~61~~. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 APPLICABILITY. (a) The amendments to Rule 3, Alaska Child in Need of Aid

1 Rules of Procedure, made by secs. 51 and 52 of this Act, apply to hearings that are conducted
2 on or after the effective date of secs. 51 and 52 of this Act.

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

5 (c) Sections 9, 10, 14, and 19 - 27 of this Act apply to all information, records, and
6 files created on or after the effective date of those sections; however, if a file contains
7 information and records that were created before the effective date of secs. 9, 10, 14, and 19 -
8 27 of this Act, that information and those records retain the confidentiality that they had under
9 the law on the day before the effective date of secs. 9, 10, 14, and 19 - 27 of this Act.

10 * Sec. ~~62~~⁶³. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

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

16 * Sec. ~~63~~⁶⁴. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

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

21 * Sec. ~~64~~⁶⁵. The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 CONDITIONAL EFFECT. (a) The amendments to Rule 3, Alaska Child in Need of
24 Aid Rules of Procedure, made by secs. 51 and 52 of this Act, take effect only if secs. 51 and
25 52 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
26 Constitution of the State of Alaska.

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

31 (c) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 54 of this

1 Act, takes effect only if sec. 54 of this Act receives the two-thirds majority vote of each house
2 required by art. IV, sec. 15, Constitution of the State of Alaska.

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

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

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

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

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

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

23 * Sec. ⁶⁶~~65~~. If, under sec. 64 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(v), enacted
24 by sec. 14 of this Act, and secs. 19 and 22 - 27 of this Act take effect, they take effect July 1,
25 2005.

26 * Sec. ⁶⁷~~66~~. Except as provided in sec. 65 of this Act, this Act takes effect immediately under
27 AS 01.10.070(e).

Sectional for SCS CSSSHB 53(JUD)

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

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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 harm 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:

(i) 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.

(ii) 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.

) 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 child of harm has resulted in a death or near fatal injury to a child. The commissioner or his designee with the Department of Health & Social Services make the determination whether something has occurred which justifies disclosing confidential information.

The department must 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 must 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. A Direct Rule change that would allow a videotaped interview to be admissible in court proceedings for a victim of a crime who is under the age of 16 under certain circumstances.

Sec. 60. Various indirect rule change provisions.

Sec. 61. Indirect rule changes for disclosure of confidential information.

Sec. 62. Applicability.

Sec. 63. Transition language to implement changes through regulation.

Sec. 64. Revisor's instructions.

Sec. 65. Conditional Effect.

Sec. 66-67. Effective dates.

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 away 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

The determination for releasing information would be kept at the top level of management with the commissioner of the Department of Health and Social Services or the commissioner's designee or the commissioner of the Department of Administration or the commissioner's designee.

*****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

It adopts a court rule change that would allow videotaped interviews of children under the age of 16 in criminal investigations to be admissible in court as evidence under certain conditions.

1. The recording was made prior to the proceeding
2. The victim is available for cross-examination
3. Prosecutor and any attorney representing the defendant were not present when the statement was taken
4. Recording must be both visual and aural
5. each person participating in the taking of the statement is identified on the recording
6. videotaping was taken avoiding undue influence of the victim
7. the defense has been afforded opportunity to observe the tape
8. the court had an opportunity to view the tape and deem it reliable and trustworthy (Sec. 59) Senate Judiciary

*****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.

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

FISCAL NOTE #12

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Fiscal Note Analysis for SS HB 53: (continued)

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

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Joshua P. Fink, Director
Division: Office of Public Advocacy
Approved by: Michael Tibbles, Deputy Commissioner
Agency: Department of Administration

Phone: (907) 269-3500
Date/Time: 4/27/05 7:21 AM
Date: 4/27/2005

FISCAL NOTE #13

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

(continued from page 1)

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

FISCAL NOTE #14

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB (FIN)

ANALYSIS CONTINUATION

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 15
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
 Title RELATING TO CHILD-IN-NEED-OF AID MATTERS

RDU Children's Services
 Component Children's Services Management

Sponsor COGHILL
 Requester HOUSE (FIN)

Component No. 2666

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: _____

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

Confidentiality

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

con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner Phone 465-3191
 Division: Office of Children's Services Date/Time 04/20/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 04/26/2005
 Agency: Department of Health and Social Services

STATE OF ALASKA
2005 LEGISLATIVE SESSION

CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Confidentiality - Analysis Con't

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

Sec. 46. Notification of Status of Investigations

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

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 16
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

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

Title: RELATING TO CHILD-IN-NEED-OF AID MATTERS
 RDU: Children's Services
 Component: Front Line Social Workers

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 2305

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	33.7	33.7	33.7	33.7	33.7	33.7
Travel	28.0	28.0	28.0	28.0	28.0	28.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	0.6	0.6	0.6	0.6	0.6	0.6
Equipment	41.9					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	106.2	64.3	64.3	64.3	64.3	64.3

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

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

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

POSITIONS

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

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

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

Con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner Phone 465-3191
 Division: Office of Children's Services Date/Time 04/26/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 04/27/2005
 Agency: Department of Health and Social Services

FISCAL NOTE
FN # 16

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Bill No. CSSH B 53(FIN)

ANALYSIS CONTINUATION

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

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

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

Total	\$64.3

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

	# needed	Pkg	Cost per	Ext
Camcorders w/ case, tripod, batteries & charger	30		815	24.6
Audio recorders w/ additional memory	30		269	3.1
TV's	3,500	150	75	.2
DVD players and monitors	30		300	9.0
Total				41.9

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

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

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.10 (Children in Need of Aid). Passage of this legislation will impact the Department of Law in two ways.

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

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

FISCAL NOTE #17

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

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

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

The logo for AARP Alaska features the word "AARP" in a large, bold, serif font, with a stylized wavy line underneath it. To the right of "AARP" is the word "Alaska" in a smaller, sans-serif font.

April 21, 2005

The Honorable Mike Chenault, Co-Chair
House Finance Committee
Alaska State Capitol, Room 505
Juneau, AK 99801-1182

The Honorable Kevin Meyer, Co-Chair
House Finance Committee
Alaska State Capitol, Room 515
Juneau, AK 99801-1182

RE: HB 53 (Coghill)--Support

Dear Co-Chairs Chenault and Meyer:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the House Finance Committee to support HB 53, authored by Majority Leader John Coghill and co-sponsored by Representatives Ramras, Rokeberg, McGuire, Lynn and your Committee colleague Kelly.

AARP is not only a "senior organization." We are also an organization of grandparents concerned about all of Alaska's children.

An increasing number of children are living with their grandparents. According to the Census Bureau, the number of children residing in a grandparent-headed household rose 75% from 1970 to 1997. We do not claim to have experience nor expertise on all the items covered in HB 53. We do however, know that grandparents often step forward to raise their grandchildren, particularly when there have been parental problems. HB 53 will reinforce and strengthen the rights of grandparents to raise and, if necessary, adopt. For over 10 years AARP has operated a Grandparent Information Center to provide assistance to grandparents who are raising their grandchildren. Whether we like it or not, in today's society grandparents often should step into the parent's shoes. HB 53 will make this process work more smoothly. AARP applauds the Majority Leader's authorship of this bill.

We urge an "AYE" vote on HB 53.

Testimony by Debbie Joslin
April 22, 2005

HB53

I am writing in support of HB53. As a child I spent a number of years in foster care and I appreciate the transparency this legislation would lend to the process. I have heard concerns that children would be damaged by the possibility of wagging tongues or media publicity that might be generated by opening the process. As an adult who remembers what it was like to be in the court system and to have my custody decided by bureaucracies and the court system, I would have welcomed having the window opened. The more transparent the system, the greater the chance we will form a solution that provides for the safety of the child. I believe the safety of the child should be our greatest objective. I hope you will not lose sight of that and urge you to pass HB53.

Debbie Joslin

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By: Bonnie Williams
Introduced: 03/24/05
Adopted: 03/24/05

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2005 - 13

A RESOLUTION IN SUPPORT OF STATE ACTIONS AND ACCOUNTABILITY INVOLVING CHILDREN

WHEREAS, the Fairbanks North Star Borough Assembly has four times in the past 10 years passed a resolution urging the State of Alaska to fully implement a statute impacting children under the care of the State by appointing and using a Peer Review body in each community; and

WHEREAS, during these past 10 years the quality of care provided to children under the legal care of the State has been revealed to be seriously less than adequate; and

WHEREAS, such poor care has resulted in repeated injuries, and in some tragic instances, death of children purportedly in state care; and

WHEREAS, a thorough review by a federal task force of the State of Alaska's care of children found numerous instances of failure to adequately care for children removed from their natural families by a court order; and

WHEREAS, such tragedy must not be allowed to continue to occur.

NOW THEREFORE BE IT RESOLVED that the Fairbanks North Star Borough, once more, sadly and tiredly but determinedly, asks the Legislature of the State of Alaska to take such actions as are deemed appropriate, purposeful and useful toward the purpose of improving the State's care of children.

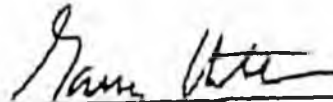
BE IT FURTHER RESOLVED, that the Assembly supports HB 53 "An Act relating to child-in-need-of-aid proceedings...", and urges its passage and implementation.

BE IT FURTHER RESOLVED, that the Assembly encourages the Legislature to reenact AS 47.14.200 Cluzon's Foster Care Review Board and that the Governor appoint public members to fulfill the much needed peer review committee.

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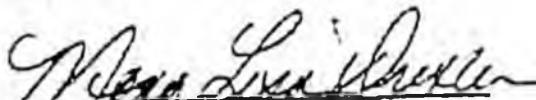
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of the State of Alaska, and to members of the Interior Delegation of the Alaska State Legislature.

PASSED AND APPROVED THIS 24th DAY OF MARCH 2005.



Gary Hutchison
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

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Ayes: Romans, Bartos, Sattley, Rex, Williams, Hopkins, Aldridge, Frank, Hutchison
Noes: None

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

Contact:

Interim Address:

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

(907)-465-3719

FAX# (907)-465-3258

State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

March 24, 2005

Martha M. Anderson
Child and Adult Care Program Manager
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Dear Ms. Anderson:

Thank you for your recent letter to Chairman Wilson of the House Health & Social Services Committee regarding CSSSIB 53(HSS), the Family Rights Act.

The language you discussed in your letter was folded into my bill from a bill the governor introduced at the beginning of session. I discussed your concerns with several people at OCS and in the Governor's office. They have assured me that the existing language does avail to you confidential information about care providers that you license.

Attached is an email I asked my staff to send to get clarification in writing that you and other licensing entities would be eligible to obtain confidential information about the facilities you license.

If you have further concerns, feel free to contact my office.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Coghill".

Representative John Coghill

Rynniewa Moss

From: Gibbens, Joanne [Joanne_Gibbens@health.state.ak.us]
Sent: Wednesday, March 23, 2005 5:26 PM
To: Rynniewa Moss
Subject: RE:

Hi Rynniewa - the answer to your question is Yes - that provision, which was part of the Governor's confidentiality bill would cover the municipality of anchorage as an entity we would be able to disclose information to - we could not give them the actual report of harm, but we would be allowed to disclose appropriate information to them if we were concerned about the safety of any children in the facilities they licensed - Joanne

-----Original Message-----

From: Rynniewa Moss [mailto:Rynniewa_Moss@legis.state.ak.us]
Sent: Wednesday, March 23, 2005 4:21 PM
To: Barb Malchick OPA; Barbara Brink; Dianne Olsen; Heather Nobrega; Jan Rutherford; Joanne Gibbens; Joel Gilbertson; Josh Fink; Kathy Hope Erickson; Linda Wilson Public Defender; Michael Lessman; Peter Naoroz; Rep. Berta Gardner; Rep. Bob Lynn; Rep. John Coghill; Rep. Lesil McGuire; Ren. Max Gruenberg; Rep. Mike Kelly; Rep. Nancy Dahlstrom; Rep. Norman Rokeberg; Rep. Paul Seaton; Rep. Peggy Wilson; Rep. Pete Kott; Rep. Sharon Cissna; Rep. Tom Anderson; Rep. Vic Kohring; Representative Gara; Representative Ramras; Sherry Hill; Stacie Kraly; Sue Stancliff; Tammy Sandovol; Vanessa Tondoni
Subject:

I have submitted the attached memos to Leg Legal. The bill will be heard next Thursday, March 31st, at 3:00 p.m. I will prepare new sectionals and get them to all of you as soon as possible.

We received a letter from the Municipality of Anchorage with concerns that they do not have access to records of ROH's for child care facilities so they don't know when a child facility is posing a danger to children so they can police the licensing of those facilities. Section 23 of Version S provides that a state or municipal agency or employee shall disclose appropriate confidential information regarding a case to

and new subsection (11) reads:

"a caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child;"

Is that language inclusive of a municipality that licenses child care facilities by referring to "an entity responsible for ensuring the safety of children"?

Thank you everyone for your hard work and cooperation on this bill.

Rynniewa

MAR 22 2005



Municipality of Anchorage

P.O. Box 196650 • Anchorage, Alaska 99519-0650 • 825 "I," Street • <http://www.aunm.org>



Mayor Mark Begich

Department of Health and Human Services

March 18, 2005

The Honorable Peggy Wilson
 Chair, State House Health, Education and Social Services Committee
 Alaska State House of Representatives
 State Capitol, Room 108
 Juneau, AK 99811
 VIA fax: 465-3175

Dear Representative Wilson:

I write to comment on behalf of the Municipality of Anchorage on the Family Rights Act, CSSH (HESS) ("HB 53"). We thank you for the concern for the children of this state which HB 33 articulates. We want to bring to your attention our view that the bill should more clearly give child care licensing entities in Alaska greater access to the records of the Office of Children's Services (OCS) for purposes of licensing and investigating child care facilities. We believe all children of this state will benefit if OCS and child care licensing entities share information.

I. Introduction

The Municipality of Anchorage, Department of Health and Human Services, Child & Adult Care Program (CAC) now has full responsibility for licensing all child care facilities in Anchorage. Its duties include issuing licenses as well as restricting and removing these licenses. As you are aware, many children in Alaska now spend their most formative years in the care of licensed child care providers. Many of these young children are infants who are unable to talk. Therefore, it is the responsibility of CAC and other licensing entities in Alaska to ensure that these young children are safe and well-cared for in child care entities.

II. Background

Before the CAC issues a license, it conducts an investigation which consists of checking criminal backgrounds and finger printing applicants, in addition to other investigation.¹ It also asks child care providers to sign releases so that it may check the provider's child protection background.²

When CAC receives complaints about child care facilities, it must investigate those complaints and take licensing action if the complaints have merit. Unfortunately, the CAC's ability to license and investigate child care facilities in Anchorage has been compromised in recent years by the inability of its workers to gain access to OCS files of child care providers. For example,

¹ Sec. AMC16.55.100.

² Sec. AMC 16.55.100 D. 15, a. ii.

Community, Security, Prosperity

Family Rights Act, CSSSHB (HESS) ("HB 53")
Page 2

in one instance, after receiving several complaints about a child care facility, CAC initiated proceedings to revoke the facility's license. During the course of preparing the case for hearing, CAC learned that the child care provider at issue had an extensive file at OCS, with serious allegations relating to the health and safety of children which spanned a 10-year period. None of these episodes had been reported to CAC, and line workers at OCS had been afraid to tell CAC of these episodes because of the restriction on disclosure of child protection records.³ In other instances, CAC has been concerned that home-based child care providers had children of their own in the home who had serious behavioral problems and who thus posed a threat to the children in their care.

Therefore, in addition to wanting to protect children in care from adults who may pose a threat to their well being, CAC wants to be able to protect children in care from potential abuse or neglect by other children.⁴ If CAC is allowed greater access to OCS records, it could then make a better determination as to whether some applicants should be awarded a license in the first place. In addition, if CAC receives complaints about a child care facility after it has been licensed, it will have a better means of investigating those complaints.

III. Discussion of HB33

As you know, AS 47.10.093 currently states as follows:

- (a) Except as specified in 47.10.092 and (b) – (g) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty are privileged and may not be disclosed directly or indirectly without a court order.

Section 22 of HB 33, adds a new exception to the prohibition on disclosure, which appears to give OCS the authority to provide records to licensing agencies like CAC. It provides as follows:

Sec. 22. AS 47.10.093 (b) is amended to read:

- (b) A state or municipal agency or employee shall disclose appropriate confidential information regarding a case to
 - (1) a caregiver of a child or entity responsible for ensuring the safety of children as necessary to protect the safety of a child

Subsection (11) as drafted appears to relate to agencies like CAC, as CAC is "an entity responsible for ensuring the safety of children." However, to clarify the fact that child care licensing authorities have access to child protection records of providers, we request that you substitute "of children" for "a child" at the end of subsection 11. If this phrase "of children" is

³ See, AS 47.10.093.

Family Rights Act, CSSSHB (HESS) ("HB 53")
Page 3

added, the legislation will more clearly indicate the intent that agencies such as CAC have the ability to review child protection records so that it can better protect all children in a child care facility from potentially harmful child care providers and individuals who have contact with children in child care entities.

CAC will agree to keep information it receives from OCS confidential. Indeed, AS 47.10.093 (m) as drafted states that:

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

Moreover, CAC is bound by the confidentiality requirements of its own regulations.³

IV. Conclusion

If agencies such as the CAC have greater access to OCS records of providers, they can better serve the young children of this state. CAC's goals are so closely aligned with the goals of OCS that this access should not create a conflict for either agency, as long as both agencies agree to maintain confidentiality. We therefore request that you clarify HB 33 so that child care licensing entities have greater access to State child protection records.

If you have questions or would like to speak with me about this matter further, please call me at (907) 343-4676.

Sincerely,



Martha M. Anderson
Child and Adult Care Program Manager

cc: Senator Fred Dyson
Representative Sharon Cissna
Representative John Coghill Jr., House Majority Leader
Beverly K. Wooley, Director
Mary Pinkei, Assistant Municipal Attorney

³ See, AMC 16.55.160.

ALASKA STATE HOUSE OF REPRESENTATIVES

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



Session Address:
State Capitol, Rm. 204
Juneau, AK 99801
(907) 465-3719
Fax # (907) 465-3258

REPRESENTATIVE JOHN COGHILL

FOR IMMEDIATE RELEASE: May 4, 2005

CONTACT: Representative John Coghill (907) 465-3719

House Passes Legislation to Protect Alaska's Families

(JUNEAU) – The Alaska House of Representatives has passed legislation to protect Alaska's families. House Bill 53, an omnibus bill compiling pieces of legislation related to family rights, passed the House unanimously.

Sponsored by Representative John Coghill (R-North Pole), HB 53 is co-sponsored by two other Fairbanks legislators, Representatives Mike Kelly (R-Fairbanks) and Jay Ramras (R-Fairbanks), as well as, two Anchorage legislators, Representatives Lesil McGuire (R-Anchorage) and Norman Rokeberg (R-Anchorage). The bill also includes voluntary relinquishment provisions and opening court proceedings proposed by Governor Murkowski.

Representative McGuire praised this legislation as it passed the House floor. "This bill leaves one of the strongest legacies of this legislature by putting the families, their rights and responsibilities first and striking the appropriate balance between protecting Alaska's children, respecting the rule of law and affording families the opportunity for continued relationships wherever possible," she said.

HB 53 would make the child-in-need-of-aid process transparent by making confidential information currently unavailable accessible to certain people and making court proceedings open to the public. The legislation would also strengthen the rights of grandparents in Alaska, especially if they have been instrumental in the raising of a child or children. This bill would give grandparents, relatives or family friends consideration for placement of a child if parental rights are terminated.

"Preserving and protecting Alaska's families has always been one of my priorities. I believe that this bill does just that," said Representative Coghill.

HB 53 now moves to the Senate where Senator Fred Dyson (R-Eagle River) will carry the bill. "The House has done excellent work on this bill. I think it was genius to combine 3-4 bills on the subject of protecting children."

HB 53 is scheduled for the Senate Health, Education and Social Services Committee later this week.

###

State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

FOR IMMEDIATE RELEASE: April 1, 2005
Contact: Sherry Hill (907) 465-1618

Media advisory:
DHSS, Law and Representatives Coghill and Rokeberg to discuss omnibus child protection legislation with media

DHSS Commissioner Gilbertson, Rep. Coghill, Rep. Rokeberg to discuss HB53 and answer questions

(Juneau, Alaska) – Department of Health and Social Services Commissioner Joel Gilbertson, Representative John Coghill, Representative Rokeberg, and representatives from the Office of Children's Services and the Department of Law will discuss omnibus child protection legislation developed collaboratively. The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be referred to the House Judiciary committee next. The omnibus legislation combines the original HB 53 sponsored by Representative Coghill; HB 17, sponsored by Representative Rokeberg, and HB113 and HB114, both sponsored by Governor Murkowski.

HB53 is a child protection omnibus bill. The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to share more information with the public about department actions surrounding certain child abuse and neglect cases. The legislation will make court proceedings open to the public, and allows the department to provide confidential information to schools and certain public officials.

The legislation gives parents the right to a jury trial in proceedings to terminate their parental rights. The legislation also strengthens the rights of adult family members for placement preference for children removed from parental care, and adoption preference for those who have already been instrumental in raising the child.

WHO: Alaska Health and Social Services Commissioner Joel Gilbertson, House Majority Leader John Coghill, Representative Rokeberg

WHAT: Omnibus child protection legislation: HB53

WHEN: Tuesday, April 5, 2005, from noon to 1 p.m.

WHERE: Governor's Conference Room, Third floor, Alaska State Capitol in Juneau
Videoconference from the Anchorage Governor's Conference Room, Atwood Building, 17th floor

Reporters outside of Juneau can participate by calling the teleconference line at 1-800-315-6338,
XXXX#

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State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
FACT SHEET



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

Family Rights Act
House Bill 53 Confidentiality Issues

April 5, 2005

The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be heard in the House Judiciary committee next.

The omnibus legislation combines the original HB 53 sponsored by Representative John Coghill; HB 17, sponsored by Representative Norman Rokeberg; and HB 113 and HB 114, both sponsored by Governor Frank H. Murkowski.

HB 53 is an omnibus child protection bill. HB 113 focuses on confidentiality in child protection cases, and these sections are important to the Department of Health and Social Services and Governor Murkowski.

The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to respond to inquiries about department actions surrounding certain child abuse and neglect cases.

This legislation would change two key areas in the confidentiality statutes: Child-In-Need-Of-Aid, or CINA, court hearings would be open to the public except in certain circumstances. Presently, they are closed to the public.

- The Department would be able to publicly respond to inquiries surrounding child abuse and neglect cases, disclosing agency actions in CINA proceedings under three circumstances, if:
 - a parent has discussed their OCS case with the media,
 - an alleged perpetrator has been criminally charged with a crime relating to the abuse or neglect of a child under their care, or
 - a report of harm has resulted in the fatality or near fatality of a child.

The proposed legislation would protect the child's privacy while providing for some disclosure of OCS actions regarding the case.

Contact: Sherry Hill (907) 465-1618
Jeff Kasper, (907) 465-8194

Jury Trial in Termination of Parental Rights Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Termination of Parental Rights Cases



As of the end of 2003, the following 6 states (Nevada, Oklahoma, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in termination of parental rights cases. In Virginia, the jury is called an "advisory jury."

The other 45 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in termination of parental rights cases.

In 2002, legislation was introduced in Utah to give a parent the right to a jury trial in termination of parental rights cases, but this legislation failed to pass.

Currently the state of Arizona is considering having jury trials in termination of parental rights cases.

Oklahoma is the only state that claims a constitutional right to a jury trial in termination of parental rights cases. In 1987, the Oklahoma Supreme Court held that "parental rights are too precious to be terminated without the full panoply of protections afforded by the Oklahoma Constitution."

While the state high court said that it knew that "the best interest and welfare of the child is the primary consideration," also knew that "this goal is best achieved by full compliance with the law. Insofar as the constitutional right to jury trial exists, it cannot be abrogated arbitrarily by a court."

There are three basic arguments found in case law against such a constitutional right. Two of these arguments make due process claims for a

jury trial in termination of parental rights cases. The third argument is the argument from history.

State courts that have addressed the issue hold that the constitutional right to a jury trial is not implicit in the concept of due process. Rather, the due process requirement in termination of parental rights proceedings is fundamental fairness. These courts have found that implicit in the *McKeiver* holding is the finding that a jury trial is not a fundamental concept of due process.

The second due process argument that the state courts have looked at is that a parent in a termination of parental rights case is entitled to a jury trial because parents have a fundamental constitutional right to raise their children and that right must be safeguarded by allowing a right to a jury trial.

In cases that make this due process argument, the court must balance three sometimes-competing interests. The first right is the fundamental right of the child to have the court and/or the parent acting in the child's best interests. This right of the child often competes with the parent's interests. The second right is the fundamental right of a parent to retain a parental relationship with a child and vice-versa, which is a right that merits strong protection. Finally, the state has a compelling interest as *parens patriae*

in protecting the child's rights.

In a termination of parental rights case, the court must walk a fine line and achieve the proper balance between the best interests of children, while giving full weight to the importance of the parent-child relationship.

State courts that have decided this constitutional issue have found that a jury trial removes a termination of parental rights case from its status as a protective proceeding, while adding little if any efficacy to the fact-finding process.

The final argument that state courts have addressed is the argument from history. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to a termination of parental rights case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice.

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Suggested Citation:
Szymanski, L. (2003) Jury Trial in Termination of Parental Rights Cases: Snapshot 8(12). Pittsburgh, PA: National Center for Juvenile Justice.

ISSN 1093-0369

Snapshot

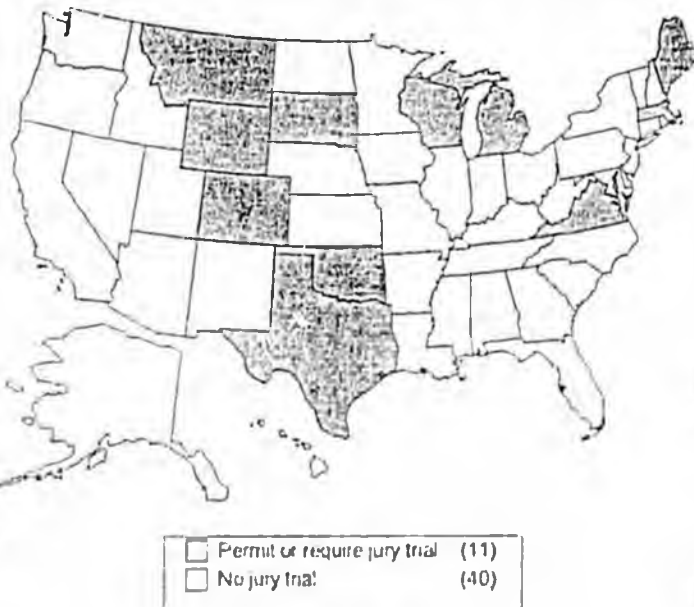
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Research Division of the National Council of Juvenile and Family Court Judges
412-227-6950 www.ncjj.org



Jury Trial in Abuse, Neglect, Dependency Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Abuse, Neglect, Dependency Cases



As of the end of 2003, the following 11 states (Colorado, Maine, Massachusetts, Michigan, Montana, Oklahoma, South Dakota, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in abuse, neglect, dependency cases. In Virginia, the jury is called an "advisory jury."

The other 40 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in abuse, neglect, dependency cases.

However, state legislatures in these remaining 40 jurisdictions continue to discuss and debate the issue of jury trials in abuse, neglect, dependency cases.

For example, on December 18, 2003, the Governor of Arizona approved legislation granting the right to a jury trial, if requested, by the parent, guardian or custodian whose parental rights were to be terminated. Although the Bill had language granting jury trials in abuse or neglect cases, if requested, this language was not included in the Bill that finally passed.

On April 23, 2003, the Hawaii House of Representatives adopted a Concurrent Resolution requesting the State Auditor to consult with national entities with child welfare expertise, and to conduct program audits of the Child Protective Services Division of the Hawaii Department of Human Services, the Department of

the Attorney General, the Family Courts, and the police department of each county on the issue of child abuse and neglect within the state. One of the listed focus points of the audit is a discussion of the pros and cons of the right to a jury trial for parents accused of child abuse, a right currently not available in Hawaii.

Also, in 2003, the state of Illinois introduced a Bill giving a parent the right to demand a trial by jury in any proceeding seeking a finding that a minor is neglected, abused, or dependent. This Bill failed to pass.

Of the states that do have jury trials in abuse, neglect, dependency hearings, in Colorado, any respondent, or the guardian ad litem may demand a jury trial at the adjudicatory hearing of an abuse, neglect, dependency case. In addition, the court, on its own motion may order such a jury trial. The jury consists of 6 people. In Michigan, the right to a jury trial belongs to any person with standing in the case.

In Oklahoma, a parent, the state or a child has the right to demand a jury trial, but only when the petition to determine if a child is deprived also contains a request for termination of parental rights. The demand for a jury trial must be granted unless the parties waive the right to a jury trial. However, the court, on its own motion may order a jury trial. As in Colorado, Michigan and Wisconsin, the jury consists of 6 people.

Under Wyoming law, a party against whom a petition has been filed or the District Attorney may demand a trial by jury at an adjudicatory hearing. Demand for a jury trial must be made to the court not later than 10 days after the party making the demand is advised of his right to a jury trial. Failure of a party to demand a jury trial is a waiver of this right.

State courts that have addressed the issue of a constitutional right to a jury trial in an abuse, neglect, dependency case use the argument from history to state that there is no such right. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to an abuse, neglect, dependency case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice.

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Suggested Citation:
Szymanski, L. (2004). Jury Trials in Abuse, Neglect, Dependency Cases. Snapshot, 9(1).
Pittsburgh, PA: National Center for Juvenile Justice.

ISSN 1093-0369

SENATE COMMITTEE REPORT

DATE: 5/1/05

FURTHER: Judiciary
Finance

DATE TURNED
IN TO OFFICE: 5/4/05

Health, Education & Social Services Committee considered:
CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 53(FIN)

HB 53 CHILDREN IN NEED OF AID/REVIEW PANELS

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

and recommends:

- be replaced with S CS CS 53 HB 53 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCA' NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
ADM	4/27	X			12
ADM	4/27	X			13
ACS	4/27	X			14
HSS	4/26	X			15
HSS	4/27	X			16
LAW	4/27	X			17

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

	DO PASS	DO NOT PASS	NO REC	AMEND
Elton			✓	
Wilken	✓			
Green	✓			
Clason	✓			
Oyson CHAIR:	✓			

HB

54

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number 1
Bill Version CSHB 54(JUD)
(H) Publish Date 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected Corrections
Title "An act relating to bail review" RDU Institutional Facilities
Component Institution Director's Office
Sponsor Representatives Samuels, Stolze, Hawker
Requester Judiciary Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	00	00	00	00	00	00
Travel	00	00	00	00	00	00
Contractual	00	00	00	00	00	00
Supplies	00	00	00	00	00	00
Equipment	00	00	00	00	00	00
Land & Structures	00	00	00	00	00	00
Grants & Claims	00	00	00	00	00	00
Miscellaneous	00	00	00	00	00	00
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	00	00	00	00	00	00
1003 GF Match	00	00	00	00	00	00
1004 GF	00	00	00	00	00	00
1005 GF/Program Receipts	00	00	00	00	00	00
1007 GF/Mental Health	00	00	00	00	00	00
Other (Specify Type--Do not abbreviate)	00	00	00	00	00	00
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 00

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

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by Sharon Griffin, Acting Director
Division Administrative Services
Approved by Patricia C. K. Parker, Deputy Commissioner
Agency Department of Corrections

Phone 485 4941
Date/Time 3/22/05 9:49 AM
Date 3/22/05

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number 2
Bill Version CSHB 54(JUD)
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected _____
Title Bail Review BRU Alaska Court System
Component Trial Courts
Sponsor Representatives Samuels and Stoltz
Requester _____ Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other (Specify Type-Do not add totals)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 54.

Prepared by Douglas Wauliver, Administrative Attorney Phone 463-4750
Division Alaska Court System Date/Time 3/24/05 9:08 AM
Approved by Doug Wauliver for Stephanie Cole, Administrative Director Date 3/24/2005
Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 54(JUD)
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to bail review." RDU: CRIMINAL
Component: Criminal Justice Litigation
Sponsor: Representative Samuels and Stoltze
Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF:Program Receipts						
1037 GF:Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill adds a new subsection under AS 12.30.020 (Code of Criminal Procedures - Bail - Release before trial) relating to review of bail conditions. The proposal would adopt requirements regarding the notice and timing before a subsequent bail hearing could be scheduled. It also requires the person in custody to provide a written statement that information not considered in the previous review will be presented, including a description of the new information.

Passage of this legislation will have no (fisc) impact on the Department of Law.

Prepared by: Kathryn Daughhatee, Director Phone: 465-3673
Division: Administrative Services Division Date/Time: 3/29/05 4:16 PM
Approved by: K. Daughhatee for Scott Nordstrand, Acting Attorney General Date: 3/29/2005
Agency: Department of Law

*adopted
as amended*

24-LS0271\Y.1
Luckhaupt
3/29/05

AMENDMENT 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE *Stoltze*
(on behalf
of Rep Samuel)

TO: CSHB 54(), Draft Version "Y"

1 Page 1, line 1, following "review;":

2 Insert "relating to petitions for review by crime victims where the defendant has
3 received a mitigated sentence;"

5 Page 2, following line 13:

6 Insert a new bill section to read:

7 **** Sec. 4.** AS 12.55.120 is amended by adding a new subsection to read:

8 (e) The victim of the crime for which a defendant has been convicted and
9 sentenced may file a petition for review in an appellate court of a sentence that has
10 been mitigated under AS 12.55.155(d)."

12 Renumber the following bill sections accordingly.

14 Page 2, line 25:

15 Delete "Section 4"

16 Insert "Section 5"

adopted

AMENDMENT 2

OFFERED IN THE HOUSE
TO: CSHB 54(JUD)

BY REPRESENTATIVE CROFT

1 Page 1, line 1, following "review;":

2 Insert "relating to the qualifications of certain members of the Violent Crimes
3 Compensation Board;"

4

5 Page 2, following line 13:

6 Insert a new bill section to read:

7 **** Sec. 4. AS 18.67.020(a) is amended to read:**

8 (a) There is the Violent Crimes Compensation Board in the Department of
9 Administration composed of three members to be appointed by the governor. One of
10 the members shall be designated as chair [CHAIRMAN] by the governor. At least
11 one member must be a medical or osteopathic physician licensed to practice in this
12 state or holding a retired status license in this state and one member must be an
13 attorney licensed to practice in this state or retired from practice in this state."

14

15 Renumber the following bill sections accordingly.

16

17 Page 2, line 25:

18 Delete "Section 4"

19 Insert "Section 5"

20

21 Page 2, line 31:

22 Delete "sec. 5"

23 Insert "sec. 6"

1

2 Page 3, line 4:

3 Delete "sec. 4"

4 Insert "sec. 5"

5

6 Page 3, line 5:

7 Delete "sec. 6"

8 Insert "sec. 7"



REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

CS HB 54 Sponsor Statement

“An Act relating to bail review; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures; amending Rule 21, Alaska Delinquency Rules; and providing for an effective date.”

Current Alaska law says that a person charged with an unclassified crime or a class A felony may make an application to the court to review the bail conditions and argue for reductions for the amount of bail every 24 hours without limitation. This poses logistical problems for all parties involved, given the short amount of time to prepare for each new bail hearing.

HB 54 establishes three requirements designed to alleviate calendaring strain on the court system and the district attorney's office while also protecting crime victims' rights and reducing same day notice of hearings. First, in order to calendar a subsequent bail hearing, the accused must submit in writing, that there exists new information for the court's consideration that was not considered at prior bail hearings. Second, the district attorney is given 48 hours notice in which to notify the victim of the hearing. Finally, hearings may not be set everyday; rather there will be a 48-hour period between calendared bail hearings. These provisions balance the rights of the accused with the rights of crime victims and accommodate for the schedules of both the district attorney's office and the court system.

HB 54 also outlines by statute that a victim may be introduced to a jury during the opening statement at a trial or during the jury selection process. This is to ensure that the courts recognize the right of the prosecution to introduce the victim at the appropriate time. The bill, if passed, would cause indirect court rule changes to Rule 27, Criminal Procedure and Rule 21, Delinquency Rules.

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



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Joseph Young
Anchorage

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Angella Long, President
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Warren Tanner, Member
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Pres. Fairbanks North Chapter

Troy Wilson, Member
Juneau
Pres. Capital City Chapter

John Jackson, Member
Ketchikan
Pres. First City Chapter

Paul Smith, Member
Unalaska
Pres. Westward Bound Chapter

Theresa Labanda, Member
Wasilla
Pres. Wasilla Chapter

February 11, 2005

Representative Ralph Samuels
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Samuels:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for introducing House Bill 54, relating to bail review.

The APOA State Board and Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

The proposed bill closes a loophole and helps to stem frivolous bail hearings. The courts are already under tremendous pressure in trying to schedule the ever-burgeoning case load. This legislation is a step toward easing the court calendar.

Thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515 if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Angella Long
State President

Part of bill passed

cc: Rep. Bill Stoltze

HB

54

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 6 2005
SENATE FINANCE
COMMITTEE

DATE: 4/28/05

FURTHER:

DATE TURNED
IN TO OFFICE: 6 May 2005

Finance Committee considered CS FOR HOUSE BILL NO. 54(FIN)

HB 54 BAIL REVIEW

"An Act relating to bail review; relating to petitions for review by crime victims where the defendant has received a sentence below the sentencing range for the crime; relating to the qualifications of certain members of the Violent Crimes Compensation Board; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures, and Rule 21, Alaska Delinquency Rules; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Corrections	3/24/05			✓	#1
Court	3/24/05			✓	#2
Law	3/29/05			✓	#3

APPROPRIATION - no fiscal note

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

MAY 6 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 54(JUD)
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title "An act relating to bail review" RDU Institutional Facilities
Component Institution Director's Office
Sponsor Representatives Samuels, Stoltze, Hawker
Requester Judiciary, Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

POSITIONS	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director
Division: Administrative Services
Approved by: Portia C K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone: 465-4641
Date/Time: 3/26/05 9:49 AM
Date: 3/26/2005

FISCAL NOTE

REPORTED OUT

MAY 6 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 54(JUD)
 (1) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Bail Review BRU Alaska Court System
 Component Trial Courts
 Sponsor Representatives Samuels and Stoltz
 Requester _____ Component No. 768

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB 54.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 3/24/05 9:08 AM
 Approved by: Doug Wooliver for Stephanio Cole, Administrative Director Date 3/24/2005
 Agency: Alaska Court System

FISCAL NOTE

REPORTED OUT
MAY 6 2005
SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 54(JUD)
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to bail review." RDU: CRIMINAL
Component: Criminal Justice Litigation
Sponsor: Representative Samuels and Stoltze
Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill adds a new subsection under AS 12.30.020 (Code of Criminal Procedures - Bail - Release before trial.) relating to review of bail conditions. The proposal would adopt requirements regarding the notice and timing before a subsequent bail hearing could be scheduled. It also requires the person in custody to provide a written statement that information not considered in the previous review will be presented, including a description of the new information.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughheteo, Director Phone: 465-3673
Division: Administrative Services Division Date/Time: 3/29/05 4:16 PM
Approved by: K. Daughheteo for Scott Nordstrand, Acting Attorney General Date: 3/29/2005
Agency: Department of Law



REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

Sponsor Statement CS HB 54 (FIN)

"An Act relating to bail review; relating to petitions for review by crime victims where the defendant has received a sentence below the sentencing range for the crime; relating to the qualifications of certain members of the Violent Crimes Compensation Board; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures, and Rule 21, Alaska Delinquency Rules; and providing for an effective date."

Current Alaska law says that a person charged with an unclassified crime or a class A felony may make an application to the court to review the bail conditions and argue for reductions for the amount of bail every 24 hours without limitation. This poses logistical problems for all parties involved, given the short amount of time to prepare for each new bail hearing.

HB 54 establishes three requirements designed to alleviate calendaring strain on the court system and the district attorney's office while also protecting crime victims' rights and reducing same day notice of hearings. First, in order to calendar a subsequent bail hearing, the accused must submit, in writing, that there exists new information for the court's consideration that was not considered at prior bail hearings. Second, the district attorney is given 48 hours notice in which to notify the victim of the hearing. Finally, hearings may not be set everyday; rather there will be a 48-hour period between calendared bail hearings. These provisions balance the rights of the accused with the rights of crime victims and accommodate for the schedules of both the district attorney's office and the court system.

HB 54 also outlines by statute that a victim may be introduced to a jury during the opening statement at a trial or during the jury selection process. This is to ensure that the courts recognize the right of the prosecution to introduce the victim at the appropriate time. The bill, if passed, would cause indirect court rule change to Rule 27, Criminal Procedure and Rule 21, Delinquency Rules.

The bill also allows a crime victim to petition for review a defendant's sentence that falls below the sentencing range set for a specific crime.

Finally, the bill cleans up language in the Violent Crimes Compensation Board statute to allow a retired attorney or physician to serve on the board. Current statute prohibits this.

Email: Representative.Ralph.Samuels@legis.state.ak.us

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3510
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0240 Fax: (907) 269-0242

SENATE COMMITTEE REPORT

DATE: 4/20/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/28/05

Judiciary Committee considered CS FOR HOUSE BILL NO. 54(FIN)

HB 54 BAIL REVIEW

"An Act relating to bail review; relating to petitions for review by crime victims where the defendant has received a sentence below the sentencing range for the crime; relating to the qualifications of certain members of the Violent Crimes Compensation Board; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures, and Rule 21, Alaska Delinquency Rules; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____



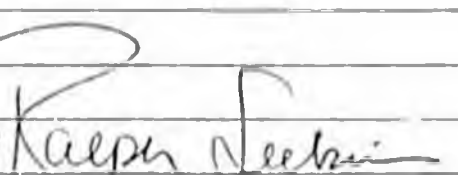
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COR	3/26			✓	1
CRT	3/24			✓	2
LAW	3/29			✓	3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
French 			X	
Huggins 	X			
CHAIR:  Ralph Seebin	✓			

French
Huggins

Seebin

HB

57

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SSHB 57
(H) Publish Date: 3/27/06

Revision Date/Time (Note if correction): 3/22/06 Dept. Affected: Natural Resources
Title: AUTHORITY TO PURCHASE FEDERAL LAND RDU: Resource Development
Component: Claims, Permits and Leases
Sponsor: Rep. Weyhrauch
Requester: (H) RES Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL						

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would allow DNR to convey title to an isolated parcel of state owned land, through negotiated sale to an adjacent land owner at fair market value, if the parcel is smaller than 20 acres and is completely enclosed by property owned by the adjacent land owner.

Other than a small but indeterminate amount of revenue expected to be generated from the sale of an anticipated small number of parcels, there is no anticipated significant fiscal impact associated with this proposed legislation. DMLW's existing preference right staff will process these additional preference rights sales, as DMLW received a budget increment for these purposes starting in FY06.

Prepared by: Dick Mylius, Acting Director Phone: 907-269-8625
Division: Mining, Land & Water Date/Time: 3/21/2006
Approved by: Michael L. Menge, Commissioner Date: 3/21/2006
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SSHB 57
(H) Publis' Date: 3/27/06

Revision Date/Time (Note if correction): 3/22/06 Dept. Affected: Natural Resources
Title: AUTHORITY TO PURCHASE FEDERAL LAND RDU: Resource Development
Component: Claims, Permits and Leases
Sponsor: Rep. Weyhrauch
Requester: (H) RES Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (**)	*** Indeterminate***					
----------------------------------	----------------------	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL						

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

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Prepared by: Dick Mylius, Acting Director Phone: 907-269-8625
Division: Mining, Land & Water Date/Time: 3/21/2006
Approved by: Michael L. Menge, Commissioner Date: 3/21/2006
Agency: Natural Resources

accepted 4/4

24-LS0319\Y.1
Bullock
3/31/06

AMENDMENT

OFFERED IN THE HOUSE
TO: SSHB 57

BY REPRESENTATIVE WEYHRAUCH

1 Page 3, line 7, following "parcel":

2 Insert "(i)"

3

4 Page 3, line 8, following "code":

5 Insert "or"

6

7

8

9 Page 3, lines 21 - 24:

10 Delete "§"

11

12

13

(ii) is smaller than 20 acres and is completely enclosed by property owned by the adjacent landowner:"

(11) negotiate the sale of an isolated parcel of state land at fair market value to an adjacent landowner if the parcel is smaller than 20 acres and is completely enclosed by property owned by the adjacent landowner"

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

HB 57

Sponsor Statement

“ An Act relating to the sale of certain land to adjacent landowners ”

House Bill 57 would authorize the State of Alaska, through the Department of Natural Resources (DNR) Director of Lands, to negotiate the sale of state lands smaller than 20 acres at fair market value to an adjacent landowner provided the state property is completely enclosed by the adjacent landowner. The bill would not mandate DNR to sell state property under such circumstances, but would grant it the ability to allow a landowner to purchase the state land the property encompasses.

Contact: Terry Garvey

Issued 02-14-06

A 2514
04



To Black Bear NE

BLACK BEAR NE

If there are any other measurements
then use 572

26/1/2000

H B - 57

REASONS FOR WANTING A NEGOTIATED SALE OF 13 ACRES OF State LAND
FOR THE RECORD

MY NAME IS JORN SCHNABEL A RESIDENT OF HAINES ALASKA SINCE 1939 LESS 4 YRS IN THE NAVY.

I WISH TO PURCHASE 13 ACRES OF STATE LAND WITHOUT AN OUTCRY AUCTION. *BECAUSE*
MY PAST EXPERIENCE OF FORTY PLUS YEARS IN THE FOREST INDUSTRY OF S.E. ALASKA
HAS MADE ME AWARE THAT ANYONE CAN COMEFORWARD AND BID FOR A PARCEL OF LAND I
HAVE ELECTED TO LEASE OR PURCHASE WITHOUT HAVING TO PAY THE UP FRONT COSTS
FOR SURVEY,LEGAL RESEARCH, ADVERTISING ,TITLE INSURANCE ETC. *plus my TIME.*

I AM IN THE PROCESS OF DEVELOPING THE EIGHTY ACRES I OWN THAT COMPLETELY
SURROUNDS A PARCEL OF STATE LAND IN AN EFFORT TO CONTRIBUTE TO THE LOCAL ECONOMY
BY MAKING IT INTO A TOURIST DESTINATION. THE TOURIST EXPECTS, OTHER THAN PANNING
FOR GOLD, A WILDERNESS EXPERIENCE WHEN HIKING OVER MY EIGHTY ACRES WITHOUT BEING
DISTURBED BY SOME ACTIVITY IN THE CENTER OF MY PROPERTY. I HAVE INVESTED OVER
ONE MILLION DOLLARS TO DATE TO BRING THIS INTO REALITY.AND NEED THIS PARCEL TO
AVOID CONFLICT. IN THE FUTURE.

I HAVE NO PROBLEM WITH THE DEDICATION OF ACCESS THROUGH THIS STATE LAND TO
COMPLY WITH TRAIL DESIGNATION #2477 *AND* I AM HOPEFUL THIS TRANSFER CAN BE ACCOMPLISHED
THIS YEAR.

CONFERENCE 1 PM FBI

PH - 1-888-295-4546