

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5634 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

38

reimbursement program have been prorated to eligible communities, and the municipal budget process has been upset because local governments have had to pay a larger share of the debt service than was anticipated and budgeted for. The unpredictability of reimbursement rates has been especially critical in the areas of the State with high growth during the early 1980s. It will continue to be a major problem during the lifetime of the bonds issued for construction in these areas if full funding of the entitlement is not guaranteed.

As Table 5 shows, in FY 88 the shortfall in funding to fully reimburse local governments for school construction debt service amounted to \$9,228,613; in FY 89, the shortfall is estimated at over \$7.3 million.

EDUCATION

Funding for education is the largest single item in the state budget, approximately 25 percent, and is the largest transfer of funds from the State to local governments. The Alaska Municipal League *Policy Statement* supports the "State's assuming full financial responsibility for basic education including funding of school construction" (1989 *Policy Statement*, II.A.1) because of the Alaska Constitution's mandate to establish and maintain a system of public education open to all children.

Education Foundation Formula

The Alaska Municipal League requests funding for the Education Foundation Formula for FY 90 of not less than the estimated cost of \$480,000,000 to make it possible for Alaska's municipalities to provide basic education for all children.

Table 6. Education Foundation Formula Funding, FY 1985 - FY 1990

Fiscal Year	Entitlement	State Appropriation	%*
1986	\$491,159,214	\$491,159,214	100.0
1987	451,529,200	414,729,423	91.9
1988	437,438,385	437,438,385	100.0
1989	480,000,000 (est.)	447,500,900	100.0
1990	480,000,000 (est.)	480,000,000 (req.)	100.0

*Ratio of state appropriation (reimbursement to municipalities) to entitlement.
Source: Department of Education

The main component of the state government's support of education for all Alaskan children is the Foundation Formula. This formula distributes funds to the local school districts based on the instructional unit concept. Minimum state aid to city and borough districts is now defined as 65 percent of basic need (with local governments required to contribute 35 percent of basic need or a 4-mill equivalency, whichever is less). Rural Education Attendance Areas are funded at 100 percent of basic need. On a statewide basis, approximately 72 percent of the cost of education is funded by the State, 22 percent by local governments, and 6 percent by the federal government with PL 874 grants for federally impacted school districts. Table 6 shows the historical trend in funding of the Foundation Formula.

Pupil Transportation

The Alaska Municipal League requests funding of the Pupil Transportation Account for FY 90 at not less than the FY 89 level of \$25,121,700.

Alaska has provided funding for pupil transportation since 1924-25, when the Territory of Alaska set up the first school transportation fund. As Table 7 shows, the Pupil Transportation Account has been underfunded for many years, which has placed a burden on the local governments that must provide transportation but bear the burden imposed by underfunding. In FY 89, the Pupil Transportation Account was fully funded.

Table 7. Pupil Transportation Account Funding, FY 1985 - FY 1990

Fiscal Year	Entitlement	State Appropriation	%*
1985	na	\$24,648,300	na
1986	\$24,497,832	23,131,176	94.4
1987	23,713,035	21,343,816	89.9
1988	21,268,600	21,171,000	87.8
1989	25,121,700	25,121,700	100.0
1990	25,121,700 (est.)	25,121,700 (req.)	100.0

*Ratio of state appropriation (reimbursement to municipalities) to entitlement.
Source: Department of Education

Resolution of the Alaska Municipal League

Resolution No. 89-14

**A RESOLUTION REQUESTING FORWARD AND EARLY
FUNDING FOR EDUCATION**

WHEREAS, until 1988 the Alaska State Legislature acted on funding for education during the last few days of the Legislative Session, and

WHEREAS, in most municipalities, the largest segment of the overall budget is the education budget, and

WHEREAS, in 1988 the Alaska State Legislature acted on education funding during the early part of the 1988 legislative session, enabling municipalities to project funding sources and to complete their budget in a timely manner, and

WHEREAS, early funding allows municipalities to know the amount of funds available from the State at an early date, and

WHEREAS, forward funding would allow a municipality to know a year in advance the amount of funds which will be available for education;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges Governor Steve Cowper to include both forward funding and early funding in his budget and to support both programs.

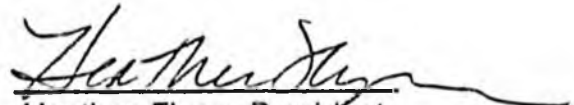
BE IT FURTHER RESOLVED by the Alaska Municipal League that the Alaska State Legislature is requested to enact legislation that will allow forward funding for education and to appropriate the necessary funds for forward funding.

BE IT FURTHER RESOLVED that in the event forward funding for education is not enacted by the Legislature, the Alaska Municipal League respectfully requests the Alaska State Legislature to pass early education funding during the first half of the legislative session.

BE IT FURTHER RESOLVED that the Governor is requested to approve legislation pertaining to educational funding enacted by the legislature, whether that funding is forward funding or early funding.

BE IT FURTHER RESOLVED that the Alaska Municipal League's strong and unwavering support for education is not meant to diminish the importance to many communities of adequate funding for the municipal assistance and revenue sharing programs.

Adopted this 18th day of November 1988 in Fairbanks, Alaska.


Heather Flynn, President

ATTEST:


Scott A. Burgess, Executive Director

Resolution of the Alaska Municipal League

Resolution No. 89-3

**A RESOLUTION REQUESTING ADEQUATE FUNDING
OF MUNICIPAL ENTITLEMENT PROGRAMS**

WHEREAS, declining oil revenues have resulted in a 10 percent decrease in spending in the State budget while State aid to municipalities has been reduced by over 30 percent, and

WHEREAS, by statute the State has established several entitlement programs that share state revenues with municipalities to assist them in the provision of basic services for Alaskans at the local level, and

WHEREAS, the State Senior Citizens/Disabled Veterans Tax Exemption Program and the companion Renters Equivalency Program have cost Alaskan municipalities over \$13,000,000 since 1986 because of underfunding by the Legislature, and

WHEREAS, inequities and inconsistencies in State funding of school construction have cost municipalities over \$29,000,000 in unreimbursed school debt since 1986, and

WHEREAS, the State Revenue Sharing Program, created by the Alaska State Legislature in 1969 to encourage local governments to provide adequate levels of public services and to inject a measure of stability into the municipal budgeting procedure, has been reduced by fully one third since 1986, and

WHEREAS, the Miscellaneous Municipal Services Account of the Revenue Sharing Program, which provides specific funds for local roads, ice roads, hospital and health facilities, fire departments and unincorporated communities, has not been fully funded for nine years, and

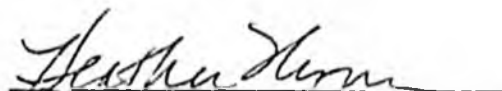
WHEREAS, the Municipal Assistance Program has also been reduced by over 30 percent since 1986, and

WHEREAS, basic education for Alaska's children is a constitutionally mandated function of the State, and the Education Foundation Formula is the single most important component in the state system for funding this need, and


WHEREAS, the Alaska Municipal League wishes to indicate its fiscal responsibility and recognizes that the price of oil may not allow increases in the entitlement programs;

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Governor and the 16th Alaska State Legislature to provide funding for municipal entitlement programs in an amount not less than was appropriated in FY 89.

Adopted this 18th day of November 1988 in Fairbanks, Alaska.


Heather Flynn, President

ATTEST:


Scott A. Burgess, Executive Director



Official Business

COMMITTEE:

House HESS Committee

DATE:

January 18, 1988

SIGN-IN

Subject of meeting:

* HB 16: Approp: Pass Thru Grants for Education

* HB 4: Deadlines for Funding Education

NAME	ADDRESS- Include ZIP	PHONE	(Include Title) REPRESENTING	If testifying, specify bill
Carl Rose	316 W 11 th St Juneau 99801	5861083	executive dir. AAS Boards. State of AK	HB-4 Yes
Linda Anderson	130 Second Street, Rm 304 Juneau, AK 99801	586-6661	Lobbyist Fronts N S Dist d. School district	HB 4
Rep. Swackhammer	The Alaska State Leg. Porch F 99811	465-2689	Sponsor B Self HB 4	HB 4
Steve McPheters	326 4 th Street, Suite 408 Juneau, AK 99801	586,9702	Lobbyist. AK State of School Administrators	HB 4
Jiri Nordlund	Cap. Bldg, Rm 106 Juneau 99811	465-3759	Committee Aid House HESS	HB 16
Steve Hole	Porch F Juneau, AK 99811	465-2800	Deputy Comm., DOE	as needed

* indicates first public hearing

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811
907-461-1800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. HESS 1-15-89

H. HESS 2-01-89

HB

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State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99801
(907) 465-4712
465-4968/4986
(SESSION)
914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 8, 1990

MEMORANDUM

TO: Members of the House Judiciary and HESS Committees
FROM: Representative Max Gruenberg *Max*
RE: Court order waiving confidentiality of records
for Foster Care Review Board pilot projects

Enclosed is a copy of the court order authorizing access to confidential records in children's cases for the Foster Care Review Board pilot projects.

Bill Hitchcock, Master of the Children's Court in Anchorage, provided this information in response to my request during a House HESS hearing on HB 19, Foster Care Review Boards.



Trial Courts

State of Alaska

THIRD JUDICIAL DISTRICT
303 K Street
Anchorage, Alaska 99501-2700

WILLIAM D. HITCHCOCK
Master, Trial Courts

January 29, 1990

TO: House HESS Committee

FROM: William D. Hitchcock *WH*
Master, Children's Court (Anchorage)

The attached Supreme Court Order is forwarded per Committee request from teleconference hearing of January 23, 1990.

WDH:lja

IN THE SUPREME COURT FOR THE STATE OF ALASKA

SPECIAL ORDER OF THE CHIEF JUSTICE

ORDER NO. 2119RECEIVED
FEB 28 1989Granting Foster Care Review
Boards in Anchorage and
Ketchikan Access to Confidential
Files

IT IS ORDERED:

Staff and members of the Foster Care Review Boards in Anchorage and Ketchikan working with the Office of Public Advocacy are granted access to all material, including confidential documents, contained in childrens cases. The purpose of the access is to allow the Foster Care Review Boards to work with the courts, the Office of Public Advocacy and the Division of Family and Youth Services to improve services for children, and to serve as a source of input to the legislature which currently has before it a bill to create foster care review systems statewide. Confidential information must be kept confidential by the Foster Care Review Boards.

2/24/89
Date
Warren W. Matthews
Chief JusticeDistribution:Arthur H. Snowden, II
Judge Schulz
Judge Shortell
Judge Carlson
Bill Hitchcock
LeEllen Baker
Ruth Hanis - Ketchikan

Item 2

State Children's Citizen Review Panel Division

Juneau Headquarters Office

Executive Director state panel
1 Admin. Assist.
1 Research Analyst

Juneau Regional Office

1 CFCRP Coordinator 1 local panel
1 CFCRP Assistant
1 Clerk Typist III

Anchorage Regional Office

1 CFCRP Coordinator 4 local panels
6 CFCRP Assistants
5 Clerk Typist III's

Fairbanks Regional Office

1 CFCRP Coordinator 2 local panels
3 CFCRP Assistants
2 Clerk Typist III's

Bethel Regional Office

1 CFCRP Coordinator 1 local panel
2 CFCRP Assistants
1 Clerk Typist III

Nome Regional Office

1 CFCRP Coordinator 1 local panel
1 CFCRP Assistant
1 Clerk Typist III

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Office of the Governor
 Title: "An Act relating to citizen review panels for certain children in state custody..." BRU: Commissions and Special Offices
 Sponsor: Reps. Collins, Gruenberg, Ulmer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	636.1	684.8	1117.4	1291.7	1330.5	
TRAVEL	99.7	99.7	142.3	145.9	145.9	
CONTRACTUAL	94.6	57.9	104.9	101.5	89.6	
SUPPLIES	11.1	11.1	18.5	21.0	21.0	
EQUIPMENT	159.2	15.3	95.4	13.3	5	
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1000.7	868.8	1478.5	1593.4	1587.5	

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	1000.7	868.8	1478.5	1593.4	1587.5	
FEDERAL FUNDS						
OTHER						
TOTAL	1000.7	868.8	1478.5	1593.4	1587.5	

POSITIONS:

FULL-TIME	17	18	28	31	31	
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis

Prepared by: Michael Nizich, Director Phone: 465-3616
 Division: Administrative Services Date: _____

Approved by Commissioner: Garrev Peska Date: 1/22/90
 Agency: Office of the Governor

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Fiscal note reflects phase-in of regional offices and local panels over a four year period. Personal Services assume step A for each initial position and includes one-step merit increases for subsequent years.

FY 91**PERSONAL SERVICES:**

636.1

Request for New Position forms are attached; three position requests for Juneau Main Office, twelve positions for Anchorage Regional Office, and two positions for Ketchikan Regional Office.

TRAVEL

99.7

Assumes two annual meetings for the Statewide Panel and per diem costs only for local panel meetings.

Statewide Panel (5 members):

Public members:

Juneau:	travel @ \$400/person x 3 people	=	1,200	
	travel @ \$700/person x 1	=	700	
	per diem @ 80/day x 3 days x 4 people	=	960	
	per diem @ 80/day x 5 days x 1 person	=	400	3,260

Anchorage:	travel @ \$400/person x 3 people	=	1,200	
	travel @ \$700/person x 1 person	=	700	
	per diem @ 80/day x 3 days x 4 people	=	960	
	per diem @ 80/day x 4 days x 1 person	=	320	

Administrative travel:

	travel @ \$400/person x 2 people	=	800	
	per diem @ 80/day x 3 days x 2 people	=	480	4,460

Local Review Panels (5 members with 2 alternates each):

	total 5 panels minimum per caseload			
	meetings of three days/month, total per			
	diem expenses			72,000

Training travel/per diem - staff and panel members				20,000
--	--	--	--	--------

Total Travel:				99,720
---------------	--	--	--	--------

CONTRACTUAL:

94.6

Assumes office locations of Juneau, Anchorage and Ketchikan.
Telephone charges averaged from similar size division with comparable toll call usage.

Professional Services:

10,000

Communication:

Telephone (toll costs, base/local fixed costs, centrex network costs) 1000/mo x 12 months	12,000
Telecopier charges -- 75/mo x 12 months	900
Teleconference charges -- 2 @ 450	900
Postage -- 750/mo x 12	9,000

Transportation:

Freight/express charges -- 225/mo x 12	2,700
--	-------

Advertising, Printing & Binding:

Subscriptions	75
Advertising -- 2 meetings x 350	700
Printing Annual report	2,500
Forms, misc.	750
Photocopy per caseload requirements	5,328

Minor Repair, Maintenance:

3,600

Rental for Space:

Space requirements per Department of Administration standards:

Juneau	394.25 SF @ \$2.00/SF x 12 months	=	9,462	
Ketchikan	315.75 SF @ \$2.50/SF x 12 months	=	9,473	
Anchorage	1135.5 SF @ \$2.00/SF x 12 months	=	27,252	46,187

Total Contractual:	94,640
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SUPPLIES AND MATERIALS:

11.1

Office and library supplies, 900/mo x 12	=	10,800	
Data processing supplies	=	300	11,100

EQUIPMENT:

159.2

Equipment per office includes one PC per position, file cabinets, furniture and miscellaneous equipment, phones and photocopiers.

Juneau Main Office	=	28,850	
Ketchikan Regional Office	=	25,806	
Anchorage Regional Office	=	104,560	159,216

FY 92

Reflects transfer of the Ketchikan Regional Office to Juneau and the addition of one position.

PERSONAL SERVICES: 684.8

Includes one-step merit increase for existing positions and one additional position in Juneau.

TRAVEL: 99.7

CONTRACTUAL: 57.9

Assumes transfer of furniture, equipment, etc. from Ketchikan Regional to newly established Juneau Regional Office.

Rental for Space:

Juneau Regional Office 395.75 SF x 2.00/SF = 9,498

SUPPLIES AND MATERIALS: 11.1

EQUIPMENT: 15.3

For additional position in Juneau Regional Office.

FY 93

Adds Fairbanks and Bethel Regional Offices and 3 additional local review panels.

PERSONAL SERVICES: 1,117.4

One-step merit increases for ongoing positions, six new positions for Fairbanks Regional Office and four new positions for Bethel Regional Office.

TRAVEL: 142.3

Includes per diem costs for three additional local panels, two at Fairbanks per diem of \$90/day and one at Bethel per diem of \$85/day.

CONTRACTUAL: 104.9

Professional Services: 10,000

Communication:	Telephone (toll costs, base/local fixed costs, centrex network costs) 2000/mo x 12 months	24,000
	Telecopier charges -- 125/mo x 12 months	1,500
	Teleconference charges -- 2 @ 450	900
	Postage -- 1250/mo x 12	15,000

Transportation:	Freight/express charges -- 375/mo x 12	4,500
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Advertising, Printing & Binding:

Subscriptions	75
Advertising -- 2 meetings x 350	700
Printing Annual report	2,500
Forms, misc.	1,000
Photocopy per caseload requirements	7,718

Minor Repair, Maintenance: 6,000

Rental for Space:

Space requirements per Department of Administration standards:

Fairbanks	678 SF @ \$2.00/SF x 12 months	= 16,272	
Bethel	492 SF @ \$2.50/SF x 12 months	= 14,760	31,032

Total Contractual: 104,925

SUPPLIES AND MATERIALS: 18.5

Office and library supplies, 1500/mo x 12	= 18,000	
Data processing supplies	= 500	18,500

FY 93 (continued)**EQUIPMENT:**

95.4

Equipment per office includes one PC per position, file cabinets, furniture and miscellaneous equipment, phones and photocopiers.

Fairbanks Regional Office	=	55,156	
Bethel Regional Office	=	40,256	95,412

FY 94

Adds Nome Regional Office and 1 local review panel.

PERSONAL SERVICES:

1,291.7

One-step merit increase for ongoing positions, three new positions for Nome Regional Office.

TRAVEL:

145.9

Includes per diem costs for one additional local panel at \$90/day for eight 1-day meetings.

CONTRACTUAL:

101.5

Professional Services:

10,000

Communication:

Telephone (toll costs, base/local fixed costs, centrex network costs)	
2900/mo x 12 months	34,800
Telecopier charges -- 175/mo x 12 months	2,100
Teleconference charges -- 2 @ 450	900
Postage -- 1500/mo x 12	18,000

Transportation:

Freight/express charges -- 450/mo x 12	5,400
--	-------

Advertising, Printing & Binding:

Subscriptions	75
Advertising -- 2 meetings x 350	700
Printing Annual report	2,500
Forms, misc.	1,150
Photocopy per caseload requirements	7,948

Minor Repair, Maintenance:

6,000

Rental for Space:

Space requirements per Department of Administration standards:

Nome 395.75 SF @ \$2.50/SF x 12 months	11,873
--	--------

Total Contractual:	101,446
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FY 94 (continued)

SUPPLIES AND MATERIALS:

21.0

Office and library supplies, 1700/mo x 12 = 20,400

Data processing supplies = 600 21,000

EQUIPMENT:

33.3

Equipment per office includes one PC per position, file cabinets, furniture and miscellaneous equipment, phones and photocopiers.

None Regional Office

33,306

FY 95

~~PERSONAL SERVICES:~~

1,330.5

TRAVEL:

145.9

CONTRACTUAL:

89.6

SUPPLIES AND MATERIALS:

21.0

EQUIPMENT:

.5

1.	POSITION TITLE Administrative Assistant, SCCRP				RANGE/STEP 16/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE				Administrative support to the Executive Director. Monitors budget; processes invoices; travel authorizations; delivery orders and similar daily fiscal documents. Assists Exec. Dir. with preparation of annual report, training plans, and implementation of Panel's policies.					
	1		2		AMOUNT					
	PERSONAL SERVICES									
5.	Salary		32,580							
6.	Benefits		11,782							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	44.4						
10.	Travel		02	.9						
11.	Contractual		03	2.0						
12.	Commodities		04							
13.	Equipment		05	7.8						
14.	Other									
15.	TOTAL COST			55.1						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004			55.1					
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY KEY NUMBER										

REQUEST FOR NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 2 of 14

Revised Date

1.	POSITION TITLE Research Analyst II				RANGE/STEP 16/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP	
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				JUSTIFICATION:						
4.	TYPE OF EXPENDITURE			AMOUNT		<p>Under supervisor of the Executive Director, create management and data collection system for all children under review by SCCRP. Maintain data systems for agency; assist in production of annual report; preparation of required/requested statistical data and case review data.</p>					
	1	2	3								
	PERSONAL SERVICES										
5.	Salary		32,580								
6.	Benefits		11,782								
7.	Supplemental Benefits										
8.	Fixed Benefits										
9.	TOTAL PERSONAL SERVICES		01	44.4							
10.	Travel		02								
11.	Contractual		03	2.0							
12.	Commodities		04								
13.	Equipment		05	8.8							
14.	Other										
15.	TOTAL COST			55.2							
	RECEIPT CODE	FUNDING SOURCE									
16.		Federal Receipts 1002									
17.		G.F. Match 1003									
18.		General Funds 1004		55.2							
19.		I-A Receipts 1005									
20.		Program Receipts 1028									
21.		Other									
FOR B&M USE ONLY											
KEY NUMBER											

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 3 of 14

Revised Date _____

1.	POSITION TITLE Citizens Foster Care Review Panel (CFCR) Coordinator				RANGE/STEP 17/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau/Anch.	SECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE				One each position, Juneau and Anchorage Regional offices. (Juneau position transferred from Ketchikan) Supervise regional office of the State Children's Citizen Review Panel. Employ, discharge and supervise CFCR assistants and Clerk Typists. Recruit, screen and train local review panels; administer policies and procedures; substitute for assistants in emergencies; coordinate activities of local panels with agencies affected by review process. Review and approve written summaries and reports prepared by the CFCR assistants prior to distribution. Reports to the SCCRP Exec. Director.					
	1	2	AMOUNT							
	PERSONAL SERVICES									
5.	Salary		34,920							
6.	Benefits		12,296							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	47.2							
10.	Travel	02	.8							
11.	Contractual	03	3.4							
12.	Commodities	04								
13.	Equipment	05	7.3							
14.	Other									
15.	TOTAL COST		58.7							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		58.7						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY KEY NUMBER										

REQUEST FOR NEW POSITION

AGENCY Office of the Governor
 BRU Commissions and Special Offices
 COMPONENT State Children's Citizen Review Panel

Page <u>4</u> of <u>14</u>
Revised Date _____

FY 91

1.	POSITION TITLE CFCRP Coordinator				RANGE/STEP 17/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Ketchikan	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>Position transfers to Juneau in FY 92.</p> <p>Supervises regional office of the State Children's Citizen Review Panel. Employ, discharge and supervise CFCR assistants and Clerk Typists. Recruit, screen and train local review panels; administer policies and procedures; substitute for assistants in emergencies; coordinate activities of local panels with agencies affected by review process. Review and approve written summaries and reports prepared by the CFCR assistants prior to distribution. Reports to SCCRP Exec. Director.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		34,220							
6.	Benefits		12,296							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	47.2						
10.	Travel		02	.8						
11.	Contractual		03	4.2						
12.	Commodities		04							
13.	Equipment		05	7.3						
14.	Other									
15.	TOTAL COST			59.5						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		59.5						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY KEY NUMBER										

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 5 of 14
Revised Date _____

1.	POSITION TITLE CFCRP Coordinator				RANGE/STEP 17/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	FCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE				<p>Supervises regional office of the State Children's Citizen Review Panel. Employ, discharge and supervise CFCR assistants and Clerk Typists. Recruit, screen and train local review panels; administer policies and procedures; substitute for assistants in emergencies; coordinate activities of local panels with agencies affected by review process. Review and approve written summaries and reports prepared by the CFCR assistants prior to distribution. Reports to SCCRP Exec. Director.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		40,236							
6.	Benefits		13,462							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01		53.7						
10.	Travel	02		.8						
11.	Contractual	03		3.4						
12.	Commodities	04								
13.	Equipment	05		7.3						
14.	Other									
15.	TOTAL COST			65.2						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		65.2						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR B&M USE ONLY									
	KEY NUMBER									

REQUEST FOR NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 6 of 14
Revised Date

1.	POSITION TITLE CFCRP Coordinator				RANGE/STEP 17/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Bethel/	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION: Nome					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>One each position, Bethel and Nome regional offices.</p> <p>Supervises regional office of the State Children's Citizen Review Panel. Employ, discharge and supervise CFCR assistants and Clerk Typists. Recruit, screen and train local review panels; administer policies and procedures; substitute for assistants in emergencies; coordinate activities of local panels with agencies affected by review process. Review and approve written summaries and reports prepared by the CFCR assistants prior to distribution. Reports to SCCRP Exec. Director.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	47,688								
6.	Benefits	15,097								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	62.8							
10.	Travel	02	1.1							
11.	Contractual	03	4.2							
12.	Commodities	04								
13.	Equipment	05	7.3							
14.	Other									
15.	TOTAL COST		75.4							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		75.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
	FOR B&M USE ONLY KEY NUMBER									

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 7 of 14

Revised Date

1.	POSITION TITLE CFCRP Assistant				RANGE/STEP 11/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Juneau/	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION: Anchorage					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>One position Juneau, 6 positions in Anchorage</p> <p>Reports to the CFCRP Coordinator. Coordinates schedules of case reviews; notify parties of case reviews and coordinate telephonic accessibility by all parties to a review; coordinate access to and xeroxing of case files at appropriate agencies; review each case file and compile summary for panel's review; complete all data collection forms on each case; attend local panel meetings, record testimony, concerns and recommendations. Write and coordinate distribution of CFCRP report to Court and parties/agencies involved.</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		23,580							
6.	Benefits		9,808							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	33.4						
10.	Travel		02							
11.	Contractual		03	1.9						
12.	Commodities		04							
13.	Equipment		05	7.0						
14.	Other									
15.	TOTAL COST			42.3						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003		42.3						
18.		General Funds 1004								
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
KEY NUMBER										

REQUEST FOR NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPON State Children's Citizen Review Panel

FY 91

Page <u>8</u> of <u>14</u>
Revised Date _____

1.	POSITION TITLE CFCRP Assistant				RANGE/STEP 11/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	Three positions Fairbanks regional office.					
	1		2	3	Reports to the CFCRP Coordinator. Coordinates schedules of case reviews; notify parties of case reviews and coordinate telephonic accessibility by all parties to a review; coordinate access to and xeroxing of case files at appropriate agencies; review each case file and compile summary for panel's review; complete all data collection forms on each case; attend local panel meetings, record testimony, concerns and recommendations. Write and coordinate distribution of CFCRP report to Court and parties/agencies involved.					
	PERSONAL SERVICES									
5.	Salary		26,604							
6.	Benefits		10,471							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	37.1						
10.	Travel		02							
11.	Contractual		03	1.9						
12.	Commodities		04							
13.	Equipment		05	7.0						
14.	Other									
15.	TOTAL COST			46.0						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		46.0						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
KEY NUMBER										

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 9 of 14

Revised Date _____

1.	POSITION TITLE CFCRP Assistant				RANGE/STEP 11/A	BARG. UNIT	PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Bethel/	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION: Nome					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>Two positions Bethel regional office, one position in Nome.</p> <p>Reports to the CFCRP Coordinator. Coordinates schedules of case reviews; notify parties of case reviews and coordinate telephonic accessibility by all parties to a review; coordinate access to and xeroxing of case files at appropriate agencies; review each case file and compile summary for panel's review; complete all data collection forms on each case; attend local panel meetings, record testimony, concerns and recommendations. Write and coordinate distribution of CFCRP report to Court and parties/agencies involved.</p>					
	1		2	3						
	PERSONAL SERVICES									
5.	Salary		31,476							
6.	Benefits		11,540							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	43.0						
10.	Travel		02							
11.	Contractual		03	2.4						
12.	Commodities		04							
13.	Equipment		05	2.0						
14.	Other									
15.	TOTAL COST			52.4						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		52.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY										
KEY NUMBER										

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 10 of 14

Revised Date _____

1.	POSITION TITLE				RANGE/STEP	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION	STAFF MONTHS	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION	ELECTION DISTRICT	LEG.		
	Clerk Typist III /				8/A					
	PFT	12				Juneau/				
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION: Anchorage					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		19,668							
6.	Benefits		8,950							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		28.6					
10.	Travel		02							
11.	Contractual		03		1.4					
12.	Commodities		04							
13.	Equipment		05		7.0					
14.	Other									
15.	TOTAL COST				37.0					
	RECEIPT CODE		FUNDING SOURCE							
16.			Federal Receipts 1002							
17.			G.F. Match 1003							
18.			General Funds 1004		37.0					
19.			I-A Receipts 1005							
20.			Program Receipts 1028							
21.			Other							
FOR B&M USE ONLY KEY NUMBER										

One position Juneau, 5 positions Anchorage regional office.
(Juneau position transferred from Ketchikan)
Clerical and typing support for the CFCRP Assistants and Coordinators. Maintain files, typing needs of assistants and coordinator, photocopy and compile case files at various agencies related to cases subject to review.

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 11 of 14
Revised Date

1.	POSITION TITLE Clerk Typist III /				RANGE/STEP 8/A	BARG. UNIT	PAGE/LINE	GOV.	APPROV.	DISAPP
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Ketchikan	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION: One position, transfer to Juneau Regional office in FY 92. Clerical and typing support for the CFCRP Assistants and Coordinators. Maintain files, typing needs of assistants and coordinator, photocopy and compile case files at various agencies related to cases subject to review.					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary		19,668							
6.	Benefits		8,950							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01	28.6						
10.	Travel		02							
11.	Contractual		03	1.8						
12.	Commodities		04							
13.	Equipment		05	7.0						
14.	Other									
15.	TOTAL COST			37.4						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		37.4						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&M USE ONLY KEY NUMBER										

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 12 of 14

Revised Date

1.	POSITION TITLE Clerk Typist III /				RANGE/STEP 8/A	BARG. UNIT	PAGE/LINE	COV.	APPROV.	DISAPP	
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.			
3.	CONTINUATION LEVEL				ADDITION						
4.	TYPE OF EXPENDITURE				AMOUNT						
	1		2		3						
	PERSONAL SERVICES										
5.	Salary		22,140								
6.	Benefits		9,492								
7.	Supplemental Benefits										
8.	Fixed Benefits										
9.	TOTAL PERSONAL SERVICES		01		31.6						
10.	Travel		02								
11.	Contractual		03		1.4						
12.	Comodities		04								
13.	Equipment		05		7.0						
14.	Other										
15.	TOTAL COST				40.0						
	RECEIPT CODE				FUNDING SOURCE						
16.					Federal Receipts 1002						
17.					G.F. Match 1003						
18.					General Funds 1004 40.0						
19.					I-A Receipts 1005						
20.					Program Receipts 1028						
21.					Other						
FOR BSM USE ONLY KEY NUMBER											

JUSTIFICATION:

Two positions Fairbanks Regional office.

Clerical and typing support for the CFCRP Assistants and Coordinators. Maintain files, typing needs of assistants and coordinator, photocopy and compile case files at various agencies related to cases subject to review.

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 13 of 14

Revised Date

1.	POSITION TITLE Clerk Typist III /				RANGE/STEP 8/A	BARG. UNIT	PAGE/LINE	COV.	APPROV.	DISAPP
2.	TYPE OF POSITION PET	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Bethel /	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION: None					
4.	TYPE OF EXPENDITURE				One each Bethel and Nome Regional offices					
	1	2	3							
	PERSONAL SERVICES				Clerical and typing support for the GFCRP Assistants and Coordinators. Maintain files, typing needs of assistants and coordinator, photocopy and compile case files at various agencies related to cases subject to review.					
5.	Salary	25,740								
6.	Benefits	10,282								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	36.0							
10.	Travel	02								
11.	Contractual	03	1.8							
12.	Commodities	04								
13.	Equipment	05	7.0							
14.	Other									
15.	TOTAL COST		44.8							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G. F. Match 1003								
18.		General Funds 1004		44.8						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B&H USE ONLY KEY NUMBER										

REQUEST FOR
NEW POSITION

AGENCY Office of the Governor

BRU Commissions and Special Offices

COMPONENT State Children's Citizen Review Panel

FY 91

Page 14 of 14

Revised Date

FILED
SECRETARY OF STATE
NOV 19 87 028334

Approved by State Board
9/8/87

RULES AND REGULATIONS

TITLE 162 - STATE FOSTER CARE REVIEW BOARD

CHAPTER 1-000 INTRODUCTION

1-001 Legal Basis:

The Foster Care Review Act, LB 714 enacted by Nebraska's Eighty-seventh Legislature, Second Session, 1982, established the Foster Care Review Board, Section 43-1301 through Section 43-1318, Revised Statutes of Nebraska, 1943.

1-002 Purpose Statement:

The Foster Care Review Board was established as an independent agency to periodically review the case plans of children in foster care. The purpose of the review is to assure that appropriate goals have been set for the child, that realistic time limits have been set for the accomplishment of these goals, that efforts are being made by all parties to achieve these goals, that appropriate services are being delivered to the child and/or his or her family, and that long-range planning has been done to move the child to a permanent home where he or she can grow and thrive.

The Foster Care Review Board is mandated to maintain a tracking system of all children in out-of-home placement in the State. The tracking system is to provide information about the number of children entering and leaving care as well as any other data regarding needs and trends in foster care.

1-003 Review of Cases:

The State Board or designated local board shall review the case of each child in foster care at least once every six months.

APPROVED
ROBERT M. SPIRE
ATTORNEY GENERAL

APPROVED
Date 11/12/87

[Signature]
Governor

OCT 13 1987
BY *[Signature]*
Assistant Attorney General

South Carolina

I. OVERVIEW OF REVIEW SYSTEMS

A. PURPOSE OF FOSTER CARE REVIEW

The purpose of foster care review is to assure that children do not linger unnecessarily in foster care, but rather that they receive the support and benefits of a permanent home. Permanence is defined as a home which holds together during crisis and provides a lasting, trusting, and nurturing environment. The return of the child to the biological family is the ideal permanent goal; however, when this is not possible, the goal becomes to place the child in another stable, permanent home.

B. IMPORTANCE OF REVIEW SYSTEMS

1. Impact of Foster Care on Children

Children need the stability and support of a permanent home and family in order to grow and flourish; they need the sense of lifelong belonging and continuity that only a permanent home can provide. Children in foster care represent a huge potential loss in both financial and human terms.

It is estimated that almost half a million children pass through state foster care systems in this country every year. In fiscal year 1985, for example, federal government figures show that an average of 108,000 children were in foster care in any given month. The foster care system places a financial burden on U.S. taxpayers that was estimated at \$2 billion. The cost in human potential was- and remains- inestimable, since research indicates a direct correlation between child abuse and neglect and later juvenile delinquency and adult criminality.

When a child is placed in foster care, it is intended to be a short-term solution to an emergency situation. In the past, however, all too often foster care placements resulted in the child being destined to obscurity within the child welfare system. The ideal of assuring a permanent home for every child fell by the wayside while the child was set adrift among different foster families and group homes. The child's vital developmental years were lost, since he was neither free to return home to his natural parents nor eligible to be adopted by a new and permanent family.

Throughout the 1970's, judges, social workers, attorneys and child advocacy groups began to recognize that the U.S. foster care system was failing to respond to the needs of many abused and neglected children and their families. Many children were "adrift" in the system without regular or timely review of their placement. Crowded court calendars and understaffed child welfare agencies were contributing to an increase in the number of children and lengths of time spent in substitute care.

Concern for children lingering unnecessarily in foster care continued to mount throughout the decade. Among solutions proposed by child advocacy organizations were the comprehensive implementation of permanency planning case work and foster care placement monitoring through regular case reviews. A new resource was also identified to help monitor foster care children and to advocate on their behalf: citizen volunteers.

FISCAL NOTE

JAN 19 1990

REQUEST:

Revision Date: _____
 Title: "An Act relating to citizen review panels for certain children..."
 Sponsor: Collins, Gruenberg, Ulmer, et al
 Requestor: Representative Collins
 Agency Affected: Administration
 BRU: Office of Public Advocacy
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____
 Approved by Commissioner: Frank Baxter Date: 1/19/90
 Agency: Department of Administration

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Review Panels for children in Foster Care
 Sponsor: Collins and Gruenberg
 Requestor: _____

Agency Affected: DHSS
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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)

Prepared by: Russell Webb *Russell Webb* Phone: 465-3170
 Division: Family & Youth Services Date: _____
 Approved by Commissioner: Myra M. Munson *Myra M. Munson* Date: Jan 15, 1990
 Agency: Department of Health and Social Services

- Distribution (by preparer) :**
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

**STATE OF ALASKA
1990 LEGISLATIVE SESSION**

Bill Version: CS HB 19

Publish Date: 6/19/89

FISCAL NOTE

REQUEST:

Revision Date:	Agency Affected:	<u>Alaska Court System</u>
Title: <u>An Act relating to citizen review panels for certain children</u>	BRU:	<u>Trial Courts</u>
Sponsor: <u>Collins, Gruenberg, Ulmer, et al</u>	Components:	
Requestor:		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services		18.0	18.0	18.0	18.0	18.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	18.0	18.0	18.0	18.0	18.0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Funds	0.0	18.0	18.0	18.0	18.0	18.0
Federal Funds						
Other						
TOTAL	0.0	18.0	18.0	18.0	18.0	18.0

POSITIONS:

Full-time						
Part-time		1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis

Prepared by: Robert G. Fisher, Manager, Fiscal Operations
 Division: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 01/12/90
 Date: 01/12/90

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)

Alaska Court System

CS HB 19

Fiscal Analysis

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro tem superior court judge, PPT, 6 months	\$9,663	\$8,287	<u>\$17,950</u>

The court's preliminary analysis of this legislation indicates the 18-month review requirements will result in additional hearings. It is estimated that a half-time, permanent part-time, superior court judge will be required. The funding will be used to hire retired superior court judges in each judicial district impacted by this legislation.

The court will provide additional analysis of this legislation.

CONTENTS

1. House Bill 19
2. Sectional Analysis
3. Statutes
4. Sponsor Summary of bill
5. Legislative Reporting Service Summary
6. House HESS Preliminary Recommendations for the State Foster Care System
7. "Advantage of Citizen Review"
8. Citizen Review Systems in Other States
9. Alaska Foster Parent Association position paper

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

2

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3100

MEMORANDUM

February 27, 1989

SUBJECT: Sectional Analysis
HB 19

TO: Representative Virginia Collins

FROM: Terri Lauterbach *TWL*
Legislative Counsel

This memo contains a sectional analysis of HB 19, a bill relating to foster care review panels.

Section 1 requires a court to notify the parties in certain cases about the pertinent foster care review panel established under sec. 3 of the bill.

Section 2 adds a definition of "panel" to the definition section applicable to AS 47.10.

Section 3 establishes criteria for forming a foster care review panel and sets out panel duties.

Sec. 47.10.400 describes the composition of a foster care review panel.

Sec. 47.10.410 sets quorum and voting requirements for panels.

Sec. 47.10.420 directs the Department of Administration to provide staff and meeting space for panels.

Sec. 47.10.430 allows reimbursement of certain expenses of panel members.

Sec. 47.10.440 describes the duties of the panels.

Sec. 47.10.450 requires the Department of Health and Social Services to cooperate with panels and explain to the court any failure by DHSS to implement a panel recommendation.

Representative Virginia Collins

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Sec. 47.10.460 provides for the sharing of a child's records with a panel.

Sec. 47.10.470 sets out the circumstances under which a court must consider panel recommendations.

Sec. 47.10.480 requires the court system to make an annual report to the legislature about the activities of foster care review panels.

Section 4 notes that a court rule is affected by this Act.

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(d) A student shall be excused from service as a panel member if the student submits a written request to the court indicating the reason for not wishing to serve. (§ 2 ch 49 SLA 1966)

Legislative history reports. — For report on ch. 49, SLA 1966, see 1966 House Journal, p. 52.

Sec. 47.10.080. Judgments and orders. (a) The court, at the conclusion of the hearing, or thereafter as the circumstances of the case may require, shall find and enter a judgment that the minor is or is not delinquent or a child in need of aid.

(b) If the court finds that the minor is delinquent, it shall

(1) order the minor committed to the Department of Health and Social Services for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it; the department shall place the minor in the juvenile facility which the department considers appropriate and which may include a juvenile correctional school, detention home, or detention facility; the minor may be released from placement or detention and placed on probation on order of the court and may also be released by the department, in its discretion, under AS 47.0.200;

(2) order the minor placed on probation, to be supervised by the department, and released to the minor's parents, guardian, or a suitable person; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(3) order the minor committed to the department and placed on probation, to be supervised by the department, and released to the minor's parents, guardian, other suitable person, or suitable nondetention setting such as a family home, group care facility, or child care facility, whichever the department considers appropriate to implement the treatment plan of the predisposition report; if the court orders the minor placed on probation, it may specify the terms and conditions

of probation; the department may transfer the minor, in the minor's best interests, from one of the probationary placement settings listed in this paragraph to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice of the transfer; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

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

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2) or (3) of this subsection.

(5) order the minor committed to the Department of Health and Social Services for placement in an adventure-based education program established under AS 47.21.020 with conditions the court considers appropriate concerning release upon satisfactory completion of the program or commitment under (1) of this subsection if the program is not satisfactorily completed.

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

(1) order the minor committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event past the date the minor becomes 19 years of age, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the minor's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; the department may transfer the minor, in the minor's best interests, from one placement setting to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice of the transfer;

(2) order the minor released to the minor's parents, guardian, or some other suitable person, and, in appropriate cases, order the parents, guardian, or other person to provide medical or other care and treatment; if the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor, but the court may dispense with the department's supervision if the court finds that the adult to whom the minor is released will adequately care for the minor without supervision; the department's supervision may not exceed two years or in any event extend past the date the minor reaches age 19, except that the department may petition for and the court may grant in a hearing

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

(3) by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct and upon a showing in the disposition by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to the court on efforts being made to find a permanent placement for the child.

(d) An order issued under (c) (3) of this section authorizes the commissioner of health and social services or a designee or the guardian of the person of the child to consent to the adoption of the child.

(e) If the court finds that the minor is not delinquent or a child in need of aid, it shall immediately order the minor released from the department's custody and returned to the minor's parents, guardian, or custodian, and dismiss the case.

(f) A minor found to be delinquent or a child in need of aid is a ward of the state while committed to the department or the department has the power to supervise the minor's actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation, or supervision, as it is being provided, is in the best interest of the minor and the public. The department, the minor, the minor's parents, guardian, or custodian are entitled, when good cause is shown, to a review on application. If the application is granted, the court shall afford these parties and their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

(g) No adjudication under this chapter upon the status of a child may operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor may a minor afterward be considered a criminal by the adjudication, nor may the adjudication be afterward deemed a conviction, nor may a minor be charged with or convicted of a crime in a court, except as provided in this chapter. The commitment and placement of a child and evidence given in the court are not admissible as evidence against the minor in a subsequent case or proceedings in any other court, nor does the commitment and placement or evidence operate to disqualify a minor in a future civil service examination or appointment in the state.

(h) The department shall pay all court costs incurred in all proceedings in connection with the adjudication of delinquency under this chapter, including hearings which result in the release of the minor.

(i) A minor, the minor's parents or guardian acting on the minor's behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter.

(j) *[Repealed, § 29 ch 63 SLA 1977.]*

(k) In making its order under (c) of this section, the court shall consider the fact, if it is a fact, that the minor was being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. (§ 10(2) art I ch 145 SLA 1957; am § 2 ch 110 SLA 1960; am § 2 ch 118 SLA 1962; am § 1 ch 40 SLA 1967; am §§ 1—4 ch 27 SLA 1970; am §§ 12—15 ch 245 SLA 1970; am § 6 ch 104 SLA 1971; am §§ 6, 7 ch 1 SLA 1972; am §§ 1, 2 ch 125 SLA 1974; am §§ 14—18, 29 ch 63 SLA 1977; am § 6 ch 86 SLA 1979)

Cross references. — For the standard of proof for findings under this section, see Children's Rule 21, Alaska Rules of Court. See also, Children's Rules 22 and 23.

Editor's notes. — Section 31, ch. 63, SLA 1977, provides: "Section 18 of this Act has the effect of adding to the court's responsibilities when holding a review under Rule 28, Alaska Rules of Children's Procedure, by requiring the court to hold a hearing upon a showing of good cause, give notice, and afford an opportunity to be heard."

Section 34, ch. 63, SLA 1977, in the first sentence provides: "The portions of AS 47.10.080(b) and (c) in secs. 15 and 16 of

this Act which specify the length of commitment to the department or probation or supervision by the department are applicable to those minors affected under former AS 47.10.080(b), (c) and (j) before the effective date of this Act (August 26, 1977) so that the commitment, probation or supervision of minors by the department before the effective date of this Act (August 26, 1977) shall continue, but may not exceed two years from the effective date of this Act (August 26, 1977) unless two-year extensions have been granted by the court under this Act." Subsection (j) of AS 47.10.080 was repealed by § 29, ch. 63, SLA 1977.

NOTES TO DECISIONS

Each category of children mandates differences regarding content of dispositional orders. — Alaska's pertinent statutory provisions and procedural rules distinguish between categories of children for purposes of administering Alaska children's laws. Of controlling significance is that each class or category mandates distinct differences regarding the permissible content of any dispositional order the trial court can enter. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a delinquent child was sentenced for a fixed time period and ordered to an adult institution, this

amounted to a penal sentence as opposed to the juvenile disposition required under subsection (b)(1). B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Court cannot place child in particular institution. — Under this section as amended, the court no longer has discretion to order the delinquent child placed in a particular institution. The court only has authority to commit the child to the department, which then places the child. B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974); A.A. v. State, Sup. Ct. Op. No. 1181 (File No. 2400), 538 P.2d 1004 (1975).

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Authority to order placement of delinquent child. — In enacting paragraph (b)(3), the legislature intended for the department, not the court, to make the decisions concerning placement of the minor. *State, Dep't of Health & Social Servs. v. A.C., Ct. App. Op. No. 384 (File No. 7643), P.2d (1984).*

Paragraph (b)(3) of this section provides the court authority to order the delinquent minor placed on probation to the Department of Health and Social Services; it is then up to the department to determine whether the minor should be placed with his parents or in another setting. *State, Dep't of Health & Social Servs. v. A.C., Ct. App. Op. No. 384 (File No. 7643), P.2d (1984).*

Review of placement decision. — The superior court has the authority to review the decision of the department to determine if the placement is in the best interest of the minor, but in reviewing a decision of the department, the superior court may not substitute its judgment for the judgment of the department; since the legislature has committed the decision of placement to the department's discretion, the question for the court is whether the agency abused its discretion. *State, Dep't of Health & Social Servs. v. A.C., Ct. App. Op. No. 384 (File No. 7643), P.2d (1984).*

Jurisdiction dependent upon age of offender at time of act. — Juvenile jurisdiction of the superior court in delinquency proceedings is dependent upon the age of the offender at the time of the delinquent acts. *Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).*

Where a delinquent child was under the age of 18 at the time the acts of delinquency were committed, he is considered a minor for the purposes of adjudication and disposition. *B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).*

Option available to prosecution absent waiver under AS 47.10.060(a). — A proceeding in children's court, which is limited to the dispositions set forth in AS 47.10.080(b), is the only option available to the prosecution absent waiver under AS 47.10.060(a), and the standards established in that section are sufficiently clear to prevent arbitrary enforcement. *M.O.W. v. State, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).*

One who committed a crime when 18 years of age could be criminally prosecuted, as an adult, when he had been

previously adjudged a delinquent minor and the court had retained supervisory jurisdiction over him until age 19. *Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).*

Section is maximum sentencing statute. — Statutes requiring release upon a specified birthday are, in effect, maximum sentencing statutes. *Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).*

Sentence reduction to 19 years of age not retroactive. — There was nothing in the amendatory legislation to this section that indicated an intention that the sentence reduction should operate retrospectively. *Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).*

There is no conflict between subsection (b)(1) and AS 47.10.060(d). In re F.S., *Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).*

Age 20 is the proper age for determining whether a minor is unamenable to treatment. In re F.S., *Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).*

The inconsistency between AS 47.10.060(d) and subsection (b)(1) of this section that existed prior to the 1977 amendments to these sections has been eliminated in that AS 47.10.060 (d) now provides that the determinative age is 20 and subsection (b)(1) provides that the maximum limitation of confinement of minors is 20. In re F.S., *Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).*

Binding advance consent to treatment. — In order to give effect to the legislature's intent that a court may consider treatment until age 20 in determining waiver of juvenile jurisdiction, it is necessary that the judge be able to evaluate at the time of the waiver hearing whether the juvenile will in fact be available for treatment. It is not possible for the judge to know this unless the child can give binding consent at the time of the hearing. *State v. F.L.A., Sup. Ct. Op. No. 2041 (File No. 4333), 608 P.2d 12 (1980).*

A minor may bindingly consent to an additional period of supervision as provided by subsection (b)(1) of this section. In determining the effect to be given to such consent, the court should consider the age and maturity of the juvenile and whether he has the advice of counsel. To protect a minor from making a decision adverse to his own interests, a guardian ad litem may be appointed. *State v. F.L.A., Sup. Ct. Op.*

No. 2041 (File No. 4333), 608 P.2d 12 (1980).

The portion of the opinion in *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978) that held that a minor in a waiver hearing could not give a binding advance consent to treatment beyond age 19 was mistaken. *State v. F.L.A.*, Sup. Ct. Op. No. 2041 (File No. 4333), 608 P.2d 12 (1980).

While it is true, as indicated in *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978), that the statute contemplates that the determination of the additional period of treatment be made after the initial hearing, such an intent does not mandate that an advance consent to treatment given by the minor may not be regarded as binding. *State v. F.L.A.*, Sup. Ct. Op. No. 2041 (File No. 4333), 608 P.2d 12 (1980).

The lower court erred in considering the purported consent of a minor to an additional year of supervision because: (1) the minor could withdraw his consent upon reaching majority and (2) even assuming the minor's consent could not be withdrawn, subsection (b)(1) requires that the department petition the court and that additional commitment be in the minor's best interests before the court has jurisdiction to order the additional one-year period. *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

Subsection (b)(1) requires that the department petition for an additional one-year period of supervision and that continued supervision be in the best interests of the minor before the court may order an additional year. Thus, a minor's prospective consent to additional supervision is not a material factor unless the other two conditions of the statute are fulfilled. *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

This statute contemplates that the decision to extend the period of supervision be made after the initial dispositional hearing. To give effect to the minor's advance consent would thus be contrary to the apparent intent of the legislature. *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

The court must choose between commitment to the Department of Health and Social Services and probation, and may not delegate the choice to the Department of Health and Social Services. This is a correct textual analysis, especially in light of the provision in subsection (b)(1) for subsequent court order for probation following placement or

detention. The legislature has clearly indicated its intent to place this choice in the hands of the court. *ELR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 45 P.2d 27 (1971).

Court-ordered probation. - Probation cannot be deemed court-ordered under subsection (b) of this section unless it is directly ordered. It cannot be "triggered" by a decision of the department that the juvenile has successfully completed a rehabilitation program, even if the court judgment states that institutionalization will end upon such successful completion. *In re L.C. v. State*, Sup. Ct. Op. No. 2277 (File Nos. 4401, 4411), 625 P.2d 839 (1981).

The hearing judge erred by placing a delinquent child on probation until his 20th birthday. *B.A.M. v. State*, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Petition necessary to extend probation beyond 19th birthday. - The superior court was without authority to extend probation beyond the delinquent child's 19th birthday without a petition from the department to extend the probationary period for an additional year. *B.A.M. v. State*, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

A minor who has been adjudged a child in need of supervision [see now child in need of aid] cannot be institutionalized under the Children's Code. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a runaway child is found to be a child in need of supervision [see now child in need of aid], not a delinquent minor, no legal basis exists for his incarceration. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The only instance under Alaska children's laws authorizing institutionalization or incarceration is when the child has violated the laws of the state, or any of its political subdivisions, and in turn has been adjudged a delinquent minor. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The legislature has authorized institutionalization only where the child is found to be a delinquent minor. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Power of court under subsection (c). - Under subsection (c) of this section, the court is empowered to order the minor committed to the Department of Health and Social Services or order the minor released to his parents, guardian, or some

other custodian of the child.

The Department of Health and Social Services has authority to place a child in need of aid in the custody of the Department of Health and Social Services.

A child who is in need of aid is dependent on the state.

Parental control is not absolute. The balance of competing interests must be weighed. The state has a duty to protect the child. *In re F.S.*, Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

The department of health and social services is authorized to place a child in need of aid in the custody of the department.

Statutory provisions regarding parental rights and the state's duty to protect the child are in conflict. The state's duty to protect the child outweighs the parent's right to control the child. *In re C.L.T.*, No. 36071.

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The Department of Health and Social Services does not possess the authority to institutionalize any minor, including one who has been declared a child in need of supervision [see now child in need of aid], who has been committed to its custody. It is unreasonable to construe Alaska children's statutes in a manner which would result in the grant to the Department of Health and Social Services of broader powers of commitment than possessed by the trial court. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

A child "in need of aid" appears to be the functional equivalent of a "dependent" child under AS 47.10.010 as it existed prior to its 1977 amendment. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Parental right to custody and control is not absolute. — While a parent has a right to the care, custody and control of his or her children, this right is not absolute, and "courts have become increasingly aware of the rights of children." The Alaska legislature has struck a balance between these potentially competing rights by requiring the state to prove its allegations by clear and convincing evidence in parental rights termination cases. Once this burden of proof has been met, however, the statute mandates a termination. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), 592 P.2d 22 (1979).

The discretion allotted a parent in the administration of punishment is not unlimited. Clearly it does not extend to punishment regularly causing the "substantial physical harm" which under AS 47.10.010(a)(2)(C) determines that a child is in need of aid. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), 592 P.2d 22 (1979).

Statutory provisions governing judgments and orders terminating parental rights have been changed. In order to terminate parental rights, the court must now find that the child is in need of aid under AS 47.10.010(a)(2) as the result of parental conduct proved by clear and convincing evidence and that the parental conduct is likely to continue to exist if there is no termination of parental rights, proved again by clear and convincing evidence, AS 47.10.080(c)(3). In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

In order to terminate parental rights under this section, the court must find by clear and convincing evidence (1) that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct, and (2) that the parental conduct is likely to continue. E.A. v. State, Sup. Ct. Op. No. 2289 (File Nos. 4687, 4870), 623 P.2d 1210 (1981).

Under former AS 47.10.010(a)(5) and subsection (a) and former subsection (c)(3)(D) of this section, in order to terminate parental rights, the superior court was required to find (1) that the child was a "dependent minor" and (2) that the parent had demonstrated by her conduct, proved by clear and convincing proof, that she was unfit to continue to exercise her parental rights and responsibilities. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Parent's impulsive personality disorder not ground for termination of rights. — Where after finding that child was in need of aid, trial judge found that the parent "is likely to continue to demonstrate a conscious disregard of the obligation owed by a parent to a child even after her release from incarceration because she suffers from an impulsive personality disorder," such finding was insufficient to satisfy requirement of clear and convincing evidence that conduct leading to determination that child is in need of aid is likely since an impulsive personality disorder itself is not conduct and thus, not a ground for termination. Nada A. v. State, Sup. Ct. Op. No. 2632 (File Nos. 6546, 6693), 660 P.2d 436 (1983).

Findings. — A finding that the parental conduct is likely to continue must be made expressly on the record prior to ordering the termination of parental rights. E.A. v. State, Sup. Ct. Op. No. 2289 (File Nos. 4687, 4870), 623 P.2d 1210 (1981).

Abandonment. — For cases construing former language in subsection (c) providing for termination of parental rights and responsibilities when the child had been abandoned, see D.M. v. State, Sup. Ct. Op. No. 962 (File No. 1843), 515 P.2d 1234 (1973); In re B.J., Sup. Ct. Op. No. 1110 (File No. 2161), 530 P.2d 747 (1975); In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

A rehabilitation program is not a common practice in the trial courts absent approval by a representative of the state. In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Trial court did not abuse discretion in failing to consider possibility of setting up plan for reestablishing family relationship between father and son. — See *In re E.J. (T.)*, Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Role of trial court in proceeding involving termination of parental rights. — See *In re E.J. (T.)*, Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Applicability of burden of proof. — A burden of proof is not applicable to a dispositive hearing other than when termination of parental rights is involved. *In re S.D.*, Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976). See also *In re C.L.T.*, Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Determination of the standard to be applied by the court at the dispositive phase of a child hearing was not tantamount to establishing a burden of proof requirement. Such a requirement had been set forth in former subsection (c)(3)(D) [see now subsection (c)(3)]. No such requirement had been set forth in situations such as where termination of parental rights was not involved. *In re S.D.*, Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Standard of proof held constitutional. — Allowing parental rights to be terminated based on a standard of proof less stringent than "beyond a reasonable doubt" does not violate the due process clause of the United States Constitution or the Alaska Constitution. *In re C.L.T.*, Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Since in proceedings brought to terminate parental rights, the parent is neither charged with criminal behavior nor subject to incarceration as a direct consequence of the proceeding, there is nothing in the federal constitution that compels adoption of the proof beyond a reasonable doubt standard in termination proceedings. *In re C.L.T.*, Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Clear and convincing proof is a more demanding standard than a mere preponderance of the evidence and is adequate to protect the parent's substantial interest in his or her child custody rights. This evidentiary standard balances the competing interests involved in a proceeding brought to terminate parental rights, one of which is the right of a child to an adequate home. *In re C.L.T.*, Sup. Ct.

Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

The due process clause did not require a standard of proof greater than clear and convincing evidence when the state sought to terminate parental rights because of unfitness under former subsection (c)(3)(D). *In re C.L.T.*, Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Standard of proof under former subsection (c)(3)(D) calling for "clear and convincing" evidence of the natural mother's unfitness for the care and custody of the child was held proper. *In re K.S.*, Sup. Ct. Op. No. 1219 (File No. 2359), 543 P.2d 1191 (1975).

Protection provided by Indian Child Welfare Act. — The Indian Child Welfare Act, 25 U.S.C. §§ 1901 — 1963, enacted in 1978, provides a higher standard of protection to the rights of parents in termination proceedings involving Indians and Native Alaskans than that provided in this section. *E.A. v. State*, Sup. Ct. Op. No. 2289 (File Nos. 4687, 4870), 623 P.2d 1210 (1981).

Orders terminating parental rights met statutory and rule of court requirements regarding findings of fact. — See *In re C.L.T.*, Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979).

Review of orders terminating parental rights. — Orders made under subsection (c)(3) of this section are not entitled to automatic review, inasmuch as subsection (f) of this section specifies which orders are entitled to this review and orders under subsection (c)(3) of this section are not included within the list. *Rita T. v. State*, Sup. Ct. Op. No. 2294 (File No. 5036), 623 P.2d 344 (1981).

All orders made pursuant to this section, including orders under subsection (c)(3) of this section, are to be reviewed upon application of an interested party if the party establishes good cause for the review, and if the child is still a ward of the court. *Rita T. v. State*, Sup. Ct. Op. No. 2294 (File No. 5036), 623 P.2d 344 (1981).

As long as a child remains the ward of the court, under subsection (f) of this section his or her natural parents are entitled to a review of the order terminating their parental rights upon a showing of good cause for the hearing. *Rita T. v. State*, Sup. Ct. Op. No. 2294 (File No. 5036), 623 P.2d 344 (1981).

Good cause could be established if the parents showed that it would be in the best interests of the child to resume living with them because they have sufficiently reha-

bilitated themselves so that they can provide proper guidance and care for the child. *Rita T. v. State*, Sup. Ct. Op. No. 2294 (File No. 5036), 623 P.2d 344 (1981).

Where, when a mother applied for a hearing before the superior court, she indicated that as a result of a 14-month rehabilitation program she had overcome the problems that had led to the termination of her parental rights and also indicated that professional counselors, social workers and others would be able to establish that she was now capable of providing a warm and loving home for the child, this was a sufficient showing of good cause to entitle her to a review of the order terminating her parental rights if the child had not yet been adopted. *Rita T. v. State*, Sup. Ct. Op. No. 2294 (File No. 5036), 623 P.2d 344 (1981).

Former AS 17.12.110(d)(4) not in conflict. — Former AS 17.12.110(d)(4), which provided that a person who, while under the age of 18, possesses, controls or uses any amount of marijuana was, upon conviction, guilty of a misdemeanor punishable by a fine of not more than \$1000, was not in conflict with AS 47.10.010(a)(1) and paragraph (b)(1) of this section. *M.O.W. v. State*, Ct. App. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

For reference to apparent conflict between subsection (c)(1) as it read prior to 1977 amendment and Children's Rule 22(f), see footnote 30 in In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Peremptory challenge procedure inapplicable to juvenile proceedings.

— While juvenile proceedings have some of the characteristics of both civil and criminal actions, they are basically different from both, and the words "civil or criminal" as used in AS 22.20.022 must be strictly construed. The trial judge was correct in holding that peremptory challenge procedure applied only to civil and criminal actions and not to juvenile proceedings. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Notions of benevolent protective policies cannot be used to validate departures from positive law relating to the adjudicative and dispositive phases of children's proceedings. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Nor to justify dispensing with constitutional safeguards. — The benevolent social theory supposedly underlying children's court acts does not

furnish justification for dispensing with constitutional safeguards. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The right of confrontation is paramount to the state's policy of protecting a juvenile offender. *Davis v. State*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

But state's interest in secrecy of juvenile adjudications need not always fall before confrontation right. — See *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Prosecution witness impeachable by cross-examination for bias from probationary status as juvenile delinquent. — The confrontation clause requires that a defendant in a criminal case be allowed to impeach the credibility of a prosecution witness by cross-examination directed at possible bias deriving from the witness's probationary status as juvenile delinquent although such an impeachment would conflict with a state's asserted interest in preserving the confidentiality of juvenile adjudications of delinquency. *Davis v. Alaska*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

Whatever temporary embarrassment might result to a prosecution witness or his family by disclosure of his juvenile record — if the prosecution insisted on using him to make its case — is outweighed by petitioner's right to probe into the influence of possible bias on the testimony of a crucial identification witness. *Davis v. Alaska*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The state cannot, consistent with right of confrontation, require the defendant to bear the full burden of vindicating the state's interest in the secrecy of juvenile criminal records. *Davis v. Alaska*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The United States supreme court has held that the constitutional right of confrontation required that defense counsel be allowed to investigate the potential bias of a crucial prosecution witness, even where that potential bias arose out of a juvenile adjudication and its resultant probationary status. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

The United States supreme court concluded that Alaska's interest in protecting the anonymity of the juvenile offender was outweighed by the more

critical need to afford a criminal defendant reasonable inquiry into the motives of prosecution witnesses. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Conflict between section and decision in *Davis v. Alaska* is superficial. — The conflict between this section and the supreme court's decision in *Davis v. Alaska*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is only superficial. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Since disclosure required because of probationary status, not juvenile adjudication. — The constitutional requirement of disclosure in the facts in *Davis v. Alaska*, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is created not by the juvenile adjudication itself but by the probationary status of the juvenile at the time of *Davis*' trial, with its potential for motivating false testimony. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the witness was not on juvenile probation, it cannot be seriously argued that the fact of previous juvenile convictions, standing alone, provided any inference of potential bias. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

State adjudications directed solely at credibility do not conflict with confrontation right. — Juvenile adjudications which are stale by Alaska's standards and directed solely at general credibility rather than bias are generally not sufficiently probative to create a genuine conflict with the defendant's right of confrontation. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the attempted impeachment was of general credibility by proof of prior "convictions," the probative value of this type of evidence is considerably less than that which suggests false or distorted testimony because of bias, and the need to confront a witness with such evidence is correspondingly less. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

As a general rule, the trial courts could properly refuse evidence of stale con-

victions or juvenile adjudications where these were offered for the purpose of discrediting the witness generally rather than to show some specific potential for bias or prejudice toward the defendant. *Thomas v. State*, Sup. Ct. Op. No. 1040 (File Nos. 1888, 1854), 522 P.2d 528 (1974).

Privilege against self-incrimination. — When a person under the age of 18 years violated former AS 47.10.010(a)(1), he could be adjudged a "delinquent minor," one possible consequence of which adjudication was commitment to a juvenile facility until the age of 19 (now 20). Moreover, if there was probable cause to believe the minor was delinquent and the court found that he was not amenable to treatment as a juvenile, he could be prosecuted as if he were an adult. Thus, there was always some danger of incarceration, or other criminal sanctions, when a child committed an act which would have been a crime if committed by an adult. Under such circumstances a child had a privilege against self-incrimination. *E.L.L. v. State*, Sup. Ct. Op. No. 1540 (File No. 3374), 572 P.2d 786 (1977).

A child adjudicated delinquent for selling LSD may be incarcerated, possibly even in a city jail, until age 19, which may be many years. *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Subsection (g) provides in part that a juvenile offender may not be considered a criminal by reason of the adjudication, nor may the adjudication be afterward deemed a conviction. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

A judge cannot consider a juvenile offense as a criminal conviction for the purpose of prescribing a mandatory sentence. *Berfield v. State*, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

The judge's consideration of factors relating to accused's life, characteristics, background and behavior prior to reaching the age of 18 years did not mean that he considered accused a criminal or that he was using the juvenile offenses as criminal convictions in determining the sentence to impose. *Berfield v. State*, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

Consideration of the juvenile record is proper by the court imposing a sentence upon an adult offender. *Penn v. State*, Sup. Ct. Op. No. 1774 (File No. 3673), 588 P.2d 288 (1978).

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Use of the juvenile history of the offender in sentencing proceedings does not amount to the use of those proceedings as evidence against the offender within the proscription of such a statute as this section. *Penn v. State*, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978).

When sentence determined. — The sentence which may be imposed upon a convicted adult is determined as of the time of the final judgment of conviction, or as of the time of commission of the offense. These rules have been applied to juvenile sentencing. *Davenport v. McGinnis*, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Review of custody orders. — The new children's law, as a result of the 1977 acts, provides for review of custody orders annually or more often if good cause is shown. In re *J.M.*, Sup. Ct. Op. No. 1548 (File Nos. 3219, 3229), 573 P.2d 1376 (1978).

Appeal of detention order. — Under this section and Children's Rule 29(a), a minor who is detained may appeal his detention order. *A.M. v. State*, Ct. App. Op. No. 150 (File No. 6105), 653 P.2d 346 (1982).

Appellants are authorized to bring juvenile bail appeals under App. R. 207 to ensure that juvenile detention hearings

are not insulated from review. *A.M. v. State*, Ct. App. Op. No. 150 (File No. 6105), 653 P.2d 346 (1982).

Appeal from detention order dismissed as untimely. — See *A.M. v. State*, Ct. App. Op. No. 150 (File No. 6105), 653 P.2d 346 (1982).

Appellate jurisdiction. — AS 22.05.010 places final appellate jurisdiction in all cases in the supreme court. In re *A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1534), 490 P.2d 658 (1971).

Applied in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976); *Adams v. Ross*, Sup. Ct. Op. No. 1281 (File No. 2458), 551 P.2d 948 (1976); *D.H. v. State*, Sup. Ct. Op. No. 1396 (File No. 2837), 561 P.2d 294 (1977).

Quoted in *Davis v. State*, Sup. Ct. Op. No. 816 (File Nos. 1428, 1436), 499 P.2d 1025 (1972).

Stated in *In re G.K.*, Sup. Ct. Op. No. 796 (File Nos. 1627, 1654, 1674), 497 P.2d 914 (1972).

Cited in *Ellinson v. State*, Sup. Ct. Op. No. 898 (File No. 1750), 511 P.2d 1066 (1973); *D.L.J. v. W.D.R.*, Sup. Ct. Op. No. 2433 (File No. 5411), 635 P.2d 834 (1981); *S.O. v. W.S.*, Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

Collateral references. — Right of indigent parent to appointed counsel in proceeding for involuntary termination of parental rights, 80 ALR3d 1141.

Sec. 47.10.081. Predisposition hearing reports. (a) Before the disposition hearing of a delinquent minor the department shall submit a predisposition report with a recommended plan of treatment to aid the court in its selection of a disposition, and any further information which the court may request.

(b) Before the disposition hearing of a child in need of aid the department shall submit a predisposition report to aid the court in its selection of a disposition. This report shall include, but is not limited to, the following:

(1) a statement of changes in the child's or parent's behavior, which will aid the court in determining that supervision of the family or placement is no longer necessary;

(2) if removal from the home is recommended, a description of the reasons the child cannot be protected or rehabilitated adequately in the home, including a description of any previous efforts to work with the parents and the child in the home and the parents' attitude toward placement of the child;

court did not err in failing to grant defendant a nine- to 12-month continuance to permit further psychiatric and psychological treatment in order to test his amenability to juvenile treatment. *M.K. v. State*, Ct. App. Op. No. 756 (File No. A-1969), 744 P.2d 1178 (1987).

Quoted in *W.M.F. v. Johnstone*, Ct. App. Op. No. 571 (File No. A-1243), 711 P.2d 1187 (1986).

Cited in *Shewey v. State*, Ct. App. Op. No. 723 (File No. A-1924), 739 P.2d 196 (1987).

Sec. 47.10.070. Hearings.

NOTES TO DECISIONS

"Compatible." — In the absence of contrary authority, it is appropriate to accord the word "compatible" its usual

meaning. *W.M.F. v. Johnstone*, Ct. App. Op. No. 571 (File No. A-1243), 711 P.2d 1187 (1986).

Sec. 47.10.080. Judgments and orders.

NOTES TO DECISIONS

Standards for use in choosing alternatives under subsection (b). — See *R.P. v. State*, Ct. App. Op. No. 620 (File No. A-1100), 718 P.2d 168 (1986).

Findings insufficient to sustain order institutionalizing juvenile. — See *R.P. v. State*, Ct. App. Op. No. 620 (File No. A-1100), 718 P.2d 168 (1986).

"Best interests" standard. — Given that both subparagraph (c)(1)(A) and subsection (f) contain the "best interests" standard, it's reasonable to assume that the legislature intended the standard to have the same meaning with respect to each type of continuation of custody, namely a .080(c)(1)(A) extension beyond the term of the original order and a .080(f) "extension" beyond the first year of the order until its expiration. *In re A.S.*, Sup. Ct. Op. No. 3197 (File No. S-1739), 740 P.2d 432 (1987).

The "continuing conditions of need" requirement for continued custody found in AS 47.10.083 should be viewed as an additional requirement beyond "best interests," not as the equivalent thereof. *In re A.S.*, Sup. Ct. Op. No. 3197 (File No. S-1739), 740 P.2d 432 (1987).

"Best interests" as used in AS 47.10.080(c)(1)(A) does not constitute a requirement that the state demonstrate the continuing existence of AS 47.10.010(a)(2) conditions of need in order to obtain an extension of custody. Thus, the state may require an extension of custody in order to implement a plan for reuniting the family without causing emotional trauma to the child by virtue of a sudden change of circumstances. *In re A.S.*, Sup. Ct. Op. No.

3197 (File No. S-1739), 740 P.2d 432 (1987).

Effect of denying petition for extension of custody. — Where defendant proposed to return child in state custody to her natural mother and sought extension of state custody to accomplish this gradually, a native village council argued that denial of department's petition for an extension of custody would not require the superior court then to return the child to her mother, but rather that under subsection (e) the court could release the child to the child's parents under the tribal court adoption order; however, it was held that the superior court correctly concurred in the state's position that, absent an extension, the child must be returned to her natural mother. *In re A.S.*, Sup. Ct. Op. No. 3197 (File No. S-1739), 740 P.2d 432 (1987).

Section not in conflict with Indian Child Welfare Act. — The application of the clear and convincing standard to the findings that a child is in need of aid as a result of parental conduct and that the paternal conduct is likely to continue does not conflict with section 1912(f) of the Indian Child Welfare Act (ICWA). Section 1912(f) looks to likely future harm to the child, requiring only a finding beyond a reasonable doubt of likely harm to the child with continued custody by the parent or Indian custodian. In contrast, this section is concerned with the present condition of the child and the likely future conduct of the parent and requires a finding by clear and convincing evidence that the child is in need of aid as a result of

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parental conduct and that the parental conduct that placed the child in need of aid is likely to continued. The Alaska statute requires findings additional to that required by the ICWA, thus providing a level of protection to the parental rights beyond that provided by the ICWA, and is not preempted by the ICWA. In re. J.R.B., Sup. Ct. Op. No. 3029 (File No. S-907), 715 P.2d 1170 (1986).

Authority to direct placement of minor. — Once a court declares a minor a child in need of aid and commits the minor to the Department of Health and Social Services under subsection (c)(1), the department has the authority to direct the placement of the minor. The court can review the department's decision to see if it constitutes an abuse of discretion, but it cannot make a specific placement order once legal custody has been granted to the department. In re B.L.J., Sup. Ct. Op. No. 3039 (File No. S-648), 717 P.2d 376 (1986).

The Department of Health and Social Services is not required to file an additional petition for adjudication in order to change the physical placement of minors in its legal custody. In re B.L.J., Sup. Ct. Op. No. 3039 (File No. S-648), 717 P.2d 376 (1986).

Termination of father's parental rights was affirmed, where he had not made reasonable efforts to locate and communicate with his daughter and, at the time of the termination hearing, was incarcerated for assaulting his girlfriend. E.J.S. v. State, Dep't of Health & Social Servs., Sup. Ct. Op. No. 3318 (File No. S-2233), P.2d (1988).

Superior court's decision to terminate mother's parental rights on the basis of her abandonment of her child was supported by substantial evidence. — See D.E.D. v. State, Sup. Ct. Op. No. 2970 (File No. S-553), 704 P.2d 774 (1985).

Court authority to set conditions on parent for placement of child in parental home. — Court possessed authority to require parent to complete alcohol abuse program and maintain sobriety as a precondition to placement of the child in the parental home by the department under (c)(1) of this section. D.A.W. v. State, Sup. Ct. Op. No. 2935 (File No. S-169), 699 P.2d 340 (1985).

Burden of proof under subsection (c)(3). — Although subsection (c)(3) does not place the burden of proving by clear and convincing evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct and that the parental conduct is likely to continue on either party, the Supreme Court of Alaska has assigned the burden of proof to the Department of Health and Social Services, Division of Family and Youth Services. K.T.E. v. State, Sup. Ct. Op. No. 2877 (File No. S-50), 689 P.2d 472 (1984).

Cited in In re J.R.S., Sup. Ct. Op. No. 2869 (File Nos. 7421, 7422), 690 P.2d 10 (1984); Coney v. State, Ct. App. Op. No. 471 (File Nos. 7456, 7471), P.2d (1985); In re S.C.Y., Sup. Ct. Op. No. 3179 (File No. S-1509), 736 P.2d 353 (1987).

Sec. 47.10.082. Best interests of the child.

NOTES TO DECISIONS

Applied in D.A.W. v. State, Sup. Ct. Op. No. 2935 (File No. S-169), 699 P.2d 340 (1985).

Cited in K.T.E. v. State, Sup. Ct. Op. No. 2877 (File No. S-50), 689 P.2d 472 (1984).

Sec. 47.10.083. Review hearing information.

NOTES TO DECISIONS

The "continuing conditions of need" requirement for continued custody found in this section should be viewed as an additional requirement beyond "best inter-

ests" for extension of custody under AS 47.10.080(c)(1)(A), not as the equivalent thereof. In re A.S., Sup. Ct. Op. No. 3197 (File No. S-1739), 740 P.2d 432 (1987).

(3) a description of the potential harm to the child which may result from removal from the home and any efforts which can be made to minimize such harm; and

(4) any further information which the court may request.

(c) The court shall inform the child, the child's parents and the attorneys representing the parties and the guardian ad litem that the predisposition report will be available to them not less than 10 days before the disposition hearing.

(d) For purposes of this section "parents" means the natural or adoptive parents, and any legal guardian, relative, or other adult person with whom the child has resided and who has acted as a parent in providing for the child for a continuous period of time before this action. (§ 26 ch 63 SLA 1977)

NOTES TO DECISIONS

Applied in *Granato v. Occhipinti*, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 47.10.082. Best interests of the child. In making its dispositional order under AS 47.10.080(b) the court shall consider the best interests of the child and the public, and in making its dispositional order under AS 47.10.080(c) the court shall consider the best interests of the child; in either case the court shall consider also the ability of the state to take custody and to care for the child to protect the child's best interests under AS 47.10.010 — 47.10.142. (§ 26 ch 63 SLA 1977)

NOTES TO DECISIONS

Showing required to justify termination of parental rights. — While best interests of the child become relevant at some point, there first must be a showing of parental conduct sufficient to justify termination. *Nada A. v. State*, Sup. Ct. Op.

No. 2632 (File Nos. 6546, 6693), 660 P.2d 436 (1983).

Cited in *Granato v. Occhipinti*, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979); *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 47.10.083. Review hearing information. In the case of a child in need of aid, the child shall be returned home at the review hearing under AS 47.10.080(f) unless the court finds by a preponderance of the evidence that the basis upon which the child was adjudicated under AS 47.10.010(a)(2) continues to exist. If the child is not returned home, the court shall establish on the record

(1) why the child was removed from the home;

(2) what services have been provided to or offered to the parents to facilitate reunion;

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consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. (§ 26 ch 63 SLA 1977)

NOTES TO DECISIONS

Effect of being foster parents on husband-wife evidentiary privilege. — A foster child is a child of the foster parents for purposes of applying the exception to the husband-wife privilege set forth in Alaska Evidence Rule 505(a)(2)(D); one foster parent cannot rely on the husband-wife privilege to refuse to testify

against the other concerning evidence relating to an assault on the foster child. *Daniels v. State*, Ct. App. Op. No. 357 (File No. A-366), P.2d (1984).

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 47.10.085. Child in need of aid; religious treatment. In a case in which the minor's status as a child in need of aid is sought to be based on the need for medical care, the court may, upon consideration of the health of the minor and the fact, if it is a fact, that the minor is being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination, dismiss the proceedings and thereby close the matter. This may be done, in the interests of justice and religious freedom, on the court's own motion or upon the application of a party to the proceedings, at any stage of the proceedings after information is given to the court under AS 47.10.020(a). (§ 8 ch 1 SLA 1972; am § 19 ch 63 SLA 1977)

NOTES TO DECISIONS

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared by an employee of the court or by a federal, state or city agency in the discharge of the employee's or agency's official duty, are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with

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making a preliminary investigation for the information of the court. Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all criminal proceedings against the minor and punishments assessed against the minor except for traffic offenses. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch 90 SLA 1975; am § 20 ch 63 SLA 1977)

Cross references. — For explanation of of Children's Procedure, see § 2. ch. 90, how amendments in 1975 changed Rules SLA 1975).

NOTES TO DECISIONS

Purpose for enacting subsection (a). — Reading this section together with other sections of the laws relating to children's proceedings leads one to believe that subsection (a) was enacted principally for the purpose of protecting the child against the possible adverse effects an unauthorized revelation of his social record would have. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

There is no indication that subsection (a) was intended to authorize the granting of testimonial use immunity to parents. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

The supreme court could not say with certainty that this section would be construed to forbid the use, in a subsequent criminal action against a parent, of testimony that the parent gave at a chil-

dren's proceeding. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

Waiver of provisions of section. — In the case of use of restraints more severe than placement in adjustment rooms (solitary confinement), the approval of the director of McLaughlin Youth Center must be obtained and a report made to the child's attorney and the family court. The provisions of this section are waived for this purpose. T.M. v. Director of McLaughlin Youth Center, Superior Court, No. 72-449 (1973).

Stated in RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971)

Cited in M.O.W. v. State, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982); State v. R.H., Ct. App. Op. No. 375 (File No. 7768), P.2d (1984).

Sec. 47.10.084. Legal custody, guardianship, and residual parental rights and responsibilities.

NOTES TO DECISIONS

The phrase "reasonable visitation" in subsection (c) does not imply an absolute right to visitation; this section should be read in conjunction with the rest of the chapter to allow parental visits to be barred when the visits are not in the best interests of the child. *K.T.E. v. State*, Sup. Ct. Op. No. 2877 (File No. S-50), 689 P.2d 472 (1984).

The following procedures should be followed when visitation rights are denied prior to the termination of parental rights: first, the Department of Health and Social Services, Division of Family and Youth Services should have primary authority to set visitation based on the best interests of the child, since the division is in the best position to make this decision in the first instance; and secondly, either the guardian ad litem or the parents should be entitled to request an expedited evidentiary hearing of a denial of visitation, which would consist of an independent determination by the superior court that clear and convincing evidence showed that the child's best interests were served by disallowing parental visitations. *K.T.E. v. State*, Sup. Ct. Op. No. 2877 (File No. S-50), 689 P.2d 472 (1984).

De facto determination of natural parent's visitation rights. — Where the Department of Health and Social Services

decided to allow minor children, who had been adjudicated as children in need of aid, to move from Alaska to Alabama with their foster care family, the state's action constituted a de facto termination of a natural parent's visitation rights; the natural father was unemployed and virtually penniless, the state would not provide airfare so that the father could visit his children on a regular basis, and the father would be limited to phone "visits" because of his lack of funds. *D.H. v. State*, Sup. Ct. Op. No. 3104 (File No. S-1451), P.2d (1986).

Standard of review of state action constituting de facto termination of natural parent's right of reasonable visitation. — The appropriate standard of review for state decisions which essentially terminate a natural parent's right of reasonable visitation under subsection (c) is an independent determination of whether the state has proved by clear and convincing evidence that termination of parental visitation is in the child's best interest. *D.H. v. State*, Sup. Ct. Op. No. 3104 (File No. S-1451), P.2d (1986).

Applied in *In re B.L.J.*, Sup. Ct. Op. No. 3039 (File No. S-648), 717 P.2d 276 (1986).

Cited in *M.O.W. v. State*, Ct. App. Op. No. 95 (File No. 4846), 645 P.2d 1229 (1982).

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared by an employee of the court or by a federal, state or city agency in the discharge of the employee's or agency's official duty, including traffic offenses and driver's license action under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. The court shall forward a record of adjudication of a violation of an offense listed in AS 28.15.185(a) to the Department of Public Safety, if the court imposes a license revocation under AS

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28.15.185. Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all driver's license proceedings under AS 28.15.185, criminal proceedings against the minor and punishments assessed against the minor except for traffic offenses. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch 90 SLA 1975; am § 20 ch 63 SLA 1977; am § 4 ch 130 SLA 1988)

Effect of amendments. — The 1988 amendment, effective September 1, 1988, in subsection (a), inserted "including traf-

fic offenses and driver's license action un- der AS 28.15.185" in the third sentence and "driver's license proceedings under AS 28.15.185" in the next-to-last sentence, and inserted "the fifth sentence.

Sec. 47.10.097. Fingerprinting of minors. (a) Except as provided in (b) of this section, a minor in the custody of the department or of a law enforcement agency may not be fingerprinted for reference to or entry into the Alaska automated fingerprint system without a court order upon good cause shown.

(b) A law enforcement officer may fingerprint a minor who is 16 years of age or older for reference to or entry into the Alaska automated fingerprint system without a court order when the minor is convicted of, or adjudicated a delinquent for, an offense that is a felony.

(c) Fingerprint records under this section are not subject to AS 47.10.090. (§ 3 ch 121 SLA 1988)

Cross references. — As to acceptance of grants-in-aid, see AS 47.10.220.

Sec. 47.10.280. Purpose of chapter. [Repealed, § 1 ch 152 SLA 1976. For the purpose and policy of this title relating to children, see AS 47.05.060.]

Sec. 47.10.290. Definitions. In this chapter, unless the context otherwise requires,

(1) "caring" under AS 47.10.010(a)(2)(A) means to provide for the physical, emotional, mental, and social needs of the child;

(2) "child in need of aid" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(2);

(3) "court" means the superior court of the state;

(4) "delinquent minor" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(1);

(5) "juvenile detention facility" means separate quarters within a city jail used for the detention of delinquent minors;

(6) "juvenile detention home" or "detention home" is a separate establishment, exclusively devoted to the detention of minors on a short-term basis and not a part of an adult jail;

(7) "minor" is a person under 18 years of age.

(§ 1 art I ch 145 SLA 1957; am § 5 ch 110 SLA 1967; am §§ 5, 6 ch 27 SLA 1970; am §§ 27 — 28 ch 63 SLA 1977)

Revisor's notes. — Reorganized in 1984 to alphabetize the terms defined.

Editor's notes. — Section 7, ch. 110, SLA 1967, as amended by § 80, ch. 69, SLA

1970, provides: "In exercising its jurisdiction under AS 47.10, the superior court may designate district judges and magistrates as masters under Civil Rule 53."

NOTES TO DECISIONS

The legislature has authorized institutionalization only where the child is found to be a delinquent minor. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Hence, a minor who has been adjudged a child in need of supervision [see now child in need of aid] cannot be institutionalized under the Children's Code. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The Department of Health and Social Services does not possess the authority to institutionalize any minor, including one who has been declared a child in need of supervision [see now child in need of aid], who has been committed to its custody. It is unreasonable to construe Alaska children's statutes in a manner which would result in the grant to the

Department of Health and Social Services of broader powers of commitment than possessed by the trial court. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

A child who sells LSD is a "delinquent minor" under paragraph (2) of this section because the sale of LSD is a crime under former AS 17.12.010 (now see AS 11.71). RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

"Delinquent" status depends not upon a criminal conviction but upon proof that the juvenile committed acts which would have been criminal if committed by an adult. Rust v. State, Sup. Ct. Op. No. 1668 (File No. 3172), 582 P.2d 134 (1978).

"Juvenile" and "minor" as used in AS 47.10.190 construed identically. — See Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

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care is not available for the child; or" for "no other care is available for the child or" in subparagraph (B)(1), and deleted "when

the foster parent is" at the beginning of subparagraph (B)(1).

NOTES TO DECISIONS

Preferences in adoptive placement. — Subsection (e) does not entitle natural relatives to a preference in the adoptive placement of children. In re W.E.G. & J.R.G., Sup. Ct. Op. No. 2998 (File Nos. S-777, S-778, S-803), 710 P.2d 410 (1985).

Quoted in In re J.R.S., Sup. Ct. Op. No. 2869 (File Nos. 7421, 7422), 690 P.2d 10 (1984); D.E.D. v State, Sup. Ct. Op. No. 2970 (File No. S-553), 704 P.2d 774 (1985).

Article 4. General Provisions.

Section
290. Definitions

Sec. 47.10.290. Definitions. In this chapter, unless the context otherwise requires,

(1) "care" or "caring" under AS 47.10.010(a)(2)(A), 47.10.120(a) and 47.10.230(c), means to provide for the physical, emotional, mental, and social needs of the child;

(2) "child in need of aid" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(2);

(3) "court" means the superior court of the state;

(4) "delinquent minor" means a minor found to be within the jurisdiction of the court under AS 47.10.010(a)(1);

(5) "department" means the Department of Health and Social Services.

(6) "juvenile detention facility" means separate quarters within a city jail used for the detention of delinquent minors;

(7) "juvenile detention home" or "detention home" is a separate establishment, exclusively devoted to the detention of minors on a short-term basis and not a part of an adult jail;

(8) "minor" is a person under 18 years of age. (§ 1 art I ch 145 SLA 1957; am § 5 ch 110 SLA 1967; am §§ 5, 6 ch 27 SLA 1970; am §§ 27 — 28 ch 63 SLA 1977; am §§ 91, 92 ch 138 SLA 1986)

Revisor's notes. — Paragraph (5) was enacted as (a). Renumbered in 1986. Reorganized in 1985 and 1986 to alphabetize the terms defined.

Effect of amendments. — The 1986 amendment inserted "'care' or" and "47.10.120(a) and 47.10.230(c)" in paragraph (1) and added paragraph (5).

NOTES TO DECISIONS

"Minor" and "delinquent minor." — The general definition of "minor" in paragraph (8) is inapplicable to the detention of a delinquent minor until the minor's nineteenth birthday under AS 47.10.080, 47.10.100, and likewise, it is inapplicable

to the responsibility to pay support for a delinquent minor committed under those sections. In re S.C.Y., Sup. Ct. Op. No. 3179 (File No. S-1509), 736 P.2d 353 (1987).

(c) Every official and employee shall, unless otherwise authorized by law to travel outside the state, obtain prior approval for travel outside the state from the head of the official's or employee's department or from an immediate supervisor, or from the Department of Administration if the official or employee is not within a department or is not under the direct supervision of an official or supervisor. If an employee deviates materially from the travel authorized under this section, the employee must obtain approval for the deviation from the person who approved the travel before the Department of Administration may reimburse the employee for the travel. (§ 7 ch 60 SLA 1957; am § 1 ch 83 SLA 1962)

Sec. 39.20.150. Advances and recovery. (a) An agency may advance, through proper disbursing methods, to a person entitled to per diem or mileage allowance under AS 39.20.110 — 39.20.170 the sums considered advisable considering the character and probable duration of the travel to be performed.

(b) Sums advanced and not used for allowable travel expense are recoverable by setoff against salary due, or otherwise, from the person to whom advanced, or the person's estate, by deduction from any amount due from the state, or by other legal methods of recovery that may be necessary. (§ 8 ch 60 SLA 1957)

Sec. 39.20.160. Regulations. The fixing and payment under AS 39.20.110 — 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 9 ch 60 SLA 1957; am § 2 ch 13 SLA 1963)

Sec. 39.20.170. Construction of AS 39.20.110 — 39.20.170. AS 39.20.110 — 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government. (§ 10 ch 60 SLA 1957)

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, from and after March 27, 1962, the provisions in this section relating to per diem and transportation govern exclusively and supersede all other provisions of law with respect to a member of a state board, commission, committee, judicial council, or other similar

body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to duties as such member:

(1) For transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170.

(2) For reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974)

Cross references. — For coverage of state board and commission members under the Worker's Compensation Act, see AS 23 30.242.

Opinions of attorney general. — In order to recover an allowance for non-meeting activity, an occupational licensing board member must be engaged in an activity within the scope of the applicable board's powers. November 6, 1984 Op. Att'y Gen.

An occupational licensing board member cannot receive a per diem allowance for conducting an activity that should be performed by division personnel; any activity approved must be specifically defined by statute as a board duty and

should be an activity that cannot be accomplished within the confines of a board meeting. If the task can be performed during a meeting, then per diem should not be paid for time unnecessarily spent by a board member outside a board meeting. It is important, of course, for budgetary reasons, that board activity for which per diem compensation is sought be kept to a minimum. November 6, 1984 Op. Att'y Gen.

The Alaska Power Authority may reimburse a member only for (1) time spent in actual meeting or (2) time spent on authorized official business incident to his duties as a member. April 19, 1984 Op. Att'y Gen.

NOTES TO DECISIONS

Cited in Laborers & Hod Carriers Local (File Nos. 1435, 1459), 494 P.2d 808 341 v. Groothuis, Sup. Ct. Op. No. 773 (1972).

Sec. 39.20.185. State employees who are members of certain boards. A state official or employee who is a member of the judicial council or a state official or employee appointed by the governor to a state board, commission, or committee established under the authority of law is not entitled to per diem when the meeting or other business takes place in the community of which the member is a resident. (§ 1 ch 139 SLA 1968)

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Alaska Statutes

Title 39. Public Officers and Employees.

Chapter

- 20. Compensation and Allowances (§ 39.20.180)
- 25. State Personnel Act (§§ 39.25.110, 39.25.120, 39.25.150, 39.25.157, 39.25.158)
- 30. Insurance and Supplemental Employee Benefits (§§ 39.30.095, 39.30.150, 39.30.153, 39.30.160, 39.30.162)
- 35. Public Employees' Retirement System of Alaska (§§ 39.35.020, 39.35.060, 39.35.080, 39.35.110, 39.35.330, 39.35.345 — 39.35.360, 39.35.389, 39.35.500, 39.35.505, 39.35.525, 39.35.650, 39.35.680)
- 50. Conflict of Interest (§ 39.50.200)

Chapter 20. Compensation and Allowances.

Article

- 2. Travel Regulations (§ 39.20.180)

Article 2. Travel Regulations.

Section

- 39.20.180. Transportation and per diem ex- penses for members of boards, commissions, etc

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, the provisions in this section relating to per diem and transportation govern exclusively with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to duties as such member:

- (1) for transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170;

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SPONSOR SUMMARY

OF

HOUSE BILL 19

Objective

House Bill 19 would establish independent review panels for children in state custody. The panels would provide oversight to help assure that children in state custody have a permanency plan, that it is followed and adjusted as needed, and that children do not linger unnecessarily in foster care.

Why this bill is needed

Currently, the state has an internal review system that serves a needed function, yet it has received strong criticism for lack of objectivity, lack of accountability, and lack of taking a more comprehensive approach. Specifically, the current system does not ensure that all parties have equal input to review individual case plans. Such complaints should come as no surprise when one considers the serious underfunding and the huge caseloads of those who administer programs serving Alaska's children and youth.

The need is further emphasized by federal requirements regarding funding, more specifically those in Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980. "Reviews of each child are required periodically but no less frequently than once every six months by either a court or by administrative review in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship..." (P.L. 96-272, 94 STAT 511).

DFYS is currently conducting internal reviews to meet requirements of federal law. However, some federal funds have been lost in past years due to the fact that the department was not in compliance.

During the interim, this committee held hearings regarding the state foster care system. The committee proposed a basic mission and established goal statements. Listed under Goal One: Safety, Stability and Permanency for Children, was the creation of a permanent, state-wide citizen review board. Alaska currently has two pilot projects in place, one in Anchorage and one in Ketchikan. Twenty-two states have some type of foster care review panel and are finding them successful. Most of these state review systems are independent of the social services department.

What this bill does

This bill provides for the creation of at least one citizen review panel for each judicial district. Volume or complexity of cases would determine need for appointment of additional panels.

Panels would periodically review documents and records of each child in state custody and take testimony (either in person or telephonically) of natural parents, other relatives of the child, guardian, jurisdian ad litem, foster parent, the case worker or social worker assigned to the case, and other persons with a close personal knowledge of the case. They would submit their recommendations to the court or to the Department of Health and Social Services. In most cases, either the department or the panel could request a court review if the recommendations were not implemented.

Panel members would only receive reimbursement for actual and necessary expenses for per diem and travel.

**Foster Care
Review Panel _____
(establishing)**

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HOUSE BILL NO. 12, by Reps. Collins and Gruenberg. Will require the presiding judge for each judicial district to appoint a foster care review panel for that district. The judge can appoint additional panels if the volume or complexity of cases involving children

placed in foster care warrants it.

A panel will consist of three members who have training or experience in child welfare and a demonstrated interest in children. Members can include foster parents or former foster parents, child psychologists, teachers, professionally trained social workers, and lawyers with experience in children's matters. A person employed by the court system or the Department of Health and Social Services cannot serve on a panel. Members serve two year terms, and will be sworn to keep all information that comes before the panel

confidential.

A foster care review panel will be required to review the placement plan and actual placement of each child within its jurisdictional area who is committed to the Dept. of Health & Social Services for placement by court order; or in a case of termination of parental rights by the court (AS 47.10.080(c)(1) or (3), Delinquent Minors & Children in Need of Aid. Judgments and orders).

The review will assess progress toward achievement of a permanent placement plan, the appropriateness of the placement setting, services actually provided to achieve the selected goals, and previous decisions in the case. The panel will consider court records and other available information, will be required to interview the child, foster parents, natural parents, relatives, guardians, case workers and social workers involved, and other persons with close personal knowledge of the case. A written report making recommendations based on the best interests of the child will have to be submitted to the court within 30 days after the case is reviewed. The court will be required to make the report available to the parties immediately. Parties to the case can request the panel to reconsider its recommendations.

The panel will be required to review a case within 90 days of a court order, or within 90 days before the first annual review for children who are wards of the state, and every six months thereafter. The panel has to give two weeks notice prior to a review. The Dept. of Health & Social Services will be required to cooperate with a foster care review panel, and will be responsible for explaining its failure to implement a recommendation of the panel to the court. The court will be required to consider a foster care review panel report during its annual review of cases.

Requires the administrative director of the Alaska Court System to report to the legislature each year on the activities of the foster care review panels.

The bill has the effect of amending Rule 19 of the Child in Need of Aid Rules by requiring a court to consider recommendations from a foster care review panel in conducting a review of the placement of a child in foster care.

The bill takes effect 90 days after enactment.

Introduced January 9, 1989 and referred to Health, Education & Social Services; Judiciary; Finance.

6



OFFICIAL BUSINESS

Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES

POUCH
JUNEAU, AK 998
465-375

PRELIMINARY RECOMMENDATIONS

for the STATE FOSTER CARE SYSTEM

October 1988

There are few state responsibilities greater than our obligation to care for our most vulnerable citizens: abused, neglected and abandoned children. The state has the moral and legal duty to provide the best possible care so that these children have the chance to become healthy, happy and productive citizens.

We are not doing the best job of fulfilling this mandate. Many children are inadequately served, many are not served at all. Our child protection system is understaffed, overstressed and lacks the resources necessary to provide adequate protection and care. In particular, the state's foster care system needs to do a better job of providing the nurturing environment that the child lacks in the natural home. State law may need to be changed in order to provide clearer direction for the welfare of children.

Recognizing these problems and the possibilities for positive change, the House Health, Education and Social Services Committee has been conducting a comprehensive review of the state's foster care system. The Committee has been working with the cooperation of the Division of Family and Youth Services, the Alaska Foster Parents Association, the Governor's Interim Commission on Children and Youth, plus other concerned organizations, agencies and individuals. The Committee recently completed two days of hearings on the foster care system. What follows is a preliminary list of recommendations for improvement. The Committee is open to additions and further refinement before we move forward with specific legislative action.

As an introduction, we have proposed basic mission and goal statements which will serve as a foundation for the preliminary Committee recommendations which follow. After each of the recommendations is a code which indicates the type of action(s) necessary. The codes mean: \$ = requires funding; L = requires legislation; A = requires administrative regulation, policy or procedural change; ? = action not clear.

Goal Two: IMPROVEMENTS IN FOSTER CARE

Recognizing that temporary foster care placement will always be necessary and that long term foster care is an important permanent placement alternative, the foster care system must be improved to provide better care for children and to enable foster parents to be better guardians.

- * Establish expanded and mandatory training for foster parents. L, \$
- * Provide additional respite care services for foster parents. Include respite on a regular basis, not only in emergencies. Use other services for respite, e.g. Big Brothers/Sisters. Consider using foster parent groups to coordinate respite program. \$, A
- * Correct problems with late stipends. Examine payment system and possibly contract out. A
- * Finalize grievance procedure. Consider using unified form that includes grievances, liability claims, problems with foster kids, and recommendations for change. Provide for stop action clause as part of the grievance procedure or elsewhere. A
- * Establish Foster Care Advisory Board. L, \$
- * Improve foster care liability insurance. Have claims go directly to Risk Management. Dovetail with state self insurance. L?, A, \$?
- * Insure state defense of foster parents in lawsuits. ?
- * Develop a system that combines foster parent training, competency levels and rate augmentation. A
- * Develop better targeted recruitment of foster parents. A
- * Provide better orientation for foster parents. A
- * Establish complaint investigations of foster parents by a neutral party. L?, A
- * Provide funding for foster parent networking/support. \$
- * Examine charges of Department retaliation against foster parents. ?

Goal Three: IMPROVEMENTS FOR DFYS

The fate of foster children lies primarily with the Division of Family and Youth Services. The Division does not have the necessary resources to provide for adequate protection and care of children. Social workers are overworked, largely undertrained and too often mired in paperwork. Huge caseloads do not allow for adequate attention to particular cases. Other aspects of the child protection system should be modified so the state can do a better job.

- * Devote additional resources to reduce social worker case loads. \$

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

6



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

POUCH
JUNEAU, AK 99801
465-3751

OFFICIAL BUSINESS

PRELIMINARY RECOMMENDATIONS for the STATE FOSTER CARE SYSTEM

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Mission: THE BEST INTERESTS OF THE CHILD

The mission of the state's child protection system should be to promote the best interests of the child. Preservation of the family or reunification with a child's natural parents is often the best alternative, but these efforts should be driven by and for the best interests of the child.

- * The state children's code should be reviewed and possibly modified to insure the promotion of the best interests of the child. L

~~Goal One: SAFETY, STABILITY AND PERMANENCY FOR CHILDREN~~

Beyond initial efforts to insure a child's safety, the state's highest priority should be the ultimate stability and permanency of the child. The best efforts must be made to keep families together, if appropriate, or to reunify, if possible. If these options are not possible, the state should consider quick action to terminate parental rights, reduce the length of time a child lingers in temporary foster care, and secure a long-term nurturing home for the child or prepare the child for emancipation.

- * Expand intensive homebased family treatment programs to more quickly get help to families and determine the fate of the child. Funding could come from saved foster care stipends. Treatment should include an alcohol and drug abuse component. \$
- * Clarify criteria for termination of parental rights so that the best interests of the child and the child's need for a permanent plan are highest priorities. Consider different standards for different ages. L
- * Change confidentiality statutes so that foster parents and others with a "need to know" have access to information. L
- * Continue pilot citizen review permanency planning board projects in Anchorage and Sitka. \$
- * ~~Create a permanent, state-wide citizen review board system. L, \$~~
- * Expand the role of foster parents as part of the permanency planning team. A
- * Make greater use of subsidized adoption; beyond just hard to place kids. ?
- * Establish use of subsidized guardianships to increase stability of certain placements. L, \$
- * Make long term foster care more viable. A, \$
- * Establish minimum standards for emancipation. L
- * Provide more pre-emancipation services for youth. L, \$
- * Examine the impediments to adoption. A

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- * Devote additional resources to reduce social worker case loads. \$

- * Implement automated case management system to increase social worker efficiency. A, \$
- * Use para-professionals (social worker aides) to assist social workers. L?, A
- * Provide more frequent training of social workers. Evaluate use of GICCY funds for this purpose. \$, A
- * License social workers who work for the state. L
- * Establish Master of Social Work Program at the University of Alaska. A
- * Create Office of the Child Ombudsman. L, \$
- * Continue efforts to capture additional federal funds for foster care programs. A
- * Clarify the policy regarding use of a child's permanent fund dividend check. L?, A
- * Provide evaluation of social workers by foster parents. A
- * Use foreclosed homes for residential care facilities. A, \$

Rep. Nillo Koponen, Co-Chair, House HESS Committee
Rep. Johnny Ellis, Co-Chair, House HESS Committee

E. ADVANTAGES OF CITIZEN REVIEW

7

Citizen review boards have several advantages not only for the children in foster care, but for the court system, social services system and taxpayers.

By engaging in interdisciplinary cooperative efforts, citizen review systems can make tremendous advances in the delivery of foster care services including the following:

1. enabling changes in the legislature regarding foster care statutes;
2. reducing the number of children in placement, thereby saving tremendous amounts of government dollars;
3. serving an investigative function to aid in appropriate case planning;
4. encouraging and aiding in the recruitment of foster homes;
5. increasing the awareness of the community to the plight of children in care;
6. serving a "check and balance" function to assure that all aspects of the child welfare system are functioning correctly and appropriately;
7. increasing cooperation and communication between various agencies serving children;
8. freeing case workers who might otherwise be conducting reviews to do casework and actually provide services to families;
9. developing new policies, procedures and resources for children in care.

STATE FOSTER CARE CITIZEN REVIEW SYSTEMS

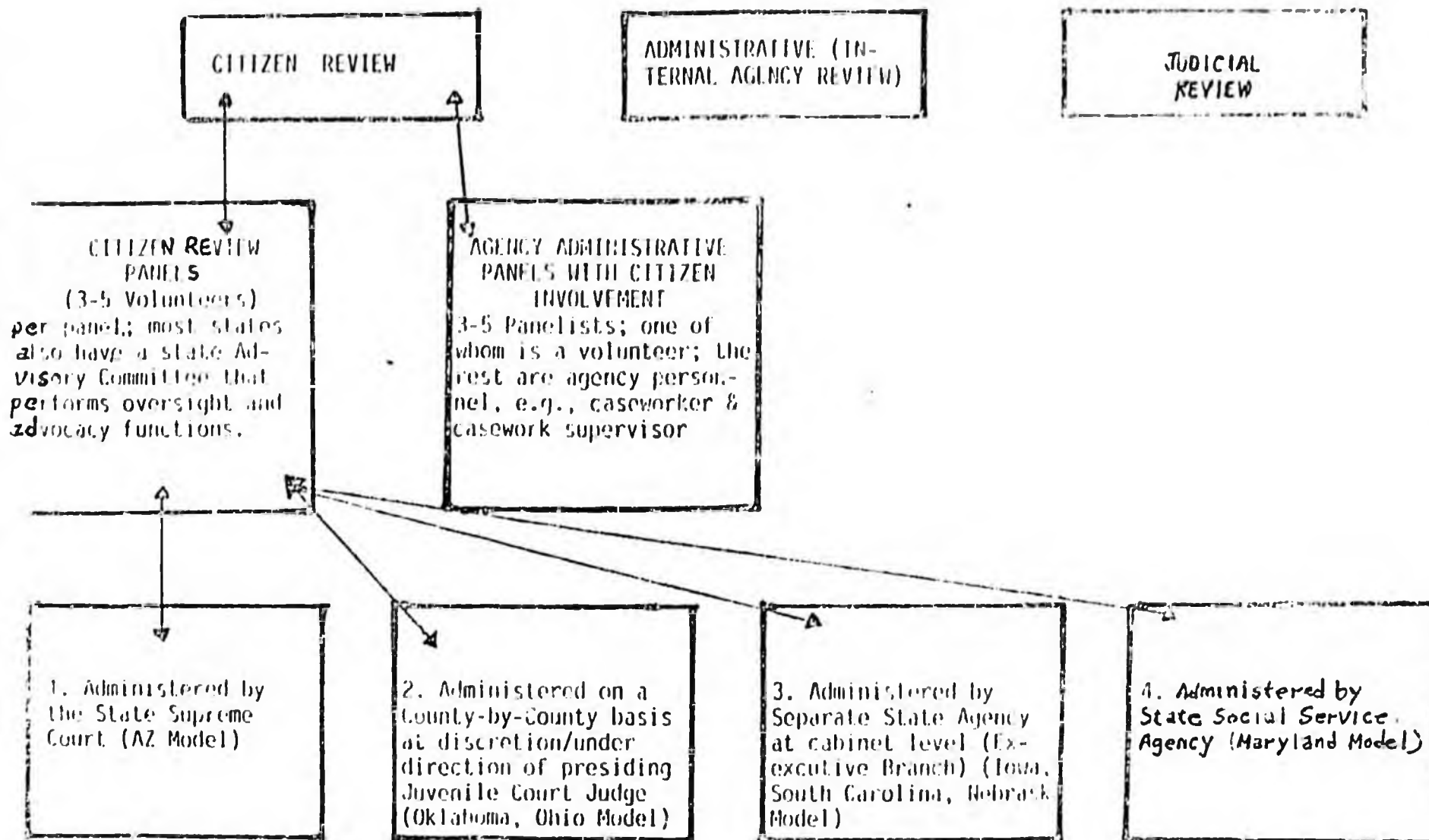
<u>STATE</u>	<u>TYPE OF ADMINISTRATION</u>
Alaska	pilot project, legislation introduced (HB 19)
Arizona	established under supreme court
Delaware	independent agency within governor's office
Florida	pilot project starts 4/1/89 in Dade County
Georgia	statewide system under court system
Hawaii	legislation pending for system
Illinois	only within Chicago under private non-profit
Iowa	independent agency at cabinet level
Kansas	in one county under county court system
Kentucky	under supreme court
Maryland	independent agency within social services department, but seeking change outside department
Michigan	under supreme court
Mississippi	under county court system
Nebraska	independent agency at cabinet level
New Jersey	within county court system with some supreme court funding
New Mexico	administered by private contractor who contracts with the department; legislation currently pending to change and place under the court system
Ohio	under county courts; not all counties
Oklahoma	under supreme court
S. Carolina	independent at cabinet level
Tennessee	under county courts
Washington	pilot project with legislation pending
Wisconsin	under county court in one county only

The majority of the states listed above conduct full party reviews (as opposed to paper reviews only).

This information was obtained from Susan Carter, Executive Director of the National Association of Foster Care Reviewers.

MODELS OF FOSTER CARE REVIEW

NOTE: These 3 basic models are not mutually exclusive. Some states use some version of all three, or two out of three.



* 2 (County-by-County Model) may also include a state advisory committee under Supreme Court that coordinates among counties.



Alaska Foster Parents Association

P. O. BOX 140651 • ANCHORAGE, ALASKA 99508

POSITION ON CONCEPT HB 19 FOSTER CARE REVIEW BOARDS

"You are the eyes and ears of the court, a part of the court's conscience. You are also the eyes and ears of society, and part of its conscience. Reviewers are one of the few institutions where the problems of the family, the efforts of the state and the work of the judiciary meet. You are able to see what is working and what is wrong."

The above comments were made by the Honorable Robert N. Wilentz, Chief Justice of the New Jersey Supreme Court, to members of foster care review boards.

When one considers the role and purpose of foster care review, it becomes obvious that it is primarily a system of quality assurance. It can also inject some common sense and practicality into a system that all too often, has little or none. It can also make the practitioners of the various services involved more accountable and therefore more responsive to the needs of their clients.

In considering the purpose and intent of legislation to create a system of foster care review that has the potential to do the greatest good for children, families and foster families, the following components must be included:


1. Review boards must be external of government and be composed of citizens from the community.
2. Recommendations of the boards should be adhered to by the department or the department should be able to justify their deviation in court.
3. All involved parties should have the ability, stated in law, to request reconsideration of a recommendation.
4. All parties who have direct information relating to the child in care must have the opportunity to present that information to the reviewers.
5. All parties must receive adequate notification of review so that they may arrange their schedule accordingly.
6. Reviewers must have access to all documents, records and testimony that relates to the child, placement and permanency plan.

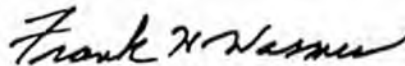
National statistics indicate that review boards and the department agree 85% of the time. Conversely, they disagree in 15% of the cases reviewed. This could mean that the departments in those states that have citizen review boards are doing well most of the time. It could also mean that social work in those states is of higher quality because their work is being subjected to scrutiny by external sources.

It is understandable that the department might suggest that recommendations should not be imposed upon them, or that case management should be solely their prerogative. It must be understood that review boards will in no way be case managers. Their responsibility is one of oversight to assure that cases are managed responsibly. In those cases where decisions are questionable, they should be challenged. The Department still has access to the court and in all cases, the court makes the final decision. The court will benefit from the work of the review boards and the department and therefore will be more able to make correct judgements.

One final thought; If there were no problems with the way we are dealing with children in the child protection system, we would not be talking about legislative solutions. We should not attempt band aid fixes but put those components in place which will assure long term progress for children who find themselves in state custody.

The Alaska Foster Parent Association supports, without reservation, Citizen Foster Care Review Boards with the concepts stated.


Miriam Sumner
President


Frank H. Wasmer
Vice President

March 8, 1989

My name is Nancy Schava. I would like to speak in support of HCR #15 and HB #19. My occupation is a school administrator, and I am a foster parent.

I listened yesterday to what the Anchorage Citizens Review Board is doing. They said they are compiling information on how many children are moved how often, how many children have waited how long for services, etc.

Do you know that as a school administrator I have to report at any time how many drop-outs we've had, how many completions of vocational programs, how many students are receiving services for special education, etc., etc.?

The Anchorage Citizens Review Board is doing what the department should do routinely.

The problem is that we need these review boards because we don't have built-in checks and balances in the department. To whom is the department accountable? The situation has developed because everytime the department is reviewed, it's been an internal review. The present review boards are composed of people already involved with the cases. The boards must be composed of people not involved with the department, people who are objective.

But, the review boards are gathering information now which has not been previously available. The boards establish accountability. We need them.

(1)



Alaska Foster Parent Training Center

1550 Gilliam Way, Fairbanks, Alaska 99701-6046 (907) 451-7307 FAX (907) 452-3724

BACKGROUND INFORMATION FOR TESTIMONY OF JEANNE GONZALES, COORDINATOR OF THE ALASKA FOSTER PARENT TRAINING CENTER

TRAINING CONTRACT

In October, 1988, the Division of Family and Youth Services awarded a contract to Northwest Resource Associates, a private non-profit organization, to establish the Alaska Foster Parent Training Center in its Fairbanks office. During the first nine months of operation, services provided by the Center will be free and available to all foster parents and will include:

- A confidential questionnaire which all foster parents will be requested to complete, which will gather their opinions about foster parenting and training, as well as the kinds of training they are most interested in.
- Statewide training of the DFYS courses "Issues in Foster Parenting" and "Discipline." The first offerings of these trainings will be in Barrow and Bethel.
- The development of seven new courses, "The Impact of Physical Abuse," "The Impact of Sexual Abuse," "Child Development Specific to Foster Parenting," (two courses) "Preparing Youth for Emancipation," and a self-instructional orientation course. We will be pilot testing these courses in April, May and June and will begin offering them statewide in July or August.
- The researching and cataloging of alternative training resources which will be available for training credit, and the implementation of a data system which will record information about the training opportunities foster parents take advantage of.
- The establishment of a circulating library of books, articles, videos and periodicals specifically for foster parents.
- The publishing of the Alaska Foster Parent Bulletin, which will let foster parents know about training events and new resources.
- A toll-free 1-800 number for foster parents to use to reach us to find out about training opportunities. The number is 1-800-474-7307. In Fairbanks, please call 451-7307.