

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9131 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
AS 47.10.080 (a)	Allegations must be proven within 120 days of probable cause finding	AS 47.10.080 (a)	Same as original.	
AS 47.10.080 (c)(1)	GAL can request extension of legal custody; Parties get advance notice of move and may request a hearing.	AS 47.10.080(c)(1)	Amended to allow a one-year extension of custody, prior notice of a transfer to parties, caregivers, and healthcare providers	
AS 47.10.080 (c) (2)	GAL can request extension of supervision by DHSS	AS 47.10.080(c)(2)	Amended to allow a one-year extension of custody, rather than two years. GAL can request extension.	
AS 47.10.080 (c) (3)	Termination of Parental Rights Order followed by annual reports on permanence	AS 47.10.080(c)(3)	Requires quarterly reports on permanence	
AS 47.10.080 (f)	Requires at least annual permanency hearings; GAL can request review.	AS 47.10.080(f)	Requires at least annual permanency hearings, GAL can request review Notice to healthcare providers	
AS 47.10.080 (i)	Decision on appeal within 90 days.	AS 47.10.080(i)	Decision on appeal within 90 days, deadline using oral argument.	
AS 47.10.080 (l)	Permanency hearing within 12 months of removal as calculated in AS 47.10.080(f)	AS 47.10.080(l)	Same as original.	
AS 47.10.080 (l)	Court findings on permanent plan for child	AS 47.10.080(l)	Findings expanded to meet new federal language	

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
AS 47.10.080 (o)	Grounds to terminate parental rights based on incarceration of parent	AS 47.10.080 (o)	Addition of "not another parent willing and able to care for the child."	
		AS 47.10.080(p)	Visitation order requires visit w/in 72 hours and weekly.	
		AS 47.10.080(q)	Info Department must provide to foster parents	
		AS 47.10.080 (r)	Info parents must provide to the Department	
		AS 47.10.080(s)	Department may not change a placement without a court order unless requested, abuse, return or adoption	
		AS 47.10.080(l)	Department shall give 14 days advance written notice by certified mail to request a change in placement	
AS 47.10.082	Best interests of child must be considered at disposition	AS 47.10.082	Addition of "health and safety of the child shall be the paramount concern."	
AS 47.10.086	Amendments to "reasonable efforts" requirement to conform to federal law, with (c) (4) and (5) added by state	AS 47.10.086		

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
		AS 47.10.086 (a)	(a)(1)(2)(3)case planning and documentation	
		AS 47.10.086(c)(1)	deletes sexual abuse; needs chronic mental harm to comply with federal standard	
AS 47.10.086 (a) 4-5		AS 47.10.086(c) 4-9	additional grounds to stop reasonable efforts to return the child home	
		AS 47.10.086 (d)	Stop reasonable efforts to return child home if parents fail to make reasonable efforts for 12 months	
AS 47.10.088	Amendments to "termination of parental rights" to conform to federal law, with (d) (4) and (5), (g) added by state	AS 47.10.088	same as original	
AS 47.10.088(j)	Requires trial on petition to terminate parental rights within 6 months of filing	AS 47.10.088(j)	same as original	
AS 47.10.088 (k)	Requires decision on termination of parental rights within 90 days of trial completion	AS 47.10.088(k)	same as original	
AS 47.10.092 (a)	Allows DHSS to respond to legislators with info about child and family, not just the child	AS 47.10.092(a)	Requires DHSS to copy documents, get proof of request, and makes it a duty to respond to a request	

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
AS 47.10.093(b)	Loosens confidentiality restrictions: state ME; teams; reporter of harm; federal law enforcement, CSED.	AS 47.10.093 (b)	Specific amendment for foster parents.	
AS 47.10.142(a)	Emergency custody when a sibling is sexually abused	AS 47.10.142(a)	removes requirement of "gross" neglect;	
		AS 47.10.142 (c)	Requires department to provide why released and to whom released, to parents.	
		AS 47.10.960	No duty of care.	
AS 47.10.990	Definitions amended to include additional terms. Some definitions from CINA Rule 2.	AS 47.10.990	Emotional harm deleted, mental injury inserted.	
	(a)(18) reasonable efforts are time-limited services to prevent removal and to return home		(a)(18) reasonable efforts are consistent attempts to offer services	
AS 47.12.310 (b)	Loosens confidentiality in JD cases, includes federal law enforcement, ME	AS 47.12.310(b)	Mandates a response by the department, adds specific amendments for foster parents.	
AS 47.14.100 (d)	Allows DHSS to provide respite care to foster parents for stress relief	AS 47.14.100(d)	same as original	

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
		AS 47.14.100 (e)(1)and(2)	Amends blood relative preference to comply with requirements of licensed caregivers	
		AS 47.14.100(l)	Requires department to consider removing risk from home before removing child from home	
		AS 47.14.100(d) and (h)	Department must present review panel recommendations to court.	
AS 47.14.300	Allows the use of multidisciplinary teams as a resource for CINA cases. Alternate proposal to be made as amendment.	AS 47.14.300	Alternate proposals to be made as amendments	
AS 47.17.020 (a)	Mandates members of child fatality review team and multidisciplinary team to report child abuse and neglect.	AS 47.17.020(a)	same as original	
AS 47.17.020 (h) and (i)	Clarifies when DV and Alcohol treatment providers must make mandated reports	AS 47.17.020(h)and (i)	same as original	
		AS 47.17.030(g)	adds subsection requiring worker to go to AG to seek a TRO, to prevent removal	
AS 47.17.033	Allows DHSS to investigate criminal histories of parents and perpetrators	AS 47.17.033	same as original	

Child Protection Bill Comparison

Governor's HB	Governor's HB 375	CS HB 375	CS HB 375	Other Bill
	Proposed amendments to AS 47.17.035(b) through Rep. Price	AS 47.17.035(b)	Amendments to duties of DFYS in DV cases	
AS 47.35.017 (b)	Requires criminal background check, including fingerprints, for licensed homes.	AS 47.35.017(b)	Adds OL and SSN to application; also requires criminal background checks	
AS 47.35.022	No license when certain criminal histories uncovered; procedure for checks.	AS 47.35.022	same as original.	
AS 47.35.023 (b)	Emergency license for 180 with partial compliance with criminal background check	AS 47.35.023(b)	Emergency license for 90-day period, to be extended, after partial compliance.	
AS 47.35.047 (b)	Licensee has duty to report new offenses.	AS 47.35.047(b)	same as original	



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 375

P.O. Box 11000
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January 30, 1998

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

More than 15,500 reports of child abuse or neglect were filed last year in Alaska. National statistics have shown Alaska has the highest rate of child abuse and neglect among all 50 states with 38 substantiated cases for every 1,000 children in the state's population. These disturbing numbers have steadily increased since the 1980's along with increases in substance abuse and domestic violence. One abuse feeds another. The cycle must stop. We are shirking our greatest responsibility if we don't face this tragedy head on and demand the tools, laws and resources to put an end to it.

This child protection bill I am transmitting to you today is my Administration's effort to improve Alaska's laws to protect our children and prevent the crime that inevitably results when abused kids become angry teens and adults. This bill is part of my Smart Start for Alaska's Children initiative - a comprehensive approach to breaking the cycle of abuse and neglect, stopping family violence, preventing crime, and working together for a bright future for all of Alaska's children.

The bill makes many changes in Alaska law to protect children and prevent crime. The most significant include:

- Updating the child in need of aid laws to put children first and make sure every effort is made to reunify the family when appropriate, and to expedite making the child legally eligible for permanent placement when reunification is clearly not in the child's best interest.
- Increasing penalties for people who kill or harm children by abuse or neglect.

11-21

The Honorable Gail Phillips
January 30, 1998
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- Establishing a child fatality review team and facilitating the sharing of information to improve our legal tools to investigate child fatalities and more comprehensively address situations that put Alaska children at risk.

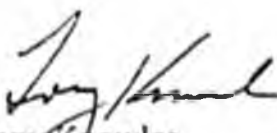
- Requiring incarcerated sex offenders to register as sex offenders prior to release from prison.

- Improving criminal laws regarding criminal nonsupport of children by heightening penalties to be sure parents who are able, but choose not to support their children are appropriately punished.

- Authorizing the Department of Health and Social Services to enter into the Interstate Compact on Adoption and Medical Assistance to facilitate adoption of hard-to-place children when they move from state to state.

I have proposed attacking Alaska's escalating problem with child abuse on three major fronts: health care, prevention programs, and intervention when children are in peril. Earlier this session, I introduced a bill to expand Medicaid eligibility for children, giving our kids a chance for a healthy start in life. That legislation, along with several initiatives in my proposed budget, boosts programs such as Healthy Families and Head Start to prevent child abuse through education and counseling. This bill completes my Smart Start package by providing the necessary intervention tools to stop abusive situations. It represents my Administration's effort to say we will not allow this harmful situation to continue. I urge you to give this bill and my entire Smart Start package thorough and swift attention.

Sincerely,



Tony Knowles
Governor

**SUMMARY OF CRIMINAL CHANGES
CHILD PROTECTION LEGISLATION**

- PEOPLE WHO KILL CHILDREN WILL BE CHARGED WITH MORE SERIOUS CRIMES AND SERVE LONGER JAILTERMS:
 - (A) murder one if a child dies after two acts of violence, conduct knowingly directed toward the child (same child)
 - (B) murder one if a child dies during an act of sexual abuse or while kidnapped
 - murder one sentence is 20 - 99 years
 - under old law, these would probably be murder two
 - (C) murder two if a child dies, negligence, and the person has a prior conviction for a violent crime against a child (different or same child)
 - murder two sentence is 5 - 99 years.
 - (D) minimum 7 years for manslaughter when the victim is a child.
 - under the old law, 5 year minimum
 - maximum is 20 years.
 - (E) "shaken baby" deaths, death due to brain damage from being shaken. Criminally Negligent Homicide
 - under the old law, a C felony.
 - under the old law, 0-5 (0-2 benchmark)
 - under the new law, a B felony
 - under the new law, 0 - 10 and no benchmark)
- ADDITION OF FELONY INDECENT EXPOSURE WHEN THE VICTIM IS A CHILD
- ENDANGERING THE WELFARE OF A CHILD expanded -
 - abandonment of a child
 - leaving a child with a known sex offender
 - leaving a child with someone known to injure children
 - Penalties:
 - Death - B felony, faces up to 10 years
 - Serious Injury - C felony, faces up to 5 years
 - Injury - A misdemeanor, faces up to 1 year
 - Poor supervision - B misdemeanor (drugs/alcohol)
- Failure to pay child support will be treated as criminal neglect of a child
- Sex offenders will register before they leave the jail, rather than be given 7 days after they leave the jail.

SUMMARY OF CHANGES TO THE CIVIL CHILD PROTECTION STATUTES

- Child Fatality Review Team in statute with other death investigations.
- Teachers who have sexually abused children will lose their teaching certificates for life.
- Alaska will join the Interstate Compact on Adoption and Medical Assistance
- Children in Need of Aid statutes more precise and practical to work with.
 - Revised definition of abandonment
 - A. more serious w/younger children.
 - B. incarceration
 - C. children left with caretakers and not retrieved
 - D. runaways
 - Medical neglect
 - Physical harm
 - Sexual abuse
 - Emotional harm - dangerous to self or others, observable
 - Physical neglect
 - Substance abuse impairs parenting
 - Mental illness impairs parenting
 - Parents approving illegal and delinquent acts
- Timelines imposed on court process to keep cases moving.
- More participation in hearings by relatives and foster parents.
- Parents have a time-limited window to remedy the problems at home.
- Rehabilitation efforts to return the child home will not be required in aggravated cases:
 - homicide of a child,
 - felony assault on a child,
 - sexual abuse of a child.
- Multidisciplinary teams review DFYS files.
- Criminal background checks required on any licensed home:
 - adults in home
 - juveniles in home;
 - regular rechecks.

CS FOR HOUSE BILL NO. 375()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children-in-need-of-aid matters and proceedings; relating to
2 child abuse and neglect; relating to murder of children, kidnapping, criminal
3 nonsupport, the crime of indecent exposure, and the crime of endangering the
4 welfare of a child; relating to sentencing for certain crimes involving child victims;
5 relating to the state medical examiner and reviews of child fatalities; relating to
6 teacher certification and convictions of crimes involving child victims; relating to
7 access, confidentiality, and release of certain information concerning the care of
8 children, child abuse and neglect, and child fatalities; authorizing the Department
9 of Health and Social Services to enter into an interstate compact concerning
10 adoption and medical assistance for certain children with special needs; relating
11 to the review of cases involving certain children who are in the custody of the
12 state; authorizing the establishment of multidisciplinary child protection teams and

1 relating to their duties; relating to persons required to report suspected child
2 abuse or neglect; relating to foster care placement and foster care licensing;
3 relating to access to certain criminal justice information and licensure of certain
4 child care facilities; amending Rule 218, Alaska Rules of Appellate Procedure;
5 amending the Alaska Child in Need of Aid Rules; and providing for an effective
6 date."

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

8 * Section 1. INTENT AND PURPOSE OF ACT. (a) The intent of this Act is to protect
9 children from abuse and neglect without prohibiting the use of reasonable methods of parental
10 discipline or prescribing a particular method of parenting.

11 (b) The purpose of this Act is to

12 (1) provide the legal mechanisms by which the state can use its resources to
13 implement the findings in this section for the best interest of children in this state; and

14 (2) override the court decisions in the following cases:

15 (A) Matter of J.L.F., 912 P.2d 1255 (Alaska 1996), In Re S.A., 912
16 P.2d 1235 (Alaska 1996), and F.T. v. State, 862 P.2d 857 (Alaska 1993), concerning
17 the standards to adjudicate a child in need of aid when a parent or caregiver is willing,
18 but unable, to provide essential care for a child:

19 (B) A.M. v. State, 891 P.2d 815 (Alaska 1995), and Nada A. v. State,
20 660 P.2d 436 (Alaska App. 1983), concerning the standards to terminate parental rights
21 when a parent is incarcerated:

22 (C) R.J.M. v. State, 946 P.2d 855 (Alaska 1997), concerning the type
23 of neglect necessary to adjudicate a child in need of aid under AS 47.10.

24 * Sec. 2. AS 10.06.961(a) is amended to read:

25 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the
26 property of the child [MINOR] under AS 47.10.010 [AS 47.10.010(c)], when a child
27 [MINOR] who is in the custody of this state under AS 47.10 or a minor who is in the
28 custody of this state under AS 47.12 or of another state under a provision similar to
29 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions

1 resulting from the ownership of stock or a membership in a corporation organized
2 under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement
3 Act), the corporation paying the dividends or making the other distributions shall retain
4 the dividends and other distributions in an interest bearing account for the benefit of
5 the child [MINOR] during the state custody.

6 * Sec. 3. AS 11.41.100(a) is amended to read:

7 (a) A person commits the crime of murder in the first degree if

8 (1) with intent to cause the death of another person, the person

9 (A) causes the death of any person; or

10 (B) compels or induces any person to commit suicide through
11 duress or deception; or

12 (2) the person knowingly engages in conduct directed toward [
13 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE
14 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR
15 TORTURE OF] a child under the age of 16, and [ONE OF THE ACTS OF ASSAULT
16 OR TORTURE RESULTS IN THE DEATH OF THE CHILD; FOR PURPOSES OF
17 THIS PARAGRAPH, A PERSON "ENGAGES IN A PATTERN OR PRACTICE OF
18 ASSAULT OR TORTURE" IF] the person with criminal negligence causes
19 [INFLICTS] serious physical injury to the child by at least two separate acts, and one
20 of the acts results in the death of the child; or

21 (3) the person with criminal negligence causes the death of a child
22 under the age of 16 during the course of committing or attempting to commit
23 sexual assault in the first degree, sexual abuse of a minor in the first degree, or
24 kidnapping.

25 * Sec. 4. AS 11.41.110(a) is amended to read:

26 (a) A person commits the crime of murder in the second degree if

27 (1) with intent to cause serious physical injury to another person or
28 knowing that the conduct is substantially certain to cause death or serious physical
29 injury to another person, the person causes the death of any person;

30 (2) the person knowingly engages in conduct that results in the death
31 of another person under circumstances manifesting an extreme indifference to the value

1 of human life;

2 (3) under circumstances not amounting to murder in the first
 3 degree, acting either alone or with one or more persons, the person commits or
 4 attempts to commit arson in the first degree, kidnapping, sexual assault in the first
 5 degree, sexual assault in the second degree, burglary in the first degree, escape in the
 6 first or second degree, robbery in any degree, or misconduct involving a controlled
 7 substance under AS 11.71.010(a), 11.71.020(a), 11.71.030(a)(1) or (2), or
 8 11.71.040(a)(1) or (2) and, in the course of or in furtherance of that crime, or in
 9 immediate flight from that crime, any person causes the death of a person other than
 10 one of the participants; [OR]

11 (4) acting with a criminal street gang, the person commits or attempts
 12 to commit a crime that is a felony and, in the course of or in furtherance of that crime
 13 or in immediate flight from that crime, any person causes the death of a person other
 14 than one of the participants; or

15 (5) the person with criminal negligence causes the death of a child
 16 under the age of 16, and the person has been previously convicted of a crime
 17 involving a child under the age of 16 that was

18 (A) in violation of AS 11.41;

19 (B) in violation of a law or ordinance in another jurisdiction
 20 with elements similar to a crime under AS 11.41; or

21 (C) an attempt, a solicitation, or a conspiracy to commit a
 22 crime listed in (A) or (B) of this paragraph in violation of AS 11.41 or of
 23 a law or ordinance in another jurisdiction with similar elements.

24 * Sec. 5. AS 11.41.300(a) is amended to read:

25 (a) A person commits the crime of kidnapping if

26 (1) the person restrains another with intent to

27 (A) hold the restrained person for ransom, reward, or other
 28 payment;

29 (B) use the restrained person as a shield or hostage;

30 (C) inflict physical injury upon or sexually assault the restrained
 31 person or place the restrained person or a third person in apprehension that any

1 person will be subjected to serious physical injury or sexual assault;

2 (D) interfere with the performance of a governmental or
3 political function;

4 (E) facilitate the commission of a felony or flight after
5 commission of a felony; [OR]

6 (F) commit an offense in violation of AS 11.41.434 -
7 11.41.438 upon the restrained person or place the restrained person or a
8 third person in apprehension that a person will be subject to an offense in
9 violation of AS 11.41.434 - 11.41.438; or

10 (2) the person restrains another

11 (A) by secreting and holding the restrained person in a place
12 where the restrained person is not likely to be found; or

13 (B) under circumstances which expose the restrained person to
14 a substantial risk of serious physical injury.

15 * Sec. 6. AS 11.41.300(d) is amended to read:

16 (d) In a prosecution for kidnapping, it is an affirmative defense which reduces
17 the crime to a class A felony that the defendant voluntarily caused the release of the
18 victim alive in a safe place before arrest, or within 24 hours after arrest, without
19 having caused serious physical injury to the victim and without having engaged in
20 conduct described in AS 11.41.410(a), [OR] 11.41.420, 11.41.434, or 11.41.436.

21 * Sec. 7. AS 11.41 is amended by adding a new section to read:

22 **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender
23 commits the crime of indecent exposure in the first degree if

24 (1) the offender violates AS 11.41.460(a);

25 (2) while committing the act constituting the offense, the offender
26 knowingly masturbates; and

27 (3) the offense occurs within the observation of a person under 16 years
28 of age.

29 (b) Indecent exposure in the first degree is a class C felony.

30 * Sec. 8. AS 11.41.460 is amended to read:

31 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender

1 commits the crime of indecent exposure in the second degree if the offender
2 intentionally exposes the offender's genitals to another person with reckless disregard
3 for the offensive, insulting, or frightening effect the act may have on that person.

4 (b) Indecent exposure in the second degree before a person under 16 years
5 of age is a class A misdemeanor. Indecent exposure in the second degree before a
6 person 16 years of age or older is a class B misdemeanor.

7 * Sec. 9. AS 11.51.100 is repealed and reenacted to read:

8 **Sec. 11.51.100. Endangering the welfare of a child in the first degree. (a)**

9 A person commits the crime of endangering the welfare of a child in the first degree
10 if, being a parent, guardian, or other person legally charged with the care of a child
11 under 16 years of age, the person

12 (1) intentionally deserts the child in a place under circumstances
13 creating a substantial risk of physical injury to the child;

14 (2) leaves the child with another person who is not a parent, guardian,
15 or lawful custodian of the child knowing that the person

16 (A) is registered or required to register as a sex offender under
17 AS 12.63 or a law or ordinance in another jurisdiction with similar
18 requirements;

19 (B) has been charged by complaint, information, or indictment
20 with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another
21 jurisdiction with similar elements; or

22 (C) has been charged by complaint, information, or indictment
23 with an attempt, solicitation, or conspiracy to commit a crime described in (B)
24 of this paragraph; or

25 (3) leaves the child with another person knowing that the person has
26 previously physically mistreated or had sexual contact with any child, and the other
27 person causes physical injury or engages in sexual contact with the child.

28 (b) In this section, "physically mistreated" means

29 (1) having committed an act punishable under AS 11.41.100 -
30 11.41.250; or

31 (2) having applied force to a child that, under the circumstances in

1 which it was applied, or considering the age or physical condition of the child,
2 constitutes a gross deviation from the standard of conduct that a reasonable person
3 would observe in the situation because of the substantial and unjustifiable risk of

4 (A) death;

5 (B) serious or protracted disfigurement;

6 (C) protracted impairment of health;

7 (D) loss or impairment of the function of a body member or

8 organ;

9 (E) substantial skin bruising, burning, or other skin injury;

10 (F) internal bleeding or subdural hematoma;

11 (G) bone fracture; or

12 (H) prolonged or extreme pain, swelling, or injury to soft tissue.

13 (c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of
14 this section is a class C felony.

15 (d) Endangering the welfare of a child in the first degree under (a)(3) of this
16 section is a

17 (1) class B felony if the child dies;

18 (2) class C felony if the child suffers sexual contact, sexual penetration,
19 or serious physical injury; or

20 (3) class A misdemeanor if the child suffers physical injury.

21 • Sec. 10. AS 11.51 is amended by adding new sections to read:

22 Sec. 11.51.110. Endangering the welfare of a child in the second degree.

23 (a) A person commits the crime of endangering the welfare of a child in the second
24 degree if, being a parent, guardian, or other person legally charged with the care of a
25 child under 10 years of age, the person, while caring for the child,

26 (1) knowingly possesses a controlled substance that is not authorized
27 under AS 17.30;

28 (2) is incapacitated by a controlled substance that is authorized under
29 AS 17.30 and a third person who is at least 12 years of age and not incapacitated by
30 an intoxicant is not present to care for the child; or

31 (3) is incapacitated by an intoxicant that is not authorized under

1 AS 17.30.

2 (b) In this section,

3 (1) "incapacitated" means that a person is unconscious or the person's
4 judgment is so impaired that the person is incapable of making rational decisions with
5 respect to the basic safety or personal needs of a child;

6 (2) "intoxicant" has the meaning given in AS 47.10.990.

7 (c) Endangering the welfare of a child in the second degree is a violation.

8 **Sec. 11.51.115. Criminal nonsupport in the first degree.** (a) A person
9 commits the crime of criminal nonsupport in the first degree if

10 (1) after administrative or court proceedings for a determination of an
11 obligation under a support order are initiated involving the person, the person
12 knowingly conveys assets, property, or another thing of value to another person in order
13 to avoid payment of the support that may be ordered or has been ordered by the
14 administrative agency or court; or

15 (2) the person is an obligor under a support order under AS 25.27 that
16 includes support on behalf of a child and without lawful excuse has failed to pay
17 support to an extent that over \$30,000 of arrearages have accrued under the order, not
18 including interest and penalties.

19 (b) In this section, "support order" has the meaning given in AS 25.27.900.

20 (c) Criminal nonsupport in the first degree is a class C felony.

21 • **Sec. 11.** AS 11.51.120(a) is amended to read:

22 (a) A person commits the crime of criminal nonsupport in the second degree
23 if, being a person legally charged with the support of a child under 18 years of age, the
24 person fails without lawful excuse to provide support for the child.

25 • **Sec. 12.** AS 11.51.120(c) is amended to read:

26 (c) Criminal nonsupport in the second degree is a class A misdemeanor.

27 • **Sec. 13.** AS 12.55.025(i) is amended to read:

28 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k)(2) [12.55.125(k)],
29 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard
30 of proof applies to sentencing proceedings.

31 • **Sec. 14.** AS 12.55.125(c) is amended to read:

1 (c) A defendant convicted of a class A felony may be sentenced to a definite
2 term of imprisonment of not more than 20 years [,] and shall be sentenced to the
3 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
4 12.55.175:

5 (1) if the offense is a first felony conviction and does not involve
6 circumstances described in (2) of this subsection, five years;

7 (2) if the offense is a first felony conviction

8 (A) [,] other than for manslaughter [,] and the defendant
9 possessed a firearm, used a dangerous instrument, or caused serious physical
10 injury during the commission of the offense, or knowingly directed the conduct
11 constituting the offense at a uniformed or otherwise clearly identified peace
12 officer, fire fighter, correctional employee, emergency medical technician,
13 paramedic, ambulance attendant, or other emergency responder who was
14 engaged in the performance of official duties at the time of the offense, seven
15 years;

16 (B) for manslaughter and the victim is a child under the age
17 of 16, seven years;

18 (3) if the offense is a second felony conviction, 10 years;

19 (4) if the offense is a third felony conviction and the defendant is not
20 subject to sentencing under (1) of this section, 15 years.

21 * Sec. 15. AS 12.55.125(k) is amended to read:

22 (k) A first felony offender convicted of an offense for which a presumptive
23 term of imprisonment is not specified under this section

24 (1) may be sentenced to a term of unsuspended imprisonment that
25 exceeds the presumptive term of a second or third felony offender convicted of the
26 same crime if the offender is convicted of criminally negligent homicide and the
27 victim is a child under the age of 16;

28 (2) except as provided in (1) of this subsection, may not be sentenced
29 to a term of unsuspended imprisonment that exceeds the presumptive term for a second
30 felony offender convicted of the same crime unless the court finds by clear and
31 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that

1 circumstances exist that would warrant a referral to the three-judge panel under
2 AS 12.55.165.

3 * Sec. 16. AS 12.55.155(e) is amended to read:

4 (e) If a factor in aggravation is a necessary element of the present offense, or
5 requires the imposition of a presumptive term under AS 12.55.125(c)(2)(A)
6 [AS 12.55.125(c)(2)], that factor may not be used to aggravate the presumptive term.
7 If a factor in mitigation is raised at trial as a defense reducing the offense charged to
8 a lesser included offense, that factor may not be used to mitigate the presumptive term.

9 * Sec. 17. AS 12.65.005(a) is amended to read:

10 (a) Unless the person has reasonable grounds to believe that notice has already
11 been given, a person who attends a death or has knowledge of a death, in addition to
12 notifying a peace officer, shall immediately notify the state medical examiner when the
13 death appears to have

14 (1) been caused by unknown or criminal means, during the commission
15 of a crime, or by suicide, accident, or poisoning;

16 (2) occurred under suspicious or unusual circumstances or occurred
17 suddenly when the decedent was in apparent good health;

18 (3) been unattended by a practicing physician or occurred less than 24
19 hours after the deceased was admitted to a medical facility;

20 (4) been associated with a diagnostic or therapeutic procedure;

21 (5) resulted from a disease that constitutes a threat to public health;

22 (6) been caused by a disease, injury, or toxic agent resulting from
23 employment;

24 (7) occurred in a jail or corrections facility owned or operated by the
25 state or a political subdivision of the state or in a facility for the placement of persons
26 in the custody or under the supervision of the state;

27 (8) occurred in a foster home;

28 (9) occurred in a mental institution or mental health treatment facility;

29 [OR]

30 (10) occurred while the deceased was in the custody of, or was being
31 taken into the custody of, the state or a political subdivision of the state or a public

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officer or agent of the state or a political subdivision of the state; or
(11) been of a child under 18 years of age or under the legal custody
of the Department of Health and Social Services, subject to the jurisdiction of
AS 47.10 or AS 47.12, unless the
(A) child's death, resulted from a natural disease process and
was medically expected; and
(B) the child was under supervised medical care during the
24 hours before the death.

- * Sec. 18. AS 12.65.015 is amended by adding a new subsection to read:
 (c) The _____ may appoint a child fatality review team.
- * Sec. 19. AS 12.65 is amended by adding new sections to read:
 Sec. 12.65.120. State child fatality review team. (a) The state child fatality review team is established. The team is composed of _____.
 Sec. 12.65.130. State child fatality review team duties. The state child fatality review team shall _____.
 Sec. 12.65.140. Records; information; meetings; confidentiality. The state child fatality review team and its members shall have access to _____
 _____.

* Sec. 20. AS 14.20.020(f) is amended to read:
 (f) The [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE] department may not issue a teacher certificate to a person who has been convicted of a crime involving a minor under AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or under a law in another jurisdiction with elements substantially similar to an offense described in AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or that is an attempt, solicitation, or conspiracy to commit a crime described in this subsection or a law or ordinance in another jurisdiction with similar elements. [WHEN FIVE YEARS HAVE ELAPSED AFTER A PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR A CONVICTION OF A CRIME LISTED IN THIS SUBSECTION, THE PERSON MAY PETITION THE DEPARTMENT TO ISSUE THE CERTIFICATE IN SPITE OF THE CONVICTION IF THE PERSON OTHERWISE SATISFIES THE REQUIREMENTS FOR THE

1 CERTIFICATE. WHEN DECIDING WHETHER TO GRANT OR DENY THE
2 PETITION, THE DEPARTMENT SHALL CONSIDER THE NATURE OF THE
3 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
4 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE
5 DEPARTMENT DETERMINES ARE SIGNIFICANT.]

6 * Sec. 21. AS 14.20.030(b) is amended to read:

7 (b) Upon receipt of a judgment of conviction, the department [THE
8 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES
9 COMMISSION] shall permanently revoke, effective immediately, [FOR LIFE] the
10 certificate of a person who has been convicted of a crime involving a minor under
11 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or under a law in
12 another jurisdiction with elements substantially similar to an offense described in
13 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or that is an attempt,
14 solicitation, or conspiracy to commit a crime described in this subsection or a law
15 or ordinance in another jurisdiction with similar elements. If the judgment of
16 conviction is reversed on appeal and the person is otherwise eligible for licensure,
17 the department shall reinstate the license. [WHEN FIVE YEARS HAVE ELAPSED
18 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR
19 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR
20 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE
21 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE
22 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
23 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE COMMISSION
24 DETERMINES ARE SIGNIFICANT.]

25 * Sec. 22. AS 22.15.100 is amended to read:

26 Sec. 22.15.100. Functions and powers of district judge and magistrate.

27 Each district judge and magistrate has the power

28 (1) to issue writs of habeas corpus for the purpose of inquiring into the
29 cause of restraint of liberty, returnable before a judge of the superior court, and the
30 same proceedings shall be had on the writ as if it had been granted by the superior
31 court judge under the laws of the state in such cases:

- 1 (2) of a notary public;
- 2 (3) to solemnize marriages;
- 3 (4) to issue warrants of arrest, summons, and search warrants according
- 4 to manner and procedure prescribed by law and the supreme court;
- 5 (5) to act as an examining judge or magistrate in preliminary
- 6 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
- 7 release of defendants under bail;
- 8 (6) to act as a referee in matters and actions referred to the judge or
- 9 magistrate by the superior court, with all powers conferred upon referees by laws;
- 10 (7) of the superior court in all respects including but not limited to
- 11 contempts, attendance of witnesses, and bench warrants;
- 12 (8) to order the temporary detention of a minor, or take other action
- 13 authorized by law or rules of procedure, in cases arising under AS 47.10 [AS 47.10.010
- 14 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous
- 15 or injurious to the welfare of the minor or others that requires immediate action; the
- 16 action may be continued in effect until reviewed by the superior court in accordance
- 17 with rules of procedure governing these cases;
- 18 (9) to issue a protective order in cases involving domestic violence as
- 19 provided in AS 18.66.100 - 18.66.180;
- 20 (10) to review an administrative revocation of a person's driver's license
- 21 or nonresident privilege to drive, and an administrative refusal to issue an original
- 22 license, when designated as a hearing officer by the commissioner of administration and
- 23 with the consent of the administrative director of the state court system;
- 24 (11) to establish the fact of death or inquire into the death of a person
- 25 in the manner prescribed under AS 09.55.020 - 09.55.069.

26 * Sec. 23. AS 25.23.180(c) is amended to read:

- 27 (c) The relationship of parent and child may be terminated by a court order
- 28 issued in connection with a proceeding under this chapter or a proceeding under
- 29 AS 47.10 on the grounds [:]
- 30 (1) [ON THE GROUNDS] specified in AS 47.10.080(o) or 47.10.088
- 31 [AS 47.10.080(c)(3)];

1 (2) [ON THE GROUNDS] that a parent who does not have custody is
2 unreasonably withholding consent to adoption, contrary to the best interest of the minor
3 child; or

4 (3) [ON GROUNDS] that the parent committed an act constituting
5 sexual assault or sexual abuse of a minor under the laws of this state or a comparable
6 offense under the laws of the state where the act occurred that resulted in conception
7 of the child and that termination of the parental rights of the biological parent is in the
8 best interests of the child.

9 * Sec. 24. AS 47.05 is amended by adding a new section to read:

10 Sec. 47.05.065. Legislative findings related to children. The legislature finds
11 that

12 (1) it is the policy of the state to recognize that children are individuals
13 who have legal rights; among those rights are the right to

14 (A) a safe and happy childhood;

15 (B) reasonable safety, adequate care, and adequate treatment;

16 (C) freedom from physical abuse, sexual abuse, exploitation, and
17 substance abuse;

18 (D) special safeguards and care, including appropriate legal
19 protection before as well as after birth;

20 (E) permanency with a safe, loving family;

21 (2) parents and guardians should make reasonable efforts to afford their
22 children the rights listed in (1) of this section; parents and guardians should make
23 reasonable efforts to remove any impediment that substantially impairs their ability to
24 afford these rights to their children; and when a parent or guardian fails to make
25 reasonable efforts to fulfill these responsibilities, the court may determine that it is in
26 the best interests of this child to remove the child from the parent or guardian, either
27 temporarily or permanently;

28 (3) it is the policy of the state to recognize that the purpose of this title
29 and the services provided to families under this title is to protect children from child
30 abuse and neglect and to preserve and strengthen the family and that

31 (A) except in those cases involving serious risk to a child's

1 health or safety, the Department of Health and Social Services should make
2 reasonable efforts to offer appropriate family support services that identify and
3 provide to parents and guardians the necessary opportunities to adjust their
4 circumstances, conduct, or conditions to prevent removal of a child from the
5 home and, if the child is removed, to make return of the child possible so as to
6 prevent termination of parental rights; and

7 (B) when a child is removed from the home, the department
8 should make reasonable efforts to provide weekly supervised or unsupervised
9 visitation between the child and the child's parent or guardian and extended
10 family members unless the visitation would be harmful to the child;

11 (4) it is the policy of the state to recognize that, when a child is a ward
12 of the state, the child is entitled to reasonable safety, adequate care, and adequate
13 treatment and that the Department of Health and Social Services as legal custodian and
14 the child's guardian ad litem as guardian of the child's best interests and their agents
15 and assignees, each should make reasonable efforts to ensure that the child is provided
16 with reasonable safety, adequate care, and adequate treatment for the duration of time
17 that the child is a ward of the state;

18 (5) it is in the best interests of a child who has been removed from the
19 child's own home for the state to apply the following principles in resolving the
20 situation:

21 (A) the child should be placed in a safe, secure, and stable
22 environment;

23 (B) the child should not be moved unnecessarily;

24 (C) a planning process should be followed to lead to permanent
25 placement of the child;

26 (D) every effort should be made to encourage psychological
27 attachment between the adult caregiver and the child; and

28 (E) immediate and regular visitation between the child and the
29 child's parent or guardian and extended family members should be encouraged;

30 (6) parents and guardians have the right to direct the upbringing of their
31 children, including their medical care and the right to exercise reasonable corporal

1 discipline;

2 (7) parents and guardians should make reasonable efforts to actively
3 participate in family support services so as to facilitate the child's being able to remain
4 in the home; when children are removed from the home, the parents and guardians
5 should actively participate in family support services to make return of their children
6 to the home possible; and

7 (8) numerous studies establish that

8 (A) children undergo a critical attachment process before the
9 time they reach six years of age;

10 (B) a child who has not attached with an adult caregiver during
11 this critical stage will suffer significant emotional damage that frequently leads
12 to chronic psychological problems and antisocial behavior when the child
13 reaches adolescence and adulthood; and

14 (C) it is important to provide for an expedited placement
15 procedure to ensure that all children, especially those under the age of six years,
16 who have been removed from their homes are placed in permanent homes
17 expeditiously.

18 * Sec. 25. AS 47.05 is amended by adding a new section to read:

19 **Sec. 47.05.090. Authorization of the Interstate Compact on Adoption and**
20 **Medical Assistance.** (a) The Department of Health and Social Services may, on
21 behalf of the state, enter into the Interstate Compact on Adoption and Medical
22 Assistance and supplementary agreements with agencies of other states for the provision
23 of adoption and medical assistance under AS 47.07 and other provisions of this title for
24 eligible children with special needs.

25 (b) In this section, "state" includes a state, territory, possession, or
26 commonwealth of the United States.

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

28 **Sec. 47.10.005. Construction.** The provisions of this chapter shall be liberally
29 construed to the end that a child coming within the jurisdiction of the court under this
30 chapter may receive the care, guidance, treatment, and control that will promote the
31 child's welfare.

1 * Sec. 27. AS 47.10.010 is repealed and reenacted to read:

2 **Sec. 47.10.010. Jurisdiction.** (a) Proceedings relating to a child under 18
3 years of age residing or found in the state are governed by this chapter when the child
4 is alleged to be or may be determined by the court to be a child in need of aid under
5 AS 47.10.011.

6 (b) In a controversy concerning custody of a child under this chapter, the court
7 may appoint a guardian of the person and property of a child, may appoint an attorney
8 to represent the legal interests of the child, and may order support from either or both
9 parents. Custody of a child may be given to the department and payment of support
10 money to the department may be ordered by a court.

11 * Sec. 28. AS 47.10 is amended by adding new sections to read:

12 **Sec. 47.10.011. Children in need of aid.** Subject to AS 47.10.019, the court
13 may find a child to be a child in need of aid if it finds by a preponderance of the
14 evidence that the child has been subjected to any of the following:

15 (1) a parent or guardian has abandoned the child as described in
16 AS 47.10.013, and the other parent is absent or has committed conduct or created
17 conditions that cause the child to be a child in need of aid under this chapter;

18 (2) a parent, guardian, or custodian is incarcerated, and the other parent
19 is absent or has committed conduct or created conditions that cause the child to be a
20 child in need of aid under this chapter;

21 (3) a custodian with whom the child has been left is unwilling or unable
22 to provide care, supervision, or support for the child, and the whereabouts of the parent
23 or guardian is unknown;

24 (4) the child is in need of medical treatment to cure, alleviate, or
25 prevent substantial physical harm or is in need of treatment for mental injury, and the
26 child's parent, guardian, or custodian has knowingly failed to provide the treatment;

27 (5) the child is habitually absent from home or refuses to accept
28 available care and the child's conduct threatens the child's physical or emotional health
29 or safety;

30 (6) the child has suffered substantial physical harm, or there is a
31 substantial risk that the child will suffer substantial physical harm, as a result of

1 conduct by or conditions created by the child's parent, guardian, or custodian or by the
2 failure of the parent, guardian, or custodian to supervise the child adequately;

3 (7) the child has suffered sexual abuse, or there is a substantial risk that
4 the child will suffer sexual abuse, as a result of conduct by or conditions created by the
5 child's parent, guardian, or custodian or by the failure of the parent, guardian, or
6 custodian to adequately supervise the child; if a parent, guardian, or custodian has
7 actual notice that a person has been convicted of a sex offense against a minor within
8 the past 15 years, is registered or required to register as a sex offender under AS 12.63,
9 or is under investigation for a sex offense against a minor, and the parent, guardian, or
10 custodian subsequently allows a child to be left with that person, this conduct
11 constitutes prima facie evidence that the child is at substantial risk of being sexually
12 abused;

13 (8) conduct by or conditions created by the parent, guardian, or
14 custodian have resulted in mental injury to the child;

15 (9) conduct by or conditions created by the parent, guardian, or
16 custodian have subjected the child or another child in the same household to neglect;

17 (10) the parent, guardian, or custodian's ability to parent has been
18 substantially impaired by the addictive or habitual use of an intoxicant; if a court has
19 previously found that a child is a child in need of aid under this paragraph, the
20 resumption of use of an intoxicant by a parent, guardian, or custodian within one year
21 after rehabilitation is prima facie evidence that the ability to parent is substantially
22 impaired as described in this paragraph;

23 (11) the parent, guardian, or custodian has a mental illness, serious
24 emotional disturbance, or mental deficiency of a nature and duration that has caused
25 substantial physical harm to the child or creates a risk of substantial physical harm to
26 the child;

27 (12) the child has committed an illegal act as a result of pressure,
28 guidance, or approval from the child's parent, guardian, or custodian.

29 **Sec. 47.10.013. Abandonment.** For purposes of this chapter, the court may
30 find abandonment of a child if a parent or guardian has shown a conscious disregard
31 of parental responsibilities toward the child by failing to provide reasonable support.

1 maintain regular contact, or provide normal supervision and the failure is accompanied
2 by intention on the part of the parent or guardian to permit the failure to continue for
3 an indefinite period. Abandonment of a child also includes instances when the parent
4 or guardian, without justifiable cause,

5 (1) left the child with another person without provision for the child's
6 support and without meaningful communication with the child for a period of three
7 months;

8 (2) has made only minimal efforts to support and communicate with the
9 child;

10 (3) failed for a period of at least six months to maintain regular
11 visitation with the child;

12 (4) failed to participate in a suitable plan or program designed to reunite
13 the parent or guardian with the child;

14 (5) left the child without affording means of identifying the child and
15 the child's parent or guardian;

16 (6) was absent from the home for a period of time that created a
17 substantial risk of serious harm to a child left in the home;

18 (7) failed to respond to notice of child protective proceedings; or

19 (8) was unwilling to provide care, support, or supervision for the child.

20 **Sec. 47.10.014. Neglect.** For purposes of this chapter, the court may find
21 neglect of a child if the parent, guardian, or custodian fails to provide the child with
22 adequate food, clothing, shelter, education, medical attention, or other care and control
23 necessary for the child's physical and mental health and development, though
24 financially able to do so or offered financial or other reasonable means to do so.

25 **Sec. 47.10.015. Physical harm.** For the purposes of this chapter, the court may
26 find physical harm to a child or substantial risk of physical harm to a child if

27 (1) the child was the victim of an act described in AS 11.41.100 -
28 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm
29 occurred as a result of conduct by or conditions created by a parent, guardian, or
30 custodian; or

31 (2) a negligent act or omission by a parent, guardian, or custodian

1 creates a substantial risk of injury to the child.

2 Sec. 47.10.019. Limitations on determinations. Notwithstanding other
3 provisions of this chapter, the court may not find a minor to be a child in need of aid
4 under this chapter solely on the basis that the child's family is poor, lacks adequate
5 housing, or exhibits a lifestyle that is different from the generally accepted lifestyle
6 standard of the community where the family lives. However, this section may not be
7 construed to prevent a court from finding that a child is in need of aid if the child has
8 been subjected to conduct or conditions described in AS 47.10.011 - 47.10.015.

9 * Sec. 29. AS 47.10.020(a) is amended to read:

10 (a) Whenever circumstances subject a child [MINOR] to the jurisdiction of the
11 court under AS 47.10.005 - 47.10.142 [AS 47.10.010 - 47.10.142], the court shall
12 appoint a competent person or agency to make a preliminary inquiry and report for the
13 information of the court to determine whether the best interests of the child [MINOR]
14 require that further action be taken. If [; IF], under this subsection, the court appoints
15 a person or agency to make a preliminary inquiry and to report to it, then, upon the
16 receipt of the report, the court may

17 (1) close [INFORMALLY ADJUST] the matter without a court hearing;

18 (2) determine whether the best interests of the child require that
19 further action be taken; [.] or

20 (3) [IT MAY] authorize the person or agency having knowledge of the
21 facts of the case to file with the court a petition setting out the facts[; IF THE COURT
22 INFORMALLY ADJUSTS THE MATTER, THE MINOR MAY NOT BE DETAINED
23 OR TAKEN INTO THE CUSTODY OF THE COURT AS A CONDITION OF THE
24 ADJUSTMENT, AND THE MATTER SHALL BE CLOSED BY THE COURT UPON
25 ADJUSTMENT].

26 * Sec. 30. AS 47.10.020(b) is amended to read:

27 (b) The petition and all subsequent pleadings shall be styled as follows: "In the
28 matter of, a child [MINOR] under 18 years of age."
29 The petition may be executed upon the petitioner's information and belief [.] and must
30 be verified. It must include the following information:

31 (1) the name, address, and occupation of the petitioner, together with

1 the petitioner's relationship to the child [MINOR], and the petitioner's interest in the
2 matter;

3 (2) the name, age, and address of the child [MINOR];

4 (3) a brief statement of the facts that bring the child [MINOR] within
5 this chapter;

6 (4) the names and addresses of the child's [MINOR'S] parents;

7 (5) the tribal affiliation, if known, of the child;

8 (6) the name and address of the child's [MINOR'S] guardian [,] or of
9 the person having control or custody of the child [MINOR].

10 * Sec. 31. AS 47.10.030(b) is amended to read:

11 (b) In all cases under this chapter, the child [MINOR], each parent, foster
12 parent or other out-of-home care provider, [OF THE MINOR AND THE] guardian,
13 and guardian ad litem of the child [MINOR] shall be given notice adequate to give
14 actual notice of the proceedings and the possibility of termination of parental rights and
15 responsibilities, taking into account education and language differences that are known
16 or reasonably ascertainable by the petitioner or the department. The notice of the
17 hearing must contain all names by which the child [MINOR] has been identified.
18 Notice shall be given in the manner appropriate under rules of civil procedure for the
19 service of process in a civil action under Alaska law or in any manner the court by
20 order directs. Proof of the giving of the notice shall be filed with the court before the
21 petition is heard. The court may also subpoena the parent of the child [MINOR], or
22 any other person whose testimony may be necessary at the hearing. A subpoena or
23 other process may be served by a person authorized by law to make the service, and,
24 where personal service cannot be made, the court may direct that service of process be
25 in a manner appropriate under rules of civil procedure for the service of process in a
26 civil action under Alaska law or in any manner the court directs.

27 * Sec. 32. AS 47.10.050(a) is amended to read:

28 (a) Whenever in the course of proceedings instituted under this chapter it
29 appears to the court that the welfare of a child [MINOR] will be promoted by the
30 appointment of an attorney to represent the child [MINOR OR AN ATTORNEY OR
31 OTHER PERSON TO SERVE AS GUARDIAN AD LITEM], the court may make the

1 appointment. If it appears to the court that the welfare of a child in the proceeding
2 will be promoted by the appointment of a guardian ad litem, the court shall make
3 the appointment. Appointment of a guardian ad litem or attorney shall be made under
4 the terms of AS 25.24.310.

5 * Sec. 33. AS 47.10.070(a) is amended to read:

6 (a) The court may conduct the hearing on the petition in an informal manner
7 in the courtroom or in chambers. The court shall give notice of the hearing to the
8 department, and it may send a representative to the hearing. The court shall also
9 transmit a copy of the petition to the department. The department shall send notice
10 of the hearing to the persons for whom notice is required under AS 47.10.030(b).
11 The department and the persons to whom the department must send notice of the
12 hearing are entitled to [REPRESENTATIVE OF THE DEPARTMENT MAY ALSO]
13 be heard at the hearing. However, the court may limit the presence of the foster
14 parent or other out-of-home care provider to the time during which the person's
15 testimony is being given if it is (1) in the best interest of the child; or (2) necessary
16 to protect the privacy interests of the parties and will not be detrimental to the
17 child. The public shall be excluded from the hearing, but the court, in its discretion,
18 may permit individuals to attend a hearing if their attendance is compatible with the
19 best interests of the child [MINOR].

20 * Sec. 34. AS 47.10.080(a) is amended to read:

21 (a) An adjudication hearing shall be completed within 120 days after a
22 finding of probable cause is entered unless the court finds good cause to continue
23 the hearing. The court, at the conclusion of the hearing, [OR THEREAFTER] as the
24 circumstances of the case may require, shall find and enter a judgment that the child
25 [MINOR] is or is not a child in need of aid.

26 * Sec. 35. AS 47.10.080(c) is amended to read:

27 (c) If the court finds that the child [MINOR] is a child in need of aid, the
28 court [IT] shall

29 (1) order the child [MINOR] committed to the department for placement
30 in an appropriate setting for a period of time not to exceed two years or in any event
31 past the date the child [MINOR] becomes 19 years of age, except that the department

1 or the child's guardian ad litem may petition for and the court may grant in a hearing
 2 (A) one-year [TWO-YEAR] extensions of commitment that do not extend beyond the
 3 child's [MINOR'S] 19th birthday if the extension is in the best interests of the child
 4 [MINOR]; and (B) an additional one-year period of state custody [SUPERVISION]
 5 past age 19 if the continued state custody [SUPERVISION] is in the best interests of
 6 the person and the person consents to it; the department may transfer the child
 7 [MINOR], in the child's [MINOR'S] best interests, from one placement setting to
 8 another, and the child [MINOR], the child's [MINOR'S] parents or guardian, the
 9 child's foster parents or out-of-home relative caregiver, the child's health care
 10 providers, the child's guardian ad litem, [AND] the child's [MINOR'S] attorney,
 11 and the child's tribe, if known, are entitled to reasonable notice of the transfer;

12 (2) order the child [MINOR] released to a parent, relative, or
 13 guardian of the child [THE MINOR'S PARENTS, GUARDIAN,] or to another
 14 [SOME OTHER] suitable person, and, in appropriate cases, order the parent, relative
 15 [PARENTS], guardian, or other person to provide medical or other care and treatment;
 16 if the court releases the child [MINOR], it shall direct the department to supervise the
 17 care and treatment given to the child [MINOR], but the court may dispense with the
 18 department's supervision if the court finds that the adult to whom the child [MINOR]
 19 is released will adequately care for the child [MINOR] without supervision; the
 20 department's supervision may not exceed two years or in any event extend past the date
 21 the child [MINOR] reaches age 19, except that the department or the child's guardian
 22 ad litem may petition for and the court may grant in a hearing

23 (A) one-year [TWO-YEAR] extensions of supervision that do
 24 not extend beyond the child's [MINOR'S] 19th birthday if the extensions are
 25 [EXTENSION] is in the best interests of the child [MINOR]; and

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

29 (3) by order, under the grounds specified in (c) of this section or
 30 AS 47.10.085, the termination of [UPON A SHOWING IN THE ADJUDICATION
 31 BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A CHILD IN NEED

1 OF AID UNDER AS 47.10.010(a) AS A RESULT OF PARENTAL CONDUCT AND
 2 UPON A SHOWING IN THE DISPOSITION BY CLEAR AND CONVINCING
 3 EVIDENCE THAT THE PARENTAL CONDUCT IS LIKELY TO CONTINUE TO
 4 EXIST IF THERE IS NO TERMINATION OF PARENTAL RIGHTS, TERMINATE]
 5 parental rights and responsibilities of one or both parents [,] and commit the child to
 6 the custody of the department [OR TO A LEGALLY APPOINTED GUARDIAN OF
 7 THE PERSON OF THE CHILD], and the department [OR GUARDIAN] shall report
 8 quarterly [ANNUALLY] to the court on efforts being made to find a permanent
 9 placement for the child.

10 • Sec. 36. AS 47.10.080(f) is amended to read:

11 (f) A child [MINOR] found to be a child in need of aid is a ward of the state
 12 while committed to the department or the department has the power to supervise the
 13 child's [MINOR'S] actions. After the permanency hearing required by (l) of this
 14 section, the [THE] court shall hold a permanency hearing at least once a year
 15 [REVIEW AN ORDER MADE UNDER (c)(1) OR (2) OF THIS SECTION
 16 ANNUALLY, AND MAY REVIEW THE ORDER MORE FREQUENTLY] to
 17 determine if continued placement or supervision, as it is being provided, is in the best
 18 interest of the child [MINOR. IF ANNUAL REVIEW UNDER THIS SUBSECTION
 19 WOULD ARISE WITHIN 90 DAYS OF THE HEARING REQUIRED UNDER (l) OF
 20 THIS SECTION, THE COURT MAY POSTPONE REVIEW UNDER THIS
 21 SUBSECTION UNTIL THE TIME SET FOR THE HEARING]. The department, the
 22 child, and [MINOR.] the child's [MINOR'S] parents, guardian, and guardian ad litem
 23 [OR CUSTODIAN] are entitled, when good cause is shown, to a permanency hearing
 24 [REVIEW] on application. If the application is granted, the court shall afford these
 25 persons [PARTIES] and their counsel reasonable advance notice [IN ADVANCE OF
 26 THE REVIEW] and hold a permanency hearing where these persons [PARTIES] and
 27 their counsel shall be afforded an opportunity to be heard. The persons entitled to
 28 notice under AS 47.10.030(b) are entitled to notice of a permanency hearing under
 29 this subsection and are also entitled to be heard at the hearing. The child
 30 [MINOR] shall be afforded the opportunity to be present and to be heard at the
 31 hearing. After the hearing, the court shall make the written findings that are

1 required under (l) of this section [REVIEW].

2 * Sec. 37. AS 47.10.080(i) is amended to read:

3 (i) A child or [MINOR,] the child's [MINOR'S] parents, [OR] guardian, or
4 guardian ad litem, or attorney, acting on the child's [MINOR'S] behalf, or the
5 department may appeal a judgment or order, or the stay, modification, setting aside,
6 revocation, or enlargement of a judgment or order issued by the court under this
7 chapter. Absent extraordinary circumstances, a decision on the appeal shall be
8 issued no later than 90 days after the latest of the following:

9 (1) the date oral argument, if any, is heard on the appeal; or

10 (2) 45 days after the last date oral argument could have been timely
11 requested if oral argument was not requested.

12 * Sec. 38. AS 47.10.080(l) is amended to read:

13 (l) Within 12 [18] months after the date the child enters foster care as
14 calculated under AS 47.10.088(f) [A CHILD IS INITIALLY REMOVED FROM THE
15 CHILD'S HOME BY THE DEPARTMENT UNDER AS 47.10.142(c) OR
16 COMMITTED TO THE CUSTODY OF THE DEPARTMENT UNDER [(c)(1) or (3)]
17 OF THIS SECTION OR AS 47.14.100(c)], the court shall hold a permanency hearing
18 to review the placement and services provided and to determine the future status of the
19 child. The persons entitled to be heard at the hearing under AS 47.10.070 or
20 under (f) of this section are also entitled to be heard at the hearing under this
21 subsection [MINOR]. The court shall make appropriate written findings, including
22 findings related to the following:

23 (1) whether the parent or guardian has made substantial progress
24 to remedy the parent's or guardian's conduct or conditions in the home that made
25 the child a child in need of aid under this chapter;

26 (2) whether the child should be returned to the parent or guardian;

27 (3) [(2)] whether the child should remain in out-of-home care for a
28 specified period and whether the child's existing out-of-home placement continues
29 to be appropriate and in the best interests of the child;

30 (4) [(3)] whether the child should remain in out-of-home care on a
31 permanent or long-term basis because of special needs or circumstances;

1 (5) ~~[(4)]~~ whether the child should be placed for adoption or legal
2 guardianship and whether a petition for termination of parental rights should be
3 filed by the department;

4 (6) whether the department has made the reasonable efforts
5 required under AS 47.10.086 to offer appropriate family support services to
6 remedy the parent's or guardian's conduct or conditions in the home that made
7 the child a child in need of aid under this chapter; and

8 (7) whether, in the case of a child who is 16 years of age or older,
9 the department should provide services to assist the child in becoming able to live
10 independently.

11 * Sec. 39. AS 47.10.080(o) is amended to read:

12 (o) For purposes of terminating a parent's parental rights under the standards
13 in (c)(3) of this section, the court may determine that incarceration of the parent is
14 sufficient grounds for determining that a child [MINOR] is a child in need of aid under
15 AS 47.10.011 [AS 47.10.010(a)(1)] as a result of parental conduct and that the parental
16 rights of the incarcerated parent should be terminated [CONDUCT IS LIKELY TO
17 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

18 (1) the period of incarceration that the parent is scheduled to serve
19 during the child's minority is significant considering the child's age and the child's need
20 for an adult's care and supervision; [AND]

21 (2) there is not another parent willing and able to care for the child;
22 and

23 (3) the incarcerated parent has failed to make adequate provisions for
24 care of the child during the period of incarceration that will be during the child's
25 minority.

26 * Sec. 40. AS 47.10.080 is amended by adding new subsections to read:

27 (p) If the court orders a child committed to the department under (c) of this
28 section for out-of-home placement, the department shall offer to arrange for the child's
29 parents and extended family to have visitation with the child at least once a week,
30 beginning within 72 hours after the order is issued, unless the department determines,
31 based on clear and convincing evidence, that visitation, even if supervised, may be

1 harmful to the child. When the department arranges visitation under this subsection,
2 the visitation may be supervised or unsupervised, at the discretion of the department.
3 The court may order the department to file a visitation schedule with the court within
4 10 working days after the court issued the commitment order. The department may
5 terminate visitation arranged under this subsection if the department determines, based
6 on clear and convincing evidence, that visitation has resulted in physical harm or
7 mental injury to the child. In making its determinations under this subsection, the
8 department's paramount concern shall be the health and safety of the child. A person
9 who is denied visitation under this subsection may appeal the denial.

10 (q) If the court orders a child committed to the department under (c) of this
11 section for placement in licensed foster care, the court shall order the department to
12 provide the foster parent with a copy of

13 (1) all initial, updated, and revised case service plans for the child, court
14 orders relating to the child, and the child's medical, mental, and education reports
15 prepared by or for the department, including reports compiled before the child was
16 placed with the foster parent; and

17 (2) supplements to the plans, orders, and reports described in (1) of this
18 subsection.

19 (r) If the court orders a child committed to the department under (c) of this
20 section for placement in licensed foster care or for placement with a relative of the
21 child, the court shall order the child's parent, guardian, or custodian to provide the
22 department with

23 (1) the names, addresses, and telephone numbers of all of the child's
24 medical providers; and

25 (2) a signed release for each medical provider identified in (1) of this
26 subsection authorizing the provider to disclose the child's medical records to the
27 department.

28 (s) Notwithstanding AS 47.14.100 and (c)(1) and (3) of this section, the
29 department may not, without a court order, change the placement of a child who has
30 been committed to the department under (c) of this section and placed with a relative
31 or a foster home unless

1 (1) removal of the child is requested by the relative, the foster home,
2 the child, or the child's guardian ad litem or attorney;

3 (2) a report of suspected child abuse or neglect concerning the relative
4 or foster home is received by the department; or

5 (3) the child is removed in order to return the child to the parent or
6 guardian or to place the child for adoption and removal under this paragraph is not
7 opposed by the relative, the foster parent, the child, or the child's guardian ad litem or
8 attorney.

9 (t) The department shall give at least 14 days' written notice by certified mail,
10 return receipt requested, of an intent to request a court order to allow a change in the
11 placement of a child whose change of placement is not governed by (s) of this section.
12 The notice shall be sent to the court, the affected foster parent or relative with whom
13 the child is currently placed, the child, and the child's parent or guardian, guardian ad
14 litem, and attorney. A person to whom notice is sent under this subsection may file an
15 objection to the proposed change of placement if the objection is postmarked or
16 received by the court within 15 days after the person received the notice, and the
17 department's notice must include notification of that right to object. If an objection is
18 filed, the department may not implement the intended change of placement, pending a
19 court decision on the matter. A person who has filed an objection under this subsection
20 may be represented by an attorney or other representative designated by the person.

21 * Sec. 41. AS 47.10.082 is amended to read:

22 Sec. 47.10.082. **Best interests of child and other considerations.** In making
23 its dispositional order under AS 47.10.080(c), the court shall [CONSIDER]

24 (1) ~~consider~~ the best interests of the child; [AND]

25 (2) ~~consider~~ the ability of the state to take custody and to care for the
26 child to protect the child's best interests under AS 47.10.005 - 47.10.142; and

27 (3) keep the health and safety of the child as the court's paramount
28 concern [AS 47.10.010 - 47.10.142].

29 * Sec. 42. AS 47.10 is amended by adding new sections to read:

30 Sec. 47.10.086. **Reasonable efforts.** (a) Except as provided in (b) and (c) of
31 this section, the department shall make timely, reasonable efforts to provide family

1 support services to the child and to the parents or guardian of the child that are
2 designed to prevent out-of-home placement of the child or to enable the safe return of
3 the child to the family home, when appropriate, if the child is in an out-of-home
4 placement. The department's duty to make reasonable efforts under this subsection
5 includes the duty to

6 (1) identify available departmental and community services that are
7 designed to sustain and enhance the capacity of a parent or guardian to care for the
8 child at a level of adequacy that will allow the child either to remain in the home or
9 to be returned to the home; the department shall place a high priority on determining
10 whether appropriate community services are available;

11 (2) actively offer and attempt to provide or to refer the parents to the
12 services identified under (1) of this subsection; the department shall place a high
13 priority on referring the parents to services that are community services;

14 (3) document the department's actions that are taken under (1) and (2)
15 of this subsection.

16 (b) If the court makes a finding at a hearing conducted under AS 47.10.080(1)
17 that a parent or guardian has not sufficiently remedied the parent's or guardian's
18 conduct or the conditions in the home despite reasonable efforts made by the
19 department in accordance with this section, the court may conclude that continuation
20 of reasonable efforts of the type described in (a) of this section are not in the best
21 interests of the child. The department shall then make reasonable efforts to place the
22 child in a timely manner in accordance with the permanent plan and to complete
23 whatever steps are necessary to finalize the permanent placement of the child.

24 (c) The court may determine that reasonable efforts of the type described in (a)
25 of this section are not required if the court has found by a preponderance of the
26 evidence that

27 (1) the parent or guardian has subjected the child to circumstances that
28 pose a substantial risk to the child's health or safety; these circumstances include
29 abandonment, torture, mental injury, or chronic physical harm;

30 (2) the parent or guardian has

31 (A) committed homicide under AS 11.41.100 - 11.41.130 of a

- 1 child;
- 2 (B) aided or abetted, attempted, conspired, or solicited under
- 3 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this paragraph;
- 4 (C) committed an assault that is a felony under AS 11.41.200 -
- 5 11.41.220 and results in serious physical injury to a child; or
- 6 (D) committed the conduct described in (A) - (C) of this
- 7 paragraph that violated a law or ordinance of another jurisdiction having
- 8 elements similar to an offense described in (A) - (C) of this paragraph:
- 9 (3) the parental rights of a parent to a sibling of the child have been
- 10 terminated by the court;
- 11 (4) the department has conducted a reasonably diligent search over a
- 12 time period of at least three months for an unidentified or absent parent and has failed
- 13 to identify and locate the parent;
- 14 (5) the parent or guardian is the sole caregiver of the child and the
- 15 parent or guardian has a mental illness or mental deficiency that, according to a written
- 16 certification of a psychologist or physician, makes it more probable than not that, even
- 17 with the provision of family support services for 12 months, the caregiver will be
- 18 incapable of caring for the child without creating a risk of substantial physical harm to
- 19 the child;
- 20 (6) the parent or guardian has previously been convicted of a crime
- 21 involving a child in this state or in another jurisdiction and, after the conviction, the
- 22 child was returned to the custody of the parent or guardian and later removed because
- 23 of an additional substantiated report of physical or sexual abuse by the parent or
- 24 guardian;
- 25 (7) a child has suffered substantial physical harm as the result of abusive
- 26 or neglectful conduct by the parent or guardian or by a person known by the parent or
- 27 guardian and the parent or guardian knew or reasonably should have known that the
- 28 person was abusing the child;
- 29 (8) the parental rights of the parent have been terminated with respect
- 30 to another child because of child abuse or neglect, the parent has not remedied the
- 31 conditions or conduct that led to the termination of parental rights, and the parent has

1 demonstrated an inability to protect the child from substantial harm or the risk of
2 substantial harm; or

3 (9) the child has been removed from the child's home on at least two
4 previous occasions, family support services were offered or provided to the parent or
5 guardian at those times, and the parent or guardian has demonstrated an inability to
6 protect the child from substantial harm or the risk of substantial harm.

7 (d) If the court orders the department to make reasonable efforts to provide
8 family support services, the court shall also order the parent or guardian of the child
9 to make reasonable efforts to participate in the family support services that are offered
10 by the department or referred to the parent or guardian by the department. If a parent
11 or guardian fails to participate or to attempt to participate in the services for 12 months,
12 the department may seek a court order extinguishing the department's responsibility to
13 offer or refer family support services to the parent or guardian. The department must
14 request the court for the new order within 90 day after the date that the parent or
15 guardian failed to participate in family support services and must accompany the
16 request with a petition for the termination of parental rights if the nonparticipating
17 person was a parent and with a new plan for permanent placement of the child. The
18 court shall grant the department's request under this subsection for an order
19 extinguishing the department's responsibility to offer family support services to a parent
20 or guardian if the court finds that it is no longer reasonable to require the department
21 to offer family support services to the parent or guardian; failure of the parent or
22 guardian to participate in family support services offered by the department for 12
23 months constitutes prima facie evidence that it is no longer reasonable to require the
24 department to offer family support services to the parent or guardian.

25 (e) If the court determines under (b) or (c) of this section that reasonable efforts
26 under (a) of this section are not required to be provided,

27 (1) the court shall hold a permanency hearing for the child within 30
28 days after the determination; and

29 (2) the department shall make reasonable efforts to place the child in
30 a timely manner in accordance with the permanency plan, and complete whatever steps
31 are necessary to finalize the permanent placement of the child.

1 (f) The department may develop and implement an alternative permanency plan
2 for the child while the department is also making reasonable efforts to return the child
3 to the child's family under (a) of this section.

4 (g) In making determinations and reasonable efforts under this section, the
5 primary consideration is the child's best interests.

6 **Sec. 47.10.088. Termination of parental rights and responsibilities.** (a)
7 Except as provided in AS 47.10.080(o), the rights and responsibilities of the parent
8 regarding the child may be terminated for purposes of freeing a child for adoption or
9 other permanent placement if the court finds

10 (1) by clear and convincing evidence that

11 (A) the child is a child in need of aid as described in
12 AS 47.10.011; and

13 (B) the parent

14 (i) has not remedied the conduct or conditions in the
15 home that place the child at substantial risk of harm; or

16 (ii) has failed, within a reasonable time, to remedy the
17 conduct or conditions in the home that place the child in substantial risk
18 so that returning the child to the parent would place the child at
19 substantial risk of significant physical harm; and

20 (2) by preponderance of the evidence that the department has complied
21 with the provisions of AS 47.10.086 concerning reasonable efforts.

22 (b) In making a determination under (a)(1)(B) of this section, the court may
23 consider any fact relating to the best interests of the child, including

24 (1) the likelihood of returning the child to the parent within a reasonable
25 time based on the child's age or needs;

26 (2) the amount of effort by the parent to remedy the conduct or the
27 conditions in the home;

28 (3) the harm caused to the child;

29 (4) the likelihood that the harmful conduct will continue; and

30 (5) the history of conduct by or conditions created by the parent.

31 (c) In a proceeding under this chapter involving termination of the parental

1 right of a parent, the court shall consider the best interests of the child.

2 (d) Except as provided in (e) of this section, the department shall petition for
3 termination of a parent's rights to a child, without making further reasonable efforts,
4 when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,
5 and

6 (1) the child has been in foster care for at least 15 of the most recent
7 22 months;

8 (2) the court has determined that the child is abandoned under
9 AS 47.10.013 and the child is younger than six years of age;

10 (3) the court has made a finding under AS 47.10.086(b) or a
11 determination under AS 47.10.086(c) that the best interests of the child do not require
12 further reasonable efforts by the department;

13 (4) a parent has made three or more attempts within a 15-month period
14 to remedy the parent's conduct or conditions in the home without lasting change; or

15 (5) a parent has made no effort to remedy the parent's conduct or the
16 conditions in the home by the time of the permanency hearing under AS 47.10.080(l).

17 (e) If one or more of the conditions listed in (d) of this section are present, the
18 department shall petition for termination of the parental rights to a child unless the
19 department

20 (1) has documented a compelling reason for determining that filing the
21 petition would not be in the best interests of the child; a compelling reason under this
22 paragraph may include care by a relative for the child; or

23 (2) is required to take reasonable efforts under AS 47.10.086 and the
24 department has not provided to the parent, consistent with the time period in the
25 department's case plan, the family support services that the department has determined
26 are necessary for the safe return of the child to the home.

27 (f) A child is considered to have entered foster care under this chapter on the
28 earlier of

29 (1) the date of the first judicial finding of child abuse or neglect; or

30 (2) 60 days after the date of removal of the child from the child's home
31 under this chapter.

1 (g) This section does not preclude the department from filing a petition to
2 terminate the parental rights and responsibilities to a child for other reasons, or at an
3 earlier time than those specified in (d) of this section, if the department determines that
4 filing a petition is in the best interests of the child.

5 (h) The court may order the termination of parental rights and responsibilities
6 of one or both parents under AS 47.10.080(c)(3) and commit the child to the custody
7 of the department. The rights of one parent may be terminated without affecting the
8 rights of the other parent.

9 (i) The department shall concurrently identify, recruit, process, and approve a
10 qualified person or family for an adoption whenever a petition to terminate a parent's
11 rights to a child is filed. If the court issues an order to terminate under (j) of this
12 section, the department shall report within 30 days on the efforts being made to recruit
13 a permanent placement for the child if a permanent placement was not approved at the
14 time of the trial under (j) of this section. The report must document recruitment efforts
15 made for the child.

16 (j) No later than six months after the date on which the petition to terminate
17 parental rights is filed, the court before which the petition is pending shall hold a trial
18 on the petition unless the court finds that good cause is shown for a continuance.
19 When determining whether to grant a continuance for good cause, the court shall take
20 into consideration the age of the child and the potential adverse effect that the delay
21 may have on the child. The court shall make written findings when granting a
22 continuance.

23 (k) The court shall issue an order on the petition to terminate within 90 days
24 after the last day of the trial on the petition to terminate parental rights.

25 * Sec. 43. AS 47.10.092(a) is amended to read:

26 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of
27 a child [MINOR] subject to a proceeding under AS 47.10.005 - 47.10.142
28 [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about
29 the child or the child's family [MINOR], including information that has been lawfully
30 obtained from agency or court files, to the governor, the lieutenant governor, a
31 legislator, the ombudsman appointed under AS 24.55, the attorney general, and the

1 commissioners of health and social services, administration, or public safety, or an
2 employee of these persons, for review or use in their official capacities. The
3 department shall [MAY] disclose additional confidential or privileged information and
4 make copies of documents available for inspection [DOCUMENTS] about the child
5 or the child's family [MINOR] to these state officials or employees for review or use
6 in their official capacities upon request of the official or employee and submission
7 of satisfactory evidence that a parent or legal guardian of the child has requested
8 the state official's assistance in the case as part of the official's duties. A person
9 to whom disclosure is made under this section may not disclose confidential or
10 privileged information about the child or the child's family [MINOR] to a person not
11 authorized to receive it.

12 * Sec. 44. AS 47.10.093(b) is amended to read:

13 (b) A state or municipal agency or employee shall [MAY] disclose
14 appropriate information regarding a case to

15 (1) a guardian ad litem appointed by the court or to a citizen review
16 board or local review panel for permanency planning authorized by AS 47.14.200 or
17 47.14.220;

18 (2) a person or an agency requested by the department or the child's
19 legal custodian to provide consultation or services for a child [MINOR] who is subject
20 to the jurisdiction of the court under AS 47.10.010 as necessary to enable the
21 provision of the consultation or services;

22 (3) foster parents or relatives with whom the child is placed by the
23 department as may be necessary to enable the foster parents or relatives to
24 provide appropriate care for the child who is the subject of the case, to protect the
25 safety of the child who is the subject of the case, and to protect the safety and
26 property of family members and visitors of the foster parents or relatives;

27 (4) school officials as may be necessary to enable the school to provide
28 appropriate counseling and support services to the child [MINOR] who is the subject
29 of the case, to protect the safety of the child [MINOR] who is the subject of the case,
30 and to protect the safety of school students and staff;

31 (5) [(4)] a governmental agency as may be necessary to obtain that

1 agency's assistance for the department in its investigation or to obtain physical custody
2 of a child;

3 (6) [AND (5)] a [STATE OR MUNICIPAL] law enforcement agency
4 of this state or another jurisdiction as may be necessary for the protection of any
5 child [A SPECIFIC INVESTIGATION BEING CONDUCTED BY THAT AGENCY]
6 or for actions [DISCLOSURES] by that agency to protect the public safety;

7 (7) members of a multidisciplinary child protection team created
8 under AS 47.14.300 as may be necessary for the performance of their duties;

9 (8) the state medical examiner under AS 12.65 as may be necessary
10 for the performance of the duties of the state medical examiner;

11 (9) a person who has made a report of harm as required by
12 AS 47.17.020 to inform the person that the investigation was completed and of
13 action taken to protect the child who was the subject of the report; and

14 (10) the child support enforcement agency established in
15 AS 25.27.010 as may be necessary to establish and collect child support for a child
16 who is a child in need of aid under this chapter.

17 * Sec. 45. AS 47.10.141(f) is amended to read:

18 (f) If a child [MINOR], without permission, leaves the semi-secure portion of
19 an office, program, shelter, or facility to which the child [MINOR] was taken by a
20 peace officer under (b)(1)(C) [(b)(1)(c)] of this section, the office, program, shelter, or
21 facility shall immediately notify the department and the nearest law enforcement agency
22 of the identity of the child [MINOR] and the child's [MINOR'S] absence. If the same
23 child [MINOR] is again taken into protective custody under (b) of this section and the
24 peace officer knows that the child [MINOR] has previously been reported under this
25 subsection as missing from a semi-secure placement, the peace officer, in addition to
26 taking the appropriate action under (b) of this section, shall report the circumstances
27 and the identity of the child [MINOR] to the department. Within 48 hours after
28 receiving this report, the department shall determine whether to file a petition alleging
29 that the child [MINOR] is a child in need of aid under AS 47.10.011
30 [AS 47.10.010(a)(1)]. If the department decides not to file a petition alleging that the
31 child [MINOR] is a child in need of aid, the department shall, within seven state

1 working days after receiving the report from the peace officer under this subsection,
2 send to the child's [MINOR'S] parents or guardian, as applicable, written notice of its
3 determination not to proceed with the petition, including the reasons on which the
4 determination was based. If the department is unable to obtain a reasonably reliable
5 address for a parent or guardian, the department shall keep a copy of the notice on file
6 and, notwithstanding AS 47.10.093, release the notice to the child's [MINOR'S] parent
7 or guardian on request of the parent or guardian. If the department files a petition
8 alleging that the child [MINOR] is a child in need of aid, the court shall proceed under
9 AS 47.10.142(d).

10 * Sec. 46. AS 47.10.141(g) is amended to read:

11 (g) If the department files a petition alleging the minor is a child in need of aid
12 under AS 47.10.011 [AS 47.10.010(a)(1)] because the minor is habitually absent from
13 home or refuses available care, the minor's parent or guardian shall attend each hearing
14 held during the child-in-need-of-aid proceedings unless the court excuses the parent or
15 guardian from attendance for good cause. If the minor is found to be a child in need
16 of aid, the court may order that the minor's parent or guardian

17 (1) personally participate in treatment reasonably available in the parent
18 or guardian's community as specified in a plan set out in the court order; and

19 (2) comply with other conditions set out in the court order.

20 * Sec. 47. AS 47.10.142(a) is amended to read:

21 (a) The Department of Health and Social Services may take emergency custody
22 of a child [MINOR] upon discovering any of the following circumstances:

23 (1) the child [MINOR] has been abandoned as abandonment is
24 described in AS 47.10.013;

25 (2) the child [MINOR] has been [GROSSLY] neglected by the child's
26 [MINOR'S] parents or guardian, as "neglect" is described [DEFINED] in AS 47.10.014
27 [AS 47.17.290], and the department determines that immediate removal from the child's
28 [MINOR'S] surroundings is necessary to protect the child's [MINOR'S] life or provide
29 immediate necessary medical attention;

30 (3) the child [MINOR] has been subjected to physical harm [CHILD
31 ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare.

1 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290.] and the
2 department determines that immediate removal from the child's [MINOR'S]
3 surroundings is necessary to protect the child's [MINOR'S] life or that immediate
4 medical attention is necessary; or

5 (4) the child or a sibling [MINOR] has been sexually abused under
6 circumstances listed in AS 47.10.011(7) [AS 47.10.010(a)(4)].

7 * Sec. 48. AS 47.10.142(c) is amended to read:

8 (c) When a child is taken into custody under (a) or (b) of this section or when
9 the department is notified of a child's presence in either a program for runaway
10 children [MINORS] under AS 47.10.300 - 47.10.390 or a shelter for runaway children
11 [MINORS] under AS 47.10.392 - 47.10.399, the department shall immediately, and in
12 no event more than 24 [12] hours later unless prevented by lack of communication
13 facilities, notify the parents or the person or persons having custody of the child. If the
14 department determines that continued custody is necessary to protect the child, the
15 department shall notify the court of the emergency custody by filing, within 24 [12]
16 hours after custody was assumed, a petition alleging that the child is a child in need of
17 aid. If the department releases the child within 24 [12] hours after taking the child into
18 custody and does not file a child in need of aid petition, the department shall, within
19 24 [12] hours after releasing the child, file with the court a report explaining why the
20 child was taken into custody, why the child was released, and to whom the child was
21 released.

22 * Sec. 49. AS 47.10.142(h) is amended to read:

23 (h) Within 12 [18] months after a minor is committed to the department under
24 this section, the court shall review the placement plan and actual placement of the
25 minor under AS 47.10.080(l).

26 * Sec. 50. AS 47.10 is amended by adding a new section to read:

27 **Sec. 47.10.960. Duty and standard of care not created.** Nothing in this title
28 creates a duty or standard of care for services to children and their families being
29 served under AS 47.10.

30 * Sec. 51. AS 47.10.990(1) is amended to read:

31 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND

1 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social
2 needs of the child;

3 * Sec. 52. AS 47.10.990(2) is amended to read:

4 (2) "child in need of aid" means a child [MINOR] found to be within the
5 jurisdiction of the court under AS 47.10.010 and 47.10.011 [AS 47.10.010(a)];

6 * Sec. 53. AS 47.10.990 is amended by adding new paragraphs to read:

7 (8) "child" means a person under 18 years of age and a person 19 years
8 of age if that person was under 18 years of age at the time that a proceeding under this
9 chapter was commenced;

10 (9) "custodian" means a natural person 18 years of age or older to
11 whom a parent or guardian has transferred temporary physical care, custody, and
12 control of the child for a period of time;

13 (10) "domestic violence" has the meaning given in AS 18.66.990;

14 (11) "family support services" means the services and activities provided
15 to children and their families, including those provided by the community, a church,
16 or other service organization, both to prevent removal of a child from the parental home
17 and to facilitate the child's safe return to the family; "family support services" may
18 include counseling, substance abuse treatment, mental health services, assistance to
19 address domestic violence, visitation with family members, parenting classes, in-home
20 services, temporary child care services, and transportation;

21 (12) "foster care" means care provided by a person or household under
22 a foster home license required under AS 47.35.015;

23 (13) "guardian" means a natural person who is legally appointed
24 guardian of the child by the court;

25 (14) "intoxicant" means a substance that temporarily diminishes a
26 person's control over mental or physical powers, including alcohol, controlled
27 substances under AS 11.71, and inhalants;

28 (15) "mental injury" has the meaning given in AS 47.17.290;

29 (16) "parent" means the biological or adoptive parent of the child;

30 (17) "permanency hearing" means a hearing

31 (A) designed to reach a decision in a case concerning the

1 permanent placement of a child under AS 47.10; and

2 (B) at which the direction of the case involving the child is
3 determined;

4 (18) "reasonable efforts" means, with respect to family support services
5 required under AS 47.10.086, consistent attempts during a reasonable time period and
6 time-limited services;

7 (19) "reasonable time" means a period of time that serves the best
8 interests of the child, taking in account the affected child's age, emotional and
9 developmental needs, and ability to form and maintain lasting attachments;

10 (20) "serious physical injury" has the meaning given in
11 AS 11.81.900(b);

12 (21) "sexual abuse" means the conduct described in AS 11.41.410 -
13 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and
14 conduct prohibited by AS 11.66.100 - 11.66.150;

15 (22) "support" has the meaning given in AS 11.51.120(b).

16 * Sec. 54. AS 47.12.310(b) is amended to read:

17 (b) A state or municipal agency or employee shall [MAY] disclose
18 appropriate information regarding a case to

19 (1) a guardian ad litem appointed by the court or to a citizen review
20 board or local review panel for permanency planning authorized by AS 47.14.200 -
21 47.14.220;

22 (2) a person or an agency requested by the department or the minor's
23 legal custodian to provide consultation or services for a minor who is subject to the
24 jurisdiction of the court under this chapter as necessary to enable the provision of the
25 consultation or services;

26 (3) school officials as may be necessary to protect the safety of the
27 minor who is the subject of the case and the safety of school students and staff or to
28 enable the school to provide appropriate counseling and supportive services to meet the
29 needs of a minor about whom information is disclosed;

30 (4) a governmental agency as may be necessary to obtain that agency's
31 assistance for the department in its investigation or to obtain physical custody of a

1 minor;

2 (5) a [STATE OR MUNICIPAL] law enforcement agency of this state
3 or another jurisdiction as may be necessary for the protection, rehabilitation, or
4 supervision of any minor [A SPECIFIC INVESTIGATION BEING CONDUCTED
5 BY THAT AGENCY] or for actions [DISCLOSURES] by that agency to protect the
6 public safety; [AND]

7 (6) a victim as may be necessary to inform the victim about the
8 disposition or resolution of a case involving a minor;

9 (7) the state medical examiner under AS 12.65 as may be necessary
10 to perform the duties of the state medical examiner; and

11 (8) foster parents or relatives with whom the child is placed by the
12 department as may be necessary to enable the foster parents or relatives to
13 provide appropriate care for the child who is the subject of the case, to protect the
14 safety of the child who is the subject of the case, and to protect the safety and
15 property of family members and visitors of the foster parents or relatives.

16 • Sec. 55. AS 47.14.100(a) is amended to read:

17 (a) Subject to (e), (f), and (i) [(e) AND (f)] of this section, the department shall
18 arrange for the care of every child committed to its custody by placing the child in a
19 foster home or in the care of an agency or institution providing care for children inside
20 or outside the state. The department may place a child in a suitable family home, with
21 or without compensation, and may place a child released to it, in writing verified by
22 the parent, or guardian or other person having legal custody, for adoptive purposes, in
23 a home for adoption in accordance with existing law.

24 • Sec. 56. AS 47.14.100(d) is amended to read:

25 (d) In addition to money paid for the maintenance of foster children under (b)
26 of this section, the department

27 (1) shall pay the costs of caring for physically or mentally handicapped
28 foster children, including the additional costs of medical care, habilitative and
29 rehabilitative treatment, ~~services and~~ equipment, special clothing, and the indirect costs
30 of medical care, including child care and transportation expenses;

31 (2) may pay for respite care; in this paragraph, "respite care" means

1 child care for the purpose of providing

2 [(A)] temporary relief from the stresses of caring for a foster
3 child [WHO HAS A PHYSICAL OR MENTAL DISABILITY OR A
4 PHYSICAL OR MENTAL IMPAIRMENT; IN THIS SUBPARAGRAPH,

5 (i) "PHYSICAL OR MENTAL DISABILITY" HAS THE
6 MEANING GIVEN IN AS 18.80.300(12)(A), (B), AND (D); AND

7 (ii) "PHYSICAL OR MENTAL IMPAIRMENT" HAS
8 THE MEANING GIVEN IN AS 18.80.300; AND

9 (B) PROTECTION FOR THE CHILD WHEN THE FOSTER
10 PARENT IS

11 (i) AWAY FROM THE HOME BECAUSE OF AN
12 EMERGENCY AND OTHER CARE IS NOT AVAILABLE FOR THE
13 CHILD; OR

14 (ii) ON VACATION AND THE CHILD, BECAUSE OF
15 AGE OR INFIRMITY, CANNOT BE PLACED IN ANY OTHER TYPE
16 OF TEMPORARY CARE FACILITY]; and

17 (3) may pay a subsidized guardianship payment under AS 25.23.210
18 when a foster child's foster parents or other persons approved by the department
19 become court-appointed legal guardians of the child.

20 * Sec. 57. AS 47.14.100(e) is amended to read:

21 (e) A child may not be placed in a foster home or in the care of an agency or
22 institution providing care for children if a [BLOOD] relative by blood or marriage
23 [EXISTS WHO] requests custody of the child and is not disqualified under this
24 subsection. The [. HOWEVER, THE] department may retain custody of the child and
25 provide for its placement in the same manner as for other children if each relative who
26 has requested custody is disqualified because the department

27 (1) [IT] makes a determination, supported by clear and convincing
28 evidence obtained from a home study or other source, that the custody of the child
29 by the [BLOOD] relative will result in physical or emotional damage; in [. IN] making
30 that determination, poverty, including inadequate or crowded housing, on the part of the
31 blood relative, is not considered prima facie evidence that physical or emotional

1 damage to the child will occur; this [THIS] determination may be appealed to the
2 superior court to hear the matter de novo; or

3 (2) determines that there is a member of the relative's household
4 who is 16 years of age or older who has a criminal record or was the perpetrator
5 in a substantiated report of abuse under AS 47.17; a relative who requests custody
6 of the child shall submit to the department two sets of fingerprints and the social
7 security number of each person in the household who is 16 years of age or older;
8 the department shall submit the information to the Department of Public Safety
9 to conduct a state and national criminal background check from criminal justice
10 information received under AS 12.62 and regulations adopted under AS 12.62; the
11 department may not place the child with a relative until the results of the
12 background check are received by the department.

13 * Sec. 58. AS 47.14.100 is amended by adding a new subsection to read:

14 (i) A child may not be placed with an out-of-home care provider, as defined
15 in AS 47.14.299, if the department determines that the child can remain safely at home
16 with one parent, conditioned on the other parent or caretaker being out of the home.
17 If the department determines that the child can remain safely at home, conditioned on
18 the other parent or caretaker being out of the home, the department shall apply for an
19 appropriate protective order from the court. The court shall issue a protective order
20 enjoining a parent, caretaker, or other person from residing in the home with the child
21 if the department establishes, by a preponderance of the evidence, that the continued
22 presence of the person in the home presents a substantial risk of harm to the child and
23 that it is in the child's best interest that the order be issued. If the court does not issue
24 the protective order, the department shall place the child outside the home.

25 * Sec. 59. AS 47.14.240(d) is amended to read:

26 (d) In reviewing a case, the local review panel shall consider the case plan and
27 any progress report of the department or the child's guardian ad litem, court records,
28 and other relevant information about the child and the child's family. The local review
29 panel shall provide to the following persons an opportunity to be interviewed by the
30 local review panel in person or by telephone or to provide written material to the local
31 review panel:

- 1 (1) the child whose case is being reviewed if the child is 10 years of age
- 2 or older;
- 3 (2) the parents, custodians, or other relatives of the child;
- 4 (3) the child's out-of-home care provider;
- 5 (4) the child's guardian;
- 6 (5) the child's guardian ad litem;
- 7 (6) the case worker or social worker assigned to the case;
- 8 (7) the child's health care providers;
- 9 (8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
- 10 Welfare Act),
 - 11 (A) the child's Indian custodian; and
 - 12 (B) the designated representative of the child's Indian tribe if the
 - 13 tribe has intervened in the court case; and
 - 14 (9) [(8)] other persons with a close personal knowledge of the case.

15 * Sec. 60. AS 47.14.240(h) is amended to read:

16 (h) The report required under (g) of this section must make advisory

17 recommendations based on the best interests of the child in accordance with

18 AS 47.10.082 and must include notification of the right to request court review under

19 AS 47.10.080(f). If the court has scheduled the case for review, the local review panel

20 shall submit its report at least 20 days before the hearing, and the department shall

21 present to the court the recommendations that are made in the report.

22 * Sec. 61. AS 47.14 is amended by adding a new section to read:

23 **Article 3A. Multidisciplinary Child Protection Teams.**

24 **Sec. 47.14.300. Multidisciplinary child protection teams. (a) _____**

25 _____

26 _____

27 * Sec. 62. AS 47.14.990(2) is amended to read:

28 (2) "child in need of aid" means a child [MINOR] found to be within

29 the jurisdiction of the court under AS 47.10.010 and 47.10.011 [AS 47.10.010(a)];

30 * Sec. 63. AS 47.17.020(a) is amended to read:

31 (a) The following persons who, in the performance of their occupational duties,

1 or with respect to (9) of this subsection, in the performance of their appointed
2 duties, have reasonable cause to suspect that a child has suffered harm as a result of
3 child abuse or neglect shall immediately report the harm to the nearest office of the
4 department:

5 (1) practitioners of the healing arts;

6 (2) school teachers and school administrative staff members of public
7 and private schools;

8 (3) social workers;

9 (4) peace officers [,] and officers of the Department of Corrections;

10 (5) administrative officers of institutions;

11 (6) child care providers;

12 (7) paid employees of domestic violence and sexual assault programs,
13 and crisis intervention and prevention programs as defined in AS 18.66.990;

14 (8) paid employees of an organization that provides counseling or
15 treatment to individuals seeking to control their use of drugs or alcohol;

16 (9) members of a child fatality review team established under
17 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
18 under AS 47.14.300.

19 * Sec. 64. AS 47.17.020 is amended by adding new subsections to read:

20 (h) This section does not require a person required to report child abuse or
21 neglect under (a)(7) of this section to report mental injury to a child as a result of
22 exposure to domestic violence so long as the person has reasonable cause to believe
23 that the child is in safe and appropriate care and not presently in danger of mental
24 injury as a result of exposure to domestic violence.

25 (i) This section does not require a person required to report child abuse or
26 neglect under (a)(8) of this section to report the resumption of use of an intoxicant as
27 described in AS 47.10.011(10) so long as the person does not have reasonable cause
28 to suspect that a child has suffered harm as a result of the resumption.

29 * Sec. 65. AS 47.17.030(d) is amended to read:

30 (d) Before the department or a local government health or social services
31 agency may seek the termination of parental rights under AS 47.10

1 [AS 47.10.080(c)(3)], it shall offer protective social services and pursue all other
2 reasonable means of protecting the child.

3 * Sec. 66. AS 47.17.030 is amended by adding a new subsection to read:

4 (g) Before removing a child from the home based on a report of harm, the
5 department shall request the attorney general to seek a protective injunction under
6 AS 47.17.069 if limiting a person's contact with the child would allow the child to
7 remain safely at home with another caretaker.

8 * Sec. 67. AS 47.17 is amended by adding a new section to read:

9 Sec. 47.17.033. **Investigations.** (a) In investigating child abuse and neglect
10 reports under this chapter, the department may make necessary inquiries about the
11 criminal records of the parents or of the alleged abusive or neglectful person, including
12 inquiries about the existence of a criminal history record involving a serious offense as
13 defined in AS 12.62.900.

14 (b) For purposes of obtaining access to information needed to conduct the
15 inquiries required by (a) of this section, the department is a criminal justice agency
16 conducting a criminal justice activity.

17 * Sec. 68. AS 47.17.035(b) is amended to read:

18 (b) If the department determines in an investigation of abuse or neglect of a
19 child that

20 (1) the child is in danger because of domestic violence or that the child
21 needs protection as a result of the presence of domestic violence in the family, the
22 department shall take appropriate steps for the protection of the child; in this
23 paragraph, "appropriate steps" includes

24 (A) reasonable efforts to protect the child and prevent the
25 removal of the child from the parent or guardian who is not a domestic
26 violence offender;

27 (B) reasonable efforts to remove the alleged domestic violence
28 offender from the child's residence if it is determined that the child or
29 another family or household member is in danger of domestic violence; and

30 (C) services to help protect the child from being placed or
31 having unsupervised visitation with the domestic violence offender until the

1 department determines that the offender has met conditions considered
2 necessary by the department to protect the safety of the domestic violence
3 victim and household members;

4 (2) a person is the victim of domestic violence, the department shall
5 provide the victim with a written notice of the rights of and services available to
6 victims of domestic violence that is substantially similar to the notice provided to
7 victims of domestic violence under AS 18.65.520.

8 * Sec. 69. AS 47.17.290(8) is amended to read:

9 (8) "maltreatment" means an act or omission that results in
10 circumstances in which there is reasonable cause to suspect that a child may be a child
11 in need of aid, as described in AS 47.10.011 [AS 47.10.010(a)], except that, for
12 purposes of this chapter, the act or omission need not have been committed by the
13 child's parent, custodian, or guardian:

14 * Sec. 70. AS 47.35.017(b) is amended to read:

15 (b) An application submitted under this section must contain at least the
16 following information:

17 (1) the name and address of the applicant [,] and, if the applicant is an
18 agency, corporation, partnership, association, or any other form of organization, the
19 name, address, and title of each individual [ALL INDIVIDUALS] who has [HAVE]
20 an ownership or management interest in the facility: if the applicant is an individual,
21 the application must include the name, age, and driver's license number, if any,
22 of each member of the individual's household;

23 (2) the name, physical location, and mailing address of the facility or
24 agency for which the license is sought;

25 (3) the name and address of the administrator of the facility or agency,
26 if any;

27 (4) evidence that the administrator or foster parent is an adult with
28 sufficient experience, training, or education to fulfill the duties of an administrator or
29 foster parent;

30 (5) a release for the administrator or foster parent and for each other
31 person who is 16 years of age or older, as specified by the department by regulation.

1 who will have contact with individuals served by the facility or agency, authorizing the
2 department to review all federal, state, and municipal criminal justice information,
3 whether of this state, of a municipality of this state, or of another jurisdiction
4 [LAW ENFORCEMENT], medical records, licensing records, and protective services
5 records, identified in regulations adopted under this chapter, that are relevant to the
6 person who is the subject of the release and to the type of license for which the
7 application has been submitted;

8 (6) two sets of fingerprints and the social security number of each
9 person required to provide a release under (5) of this subsection in order for the
10 department to submit the fingerprints to the Department of Public Safety for the
11 purpose of conducting state and national criminal background checks from
12 criminal justice information received under AS 12.62 and regulations adopted
13 under AS 12.62; the department may not approve an application under this section
14 until the results of the criminal background check have been submitted to the
15 department;

16 (7) for a facility, the number of individuals that will be served in the
17 facility;

18 (8) [(7)] the type of facility or agency for which the license is sought;

19 (9) [(8)] copies of all inspection reports and approvals required by state
20 fire prevention and environmental health and safety authorities for operation of the
21 facility or agency, including any variances granted by these authorities;

22 (10) [(9)] a plan of operation, as required by the department by
23 regulation;

24 (11) [(10)] a staffing plan that describes the number of people who will
25 work at the facility or agency, staff qualifications, a description of each person's
26 responsibilities, and, for a facility other than a maternity home, a supervision schedule
27 for the children in care that meets the requirements established by the department by
28 regulation;

29 (12) evidence that the applicant is capable of meeting the minimum
30 standards of care established by the department under AS 47.14.120;

31 (13) [(11)] evidence that the applicant has completed orientation or

1 training required by the department, by regulation, for holders of the type of license for
2 which the application was submitted; and

3 (14) [(12)] other information required by the department, by regulation,
4 in order to monitor compliance with this chapter and regulations adopted under this
5 chapter.

6 * Sec. 71. AS 47.35 is amended by adding a new section to read:

7 **Sec. 47.35.022. Foster care placement.** (a) Except as provided in (b) of this
8 section, the department may not place or continue placement of a child for care for
9 payment under AS 47.10 in a foster home that is licensed under this chapter if the
10 department finds that a person for whom fingerprints are required to be submitted for
11 licensure of the foster home is currently under arrest for, charged with, or has been
12 convicted of, or found not guilty by reason of insanity of, a serious offense.

13 (b) Notwithstanding (a) of this section, the department may place or continue
14 a placement for foster care if the applicant or licensee demonstrates to the satisfaction
15 of the department that the applicant, licensee, or other person committed the conduct
16 described in (a) of this section at least five years before the placement, and the conduct

17 (1) did not involve a victim who was under 18 years of age at the time
18 the conduct occurred;

19 (2) was not a crime of domestic violence as defined in AS 18.66.990;
20 and

21 (3) was not a violent crime under AS 11.41.100 - 11.41.455 or a law
22 or an ordinance of another jurisdiction having similar elements.

23 (c) The department shall develop procedures for rechecking criminal justice
24 information records for the information described in (a) of this section for persons who
25 are 16 years of age or older who are living in a licensed foster home with access to
26 children placed by the department.

27 * Sec. 72. AS 47.35.023(b) is repealed and reenacted to read:

28 (b) Notwithstanding (a) of this section, if an emergency exists and a child must
29 be immediately placed, the department or the department's designee may issue a
30 provisional foster home license on an emergency basis for a period of 90 days or less
31 if the department or the department's designee determines that the applicant meets

1 minimal requirements for emergency conditions and the applicant agrees in writing to
2 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the
3 placement of a child in the foster home. The department may not issue a license under
4 this subsection before checking state and national criminal justice information available
5 to the department under AS 12.62 and regulations adopted under AS 12.62 about the
6 administrator or foster parent and each person who is 16 years of age or older in the
7 foster home who will have contact with the child. If the department cannot obtain
8 direct access to the state and federal criminal justice information, the department shall
9 request the agency having primary law enforcement responsibility for the geographic
10 area in which the prospective foster home is located to obtain the information and
11 provide it to the department before the license is issued under this section. If the
12 criminal justice information readily available to the department shows an offense which
13 a person would be required to notify the department under AS 47.35.047(b), the
14 department may not issue the license under this subsection. If the additional criminal
15 justice information available from the fingerprint search or another source after the
16 license is issued reveals that the person has a record for one or more of these offenses,
17 the department shall immediately revoke the license and move the child to an
18 appropriate placement. For purposes of obtaining criminal justice information under
19 this subsection, the department is a criminal justice agency conducting a criminal justice
20 activity under AS 12.62.

21 * Sec. 73. AS 47.35.047(b) is amended to read:

22 (b) A licensee shall notify the department within 24 hours after having
23 knowledge of a conviction or indictment, presentment, or charging by information or
24 complaint of an administrator, foster parent, member of the licensee's household, regular
25 volunteer, or staff person for a violation of the following laws or the laws of another
26 jurisdiction with similar elements:

27 (1) offenses against the family and vulnerable adults under

28 AS 11.51;

29 (2) perjury under AS 11.56.200;

30 (3) offenses included in the definition of "serious offense" under
31 AS 12.62.900 [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT,

1 RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF A
2 MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR
3 THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF ANOTHER
4 JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN AS 12.62.035].

5 * Sec. 74. AS 47.35.900 is amended by adding new paragraphs to read:

6 (20) "criminal justice information" has the meaning given in
7 AS 12.62.900;

8 (21) "domestic violence" has the meaning given in AS 18.66.990;

9 (22) "serious offense" has the meaning given in AS 12.62.900.

10 * Sec. 75. AS 47.10.080(k), and 47.10.990(7) are repealed.

11 * Sec. 76. COURT RULE CHANGE; EXPEDITED APPEALS. (a) AS 47.10.080(i), as
12 amended in sec. 37 of this Act, has the effect of amending Rule 218, Alaska Rules of
13 Appellate Procedure, by requiring that expedited appeals from a judgment or an order under
14 AS 47.10 be decided within a fixed timeframe.

15 (b) Section 37 of this Act takes effect only if this section receives the two-thirds
16 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 * Sec. 77. COURT RULE CHANGES; CINA RULES. (a) Many provisions enacted or
18 amended by secs. 26 - 53 of this Act have the effect of amending the Alaska Child in Need
19 of Aid Rules, including rules regarding notice, parties, hearings, filing of petitions or reports,
20 court review of orders, termination of parental rights, and duties of the Department of Health
21 and Social Services.

22 (b) Sections 26 - 53 of this Act take effect only if this section receives the two-thirds
23 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

24 * Sec. 78. APPLICABILITY. This Act applies to all new cases or proceedings filed with
25 the court on or after the effective date of this Act and to motions filed with the court on or
26 after the effective date of this Act in cases or proceedings pending before a court on the day
27 before the effective date of this Act.

28 * Sec. 79. REVISOR'S INSTRUCTION. The revisor of statutes shall replace the term
29 "minor" with the term "child," in the following statutes: _____
30 _____

31 * Sec. 80. This Act takes effect immediately under AS 01.10.070(c).

Child Protection Law Comparison

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Abandonment	Requires no one caring or willing to provide care	No change	Requires a conscious disregard of parental duties without justifiable cause; more serious with children younger than 6 years old.
Incarceration	Not grounds to take legal custody of children. May be grounds for termination of parental rights	No change	Incarceration for DV and incarceration that leaves children unattended may be grounds for jurisdiction; stop reasonable efforts; termination
Child left with unwilling custodian	Abandonment	No change	Specifically addressed and separated from abandonment
Child refuses to go home	Abandonment	No change	Child refuses to go home and that conduct places the child at risk of harm, separated from abandonment
Medical Neglect	Knowing failure to provide needed physical or mental health treatment to prevent "substantial" physical harm or for observable severe mental harm	No change	Knowing failure to provide treatment for any physical condition and observable severe emotional conditions
Physical Harm	Child has suffered substantial physical harm or is at imminent and substantial risk of suffering such harm	No change	Child has suffered physical harm or is at substantial risk of suffering such harm
Sexual Abuse	Child has been sexually abused or is at imminent and substantial risk of being sexually abused	No change	Child has suffered sexual abuse or is at risk of suffering sexual abuse. Some types of risk are specifically defined

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Emotional Harm	Not grounds to take legal custody of children.	Federal law mandates reporting of mental injury; 42 USC 671 (a) (9) (A)	Requires an observable impairment which creates a serious risk to the child or others
Physical Neglect	Requires that the child has suffered substantial physical neglect	No change	Failure to provide for basic needs; Endangering the Welfare of a Minor; Criminal Nonsupport; Contributing to the Delinquency of a Minor, failure to pay child support is neglect
Addiction or Habitual Use of Intoxicants	Not grounds to take legal custody of children unless there is substantial physical neglect or imminent and substantial risk of physical harm	No change	Ability to parent is impaired by habitual or addictive use; relapse creates risk.
Mental illness	Not grounds to take legal custody of children unless there is substantial physical neglect or imminent and substantial risk of physical harm	No change	Ability to parent is impaired for extended periods of time due to mental illness of parent
Delinquency	Requires that parents pressure, guide, or approve commission of delinquent acts	No change	No change
Petition	12 hours to file once children are removed	Not in statute	24 hours to file once children are removed
Reasonable Efforts	Reasonable efforts to prevent removal and to return child home required	No longer requires reasonable efforts if: homicide of child; felony assault of child; sexual abuse; chronic abuse or neglect. 42 USC 671 (a) (15)	Same as federal law, with additional provisions when: parental rights to sibling terminated, long-term incarceration, one parent kills the other parent AS 47.10.086(c)
Confidentiality	Files confidential with limited exceptions	Requires procedures to protect confidentiality of files 42 USC 671 (a) (8).	Expands exceptions to include: child fatality review team; multidisciplinary team, CSED, federal law enforcement, mandated reporters.
Adjudication	No time requirement	No provision	Must be completed within 120 days of probable cause finding. AS 47.10.080 (a)

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Permanency Hearing	18 months after child is removed from home	12 months after date of removal as calculated under federal law. 42 USC 675 (5) (C)	12 months from removal as calculated in federal law. AS 47.10.080 (l).
Date of removal	Date of child's removal from home	Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from removal. 42 USC 675 (5) (F)	Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from date of removal. AS 47.10.088 (f).
Termination of Parental Rights	Always permissive; requires clear and convincing evidence that the parental conduct is likely to continue; reasonable efforts by a preponderance. 47.10.080 (c) (3)	Mandatory petitions when: 1) child in foster care 15 of 22 months; 2) homicide; 3) felony assault; 4) abandoned infant. 42 USC 675 (5) (E)	Must prove by clear and convincing evidence that the parents have not changed; by preponderance that reasonable efforts complied with; mandatory petitions. AS 47.10.088
Timelines for Termination	No specific timelines	No specific timelines	Trial 6 months after petition filed. AS 47.10.088 (j); Ruling 90 days after trial. AS 47.10.088 (k); Appellate ruling 90 days after briefing. AS 47.10.080 (i)
Concurrent Planning	No provision.	Required during reasonable efforts and during permanency proceedings. 42 USC 671 (a) (15) (F) and 42 USC 675 (E)	Required during reasonable efforts and during permanency proceedings. AS 47.10.086 (e) and AS 47.10.088 (i).
Documentation of Efforts to Find Permanent Home	No provision	Required documentation of child-specific recruitment efforts, including efforts to find an adoptive home in another state. 42 USC 675 (1) (E)	Required documentation of child-specific recruitment efforts. AS 47.10.088 (i).
Criminal Background Checks	Required checks of parents to determine history of domestic violence - AS 47.17.035, Self-report on licensed placements - AS 47.35.047	Required criminal background checks on any licensed placement. 42 USC 671 (a) (20).	Required criminal background checks on any licensed placement with rechecks. AS 47.35.017, 47.35.022; 47.35.023; 47.35.047.
Healthcare Coverage	Duty to kids in custody and out of home. AS 47.10.084 (a), subsidize special needs and hard to adopt kids	Required insurance coverage on all special needs and hard to adopt children. 42 USC 671 (a) (21).	Subsidy continues. State joins Interstate Compact on Adoption and Medical Assistance. AS 47.05.090
Participation in Hearings	Parties to the case, otherwise in the court's discretion. AS 47.10.070.	Foster parents and relative caretakers get notice and an opportunity to be heard. 42 USC 675 (5) (G).	Foster parents and relative caretakers get notice and an opportunity to be heard. AS 47.10.070 (c)

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Multidisciplinary Team	No provision.	Allows the state to create multidisciplinary teams. 42 USCS 5106a(a) (2) (A).	Allows DFYS to create multidisciplinary teams. AS 47.14.300.
Kinship Care	Blood relative must be used as a placement unless there is clear and convincing evidence that physical or emotional damage will occur. AS 47.14.100 (e).	Requires state to give preference to adult relative provided the relative meets state child protection standards. 42 USC 671 (a) (19).	No change.
Citizen Review for Permanency Planning	Reviews all cases of out-of-home children every 6 months. Child must be in least restrictive and most family-like setting in close proximity to home. AS 47.17.200 - 299.	Requires creation of Citizen Review Panels. 42 USC 5106a (c). Requires least restrictive most family-like setting, most appropriate setting, in close proximity to home. 62 USC 675 (5).	No change.
Appointment of Guardian Ad Litem	Mandatory if an investigation results in a judicial proceeding. AS 47.17.030 (e).	Mandatory if a judicial proceeding results. 42 USCS 5106a (b) (2) (A) (ix).	Addition of mandatory language to AS 47.10.050.
Child Fatality Review Panel	Not in statute.	Allowed in statute with provision mandating disclosure or reports. 42 USC 5106a (b) (2) (A) (vi).	1 statute. AS 12.65. Disclosure of reports in AS 12.65.140 (b).
Investigation	Criminal background checks on parents required to determine if DV involved. AS 47.17.035.	Not addressed.	Criminal background checks of every parent or perpetrator of abuse or neglect is allowed. AS 47.17.033.
Respite Care for Foster Parents	Only when child has a mental or physical impairment or disability, or for emergencies. AS 47.14.100 (d) (2).	Allowed as temporary relief to foster parents. 42 USC 629a (1) (D).	Respite care for foster parents as temporary relief. AS 47.14.100 (d).
Appeal of Agency Finding	Grievance procedure in 7 AAC 54.205 - 240.	Requires appeal process for agency findings. 42 USCS 5106a (2) (A) (xi) (II).	No change.
Racial Discrimination	Not in statute.	Race cannot be the basis of delaying an adoption or placement. 42 USC 671 (a) (18).	No change.

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Expedited Permanence for Infants	Not in statute.	Required in 42 USCS 5106a (b) (2) (A) (xi) (I) for abandoned infants.	Expedited for children younger than 6 years old. AS 47.10.013 and 47.10.088 (a) (2).
Child Rights vs. Parental Rights	Outcome of case is determined by burden of proof and best interests of child.	Child's health and safety is of paramount concern. 42 USC 671 (a) (15) and 42 USC 629b (a) (9).	Best interests of child is primary concern. AS 47.10.086 (f) and 47.10.088 (b) and (c).

Comparing Child Protection Proposals		
LAW	GOVERNOR'S BILL	OTHER BILLS
Murder One AS 11.41.100	Amended in Governor's Bill	Amended in SB 218
Murder Two AS 11.41.110	Amended in Governor's Bill	Amended in SB 218
Crim Neg Homicide AS 11.41.130	Amended in Governor's Bill	Amended in SB 218
Indecent Exposure One AS 11.41.458	Additional statute in Governor's Bill	Additional statute in SB 323
Indecent Exposure Two AS 11.41.460	Amended in Governor's Bill	Additional statute in SB 323
Possession of Child Pornography AS 11.61.127	No change in current law.	Amended in SB 323.
Endangering the Welfare of a Minor One AS 11.51.100	Amended in Governor's Bill	Amended in HB 333, SB 282
Endangering the Welfare of a Minor Two AS 11.51.110	Amended in Governor's Bill	Amended in HB 333, SB 282
Criminal Nonsupport One AS 11.41.115	Amended in Governor's Bill	
Criminal Nonsupport Two AS 11.51.120	Amended in Governor's Bill	
Manslaughter AS 12.55.125 (c)	Amended in Governor's Bill	Amended in SB 218

NEW	GOVERNOR'S BILL	OTHER BILLS
First Felony Sentence AS 12.55.125 (k)	Amended in Governor's Bill	Amended in SB 218
Sex Offender Registration AS 12.63.010	Amended in Governor's Bill	Amended in SB 326; HB 252
Notice to Public of Sex Offenders AS 18.65.087.	Amended in Governor's Bill	Amended in HB 273; HB 326; HB 252.
Child Fatality Review Team AS 12.65.005	Additional statute in Governor's Bill	
Notice of Release of Sex Offender AS 33.30.012	Amended in Governor's Bill	Amended in HB 252.
Child Abuse Investigations AS 47.17	Amended in Governor's Bill	Amended in SB 323; SB 295; HB 453; HB 340.
Child in Need of Aid Jurisdiction AS 47.10.010	Amended in Governor's Bill	Addressed in HB 366.
Preference for Kinship Care AS 47.14.100 (e)	No amendment to current law	Addressed in HB 332.
Access to CINA Proceedings AS 47.10.	Amended in Governor's Bill	Amended in HB 340, HB 456, HB 371, HB 340.
Timelines for Permanency	Amended in Governor's Bill	Amended in HB 456.
Permanency Planning for CINA Cases	Amended in Governor's Bill	Amended in HB 456.
Confidentiality in CINA and JD cases AS 47.10.093; AS 47.12.310	Amended in Governor's Bill	Amended in HB 453; HB 456.

	GOVERNOR'S BILL	OTHER BILL
Licensing Child Placements AS 47.35	Amended in Governor's Bill	Amended in HB 453.
No Teaching Certificates for Sex Offenders AS 14.20.	Amended in Governor's Bill	Amended in SB 323.
Child Protection Teams AS 47.14	Amended in Governor's Bill	Amended in HB 340.
Poverty as CINA Jurisdiction AS 47.10	No change in current law.	Specified in HB 366.
Custodial Rights AS 47.10.084	No change in current law.	Amended in HB 391.
Runaways AS 47.10.141	No substantive change.	Amended in HB 391.
Reasonable Efforts to Return Child Home	Amended in Governor's Bill	
Resources for Foster Parents	Amended in Governor's Bill	Amended in HB 456.



**INTERSTATE COMPACT ON ADOPTION & MEDICAID
ASSISTANCE
(AS 47.05.090)**

**Susan Wibker
Dept. of Health & Social Services
March 1998**

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AN ACT

To authorize the Department of Health and Social Services by and through its Commissioner, to enter into interstate agreements to provide for medical and other necessary services for special needs children; establishing procedures for interstate delivery of adoption assistance and related services and benefits; and providing for the adoption of related regulations.

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

ARTICLE I: FINDINGS

The legislature finds that:

- (a) Finding adoptive families for children, for whom state assistance is desirable pursuant to AS 25.23.05 - AS 25.23.240, and assuring the protection of the interest of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state.
- (b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

ARTICLE II: PURPOSES

The purposes of the Act are to:

- (a) Authorize the Department of Health and Social Services to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Department of Health and Social Services
- (b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

ARTICLE III: DEFINITIONS

As used in this act, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a Territory or Possession of or administered by the United States.
- (c) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case

1 (d) "Residence state" means the state where the child is living.

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3 **ARTICLE IV: COMPACTS AUTHORIZED**

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5 (a) The Department of Health and Social Services is authorized to develop, participate
6 in the development of, negotiate and enter into one or more interstate compacts on
7 behalf of this state with other states to implement one or more of the purposes set
8 forth in this Act. When so entered into, and for so long as it shall remain in force,
9 such a compact shall have the force and effect of law.

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11 **ARTICLE V: CONTENTS OF COMPACTS**

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13 A compact entered into pursuant to the authority conferred by this Act shall have the following
14 content:

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16 (a) A provision making it available for joinder by all states.

17

18 (b) A provision or provisions for withdrawal from the compact upon written notice to
19 the parties, but with a period of one year between the date of the notice and the
20 effective date of the withdrawal.

21

22 (c) A requirement that the protections afforded by or pursuant to the compact
23 continue in force for the duration of the adoption assistance and be applicable to all
24 children and their adoptive parents who on the effective date of the withdrawal are
25 receiving adoption assistance from a party state other than the one in which they
26 are resident and have their principal place of abode.

27

28 (d) A requirement that each instance of adoption assistance to which the compact
29 applies be covered by an adoption assistance agreement in writing between the
30 adoptive parents and the state child welfare agency of the state which undertakes
31 to provide the adoption assistance, and further, that any such agreement be
32 expressly for the benefit of the adopted child and enforceable by the adoptive
33 parents, and the state agency providing the adoption assistance.

34

35 (e) Such other provisions as may be appropriate to implement the proper
36 administration of the compact.

37

38 **SECTION VI: OPTIONAL CONTENTS OF COMPACTS**

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40 A compact entered into pursuant to the authority conferred by this Act may contain provisions in
41 addition to those required pursuant to Section V of this Act, as follows:

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43 (a) Provisions establishing procedures and entitlement to medical and other necessary
44 social services for the child in accordance with applicable laws, even though the
45 child and the adoptive parents are in a state other than the one responsible for or
46 providing the services or the funds to defray part or all of the costs thereof

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48 (b) Such other provisions as may be appropriate or incidental to the proper
49 administration of the compact.

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1 ARTICLE VII: MEDICAL ASSISTANCE

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- (a) A child with the special needs resident in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing in the Division of Public Assistance office of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the the Division of Public Assistance, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

- (b) The Division of Medical Assistance shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

- (c) The Division of Medical Assistance shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Division of Family and Youth Services for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefore. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Division of Family and Youth Services shall make regulations implementing this subsection. The additional coverage and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among these things, such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

- (d) The submission of any claim for payment or reimbursement for services or benefits pursuant to this Section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed [\$10,000] or imprisonment for not to exceed [2] years, or both

- (e) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provided medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreement entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

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ARTICLE VIII: FEDERAL PARTICIPATION

Consistent with federal law, the Department of Health and Social Services, in connection with the administration of this Act and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The aforementioned department(s) shall apply for and administer all relevant federal aid in accordance with law.

For the record, my name is Michael Coons from Palmer. I am a Paramedic and have worked in the Emergency Medical Services since 1981.

I have read HB 375 submitted by Governor Knowles. Bottom line is I don't see any real change in this legislation pertaining to DFYS, meaningful punishment for those who neglect, abuse or exploit children, nor increased law enforcement role. I do have comments on some points to be specific. Due to time I would like these concerns to be placed on the record by my written comments that I have FAXed. I would instead like to give some examples of abuse by "parents" and "Social Services" that I have witnessed as a Paramedic.

Fortunately, I have not had any contact with DFYS since moving to Alaska. However, Social Services from state to state are very similar. The problem as I see it, as the following incidents will show, is fairly typical of Child Protective Services. What we need is the ability for law enforcement to make the decision on site to start an investigation at least, if not to remove the children on the spot.

So as not to compromise patient confidentiality, I will not indicate what state or city this occurred in. I was dispatched to a residence on an unknown situation. All we knew from dispatch (over the phone) was a neighbor had called concerned about the noise coming from his neighbors house. When we talked to the neighbor (with a police officer present), the neighbor said that the guy next door has children, no spouse, and a lot of yelling and other noise coming from the house. The neighbor was concerned for the children's safety and thought that the children may be hurt. The deputy stated he didn't have probable cause to enter the house, but if we as EMS were to gain entry, and he (deputy) was allowed in as well, we could see what the situation was. The exterior of the house was dark and we weren't too keen on knocking on the door, but we did. An adult male answered the door, we told him that we had received a call about a possible injury at his residence and could we come in. He stated that nothing was wrong. We then said, OK, but can we come in so we can fill out our report and be on our way. He allowed us, and the deputy inside. Inside the house, the living room had dog and cat droppings everywhere, a kitchen knife on the coffee table and the smell was overpowering of urine and feces. We asked if we could check on the children. He gave permission. We found one bedroom with a flimsy mattress on the floor with 2 children asleep, another bedroom the same condition with two more, all male. The second "bedroom" was more like a closet than a bedroom. In the "master bedroom" we found a 10 year old girl between the bed and the wall, on her knees rocking back and forth. At this point we are concerned and suspected at least child neglect, if not child sexual assault. The deputy called in for his supervisor. To give the officers time, we asked the "father" for information to "fill out our reports" so as to buy the officers time to investigate what was going on. The girl won't hardly say anything but denied any problems. I will never forget the blank look on her face! All of us felt that something very wrong was going on. The "father" was non-cooperative and vague. Total time in the house was about 30 minutes but the deputies didn't find enough probable cause to do anything, so we left. Outside the house I asked the officer in charge if he was reporting this to Child Social Services and he said he was. Under state law, I was, as the lead medic, was required to do the same. That morning, I called Child Social Services and reported what we had found. The "social worker" I talked to was rude and actually accused me of making a false report. She also wanted to know why I had even bothered calling! I reminded her of the state law requiring that health care providers were required to report possible child neglect, abuse and or sexual abuse! Her attitude was such and her comments were such that it was apparent to me that no investigation into this matter was going to happen. To make a long story

short, I went over her head, her supervisors head and finally up to the Assistant Director of the department before I got someone who seemed to care! We never went back to that house, nor heard what happened. A few years later, at a college course about social services that I took, I found that the law required Social Services to inform the reporting agencies, i.e. EMS and law enforcement on the outcome of the investigation. To this day, I do not know what happened.

The attitude I found by Social Services in this case was not just one occurrence but several in my experience. Unless you know the law and can quote it, the "case workers" will treat the reporter very rudely and try to make the reporter out to be the "bad guy". In a follow-up case once, the status of the elderly person who was in jeopardy was refused to me, until I quoted chapter and verse of the law. Even then, the required information was like pulling "hens teeth".

I personally know about and have seen several cases of child abuse, one resulting in the death of the infant, others resulting in hospitalization. In the case of the death, the "boyfriend" received 5 years, the "mother" wasn't even charged! In another case, Quaaludes being given to a 3 year old, and ALL indicators of gross child abuse being found, the child was returned in 24 hours to the drug addicted "mother"! Only in two cases have I seen a positive outcome, one dealing with children and one dealing with an elderly lady. Both "positive" outcomes seemed to only come about AFTER we knew the law and how to use it! It was apparent to us that without our pressure, neither one of these cases would have shown any improvement. As a note to how we saw the improvement, the places were places we responded to on a regular basis.

Unfortunately, I have also heard from friends and even parents of hurt children that I have responded to, that Social Services have accused parents of abuse, when no abuse was indicated or found! For some reason that I have never been able to understand, a normally healthy, clean, well fed and loved child who breaks an arm falling from a swing is "abused" when a 3 year old who has old dirt, old bruises, new bruises, unconscious from Quaaludes is not "abused"!

DFYS, according to what I am reading, doesn't sound much better than what I have seen in the "Lower 48". I strongly feel that what is needed is a partnership between law enforcement, the DA office and DFYS in investigating and if need be, prosecuting child/elderly neglect, abuse and sexual abuse to the fullest extent of the law (law enforcement and DA being the lead)! How this is done must be carefully thought out and monitored. As indicated above I have seen abuse of the "system" both ways. The manner of the investigation should be based on sound evidence and probable cause. In my experience, Social Services does not have the training to understand what is good evidence and what is fabrication!

As a last example to back up the need for law enforcement doing the investigating was a situation that happened to me and 150 other fellow EMTs. We went to a symposium on medical legal and child abuse. When the speaker from Social Services came out she stated that there are two victims in a child abuse, the child and the abuser. Then proceeded to "cry" about the "poor abuser"!!! Our squad Chief told her in no uncertain terms that we were there to learn about the law, what to do to protect the child, and evidence, how we deal with the abuse and what we needed to do to document what we saw. The "Social Worker" told us that she would not cover those areas. 150 of us started to leave! The person in charge of the symposium stopped us, and threw out the Social Worker. We then broke into groups and found out what other departments were doing. We learned more that way, than any other course or lecture on this topic that I have since attended! This attitude by Social

Services must be changed! I feel that strong involvement by law enforcement may turn this around by example. I don't know if this will be the case, however, the present situation cannot be allowed to continue!

Please, talk to us folks in the trenches who have to see this and have to deal with not only the tragedies but the apathy of Social Workers! The more you ask of professionals from EMS and law enforcement the clearer picture you will find of the problems, and hopefully answers that will make a difference to the children and elderly who are most at risk

As to my concerns over HB 375, the following are my comments and concerns.

Lines 8-14 pertaining to children rights raises a question on are we opening a "Pandora's Box"? There have been pushes for "Children's rights" that have not received support because of what it would do to parents for "normal discipline". By stating these rights are we not opening the door to the fanatical left to say, "Now we have rights listed, let's take it further". This part is just something that makes the hairs stand up on my neck as a warning light.

Lines 24-31 "(2) the person knowingly engages in conduct directed toward the person recklessly or with 31 criminal negligence causes [INFLICTS] serious physical injury to the child by at least two separate acts, and one of the acts results in the death of the child; or". Two acts? This paragraph relates to Murder in the First Degree! Isn't ONE act too much, much less TWO!

"20 (b) Indecent exposure in the second degree before a person under 16 to 21 years of age is a class A misdemeanor. Indecent exposure in the second degree before a 22 person 16 years of age or older is a class B misdemeanor." So this would mean that the person who exposes him/herself walks on a Misdemeanor? This behavior is an alarm that there has, is or soon will be something worse happening to a child! This is inexcusable behavior that must be stopped with such a deterrent that even a "sicko" will think twice about it!

Sec. 12. AS 11.51.120, amended. I have a problem with. There has been enough Letters to the Editors with sound comments about the so called "Deadbeat Dad" laws that makes me wonder if we haven't gone overboard on this already. Now, with this proposed amendment it takes it even further. I would like this stricken until such time as the positive and negative impacts are looked at. If it is needed, then let legislation on this topic be on it's own for open debate.

Sec. 13. AS 12.55.125(c), specifically the years sentenced and attacks against law enforcement and EMS care providers are way too LOW! Right, I get attacked by someone with a deadly weapon and he/she only gets 7 years! I put my life on the line for this? This whole section makes me SICK!!! We need DETERRENTS, not continued coddling! Sorry, but these light sentences really raise the hackles. We will NEVER get a handle on criminal activity if we don't have the guts to show that criminal behavior has severe repercussions!

"Sec. 16. AS 12.63.010(b)", I agree with!

"Sec. 18. AS 12.65.015 is amended by adding a new subsection to read: e) The state medical examiner". This section I understand that it would only be used in a death of a child. I do agree with the team concept, however, I do not see this team approach with reports of child neglect/abuse/sexual assault not resulting in a death. The only thing I see is DFYS still doing what it doesn't do well for those cases.

"Sec. 21. AS 14.20.030(b)" I agree with! As well as requiring a criminal search of teaching applicants! If we had had this just this last year we may not have had so many teachers molesting school children!

The rest of the bill is legalese and I had a hard time getting through all of it. Suffice to say, there wasn't anything that gave me a good feeling that the problems will be taken care of much better than they are now.

Please let me know more about what these 60 pages really means to us lay-people who are overwhelmed by legalese. If you believe my comments are wrong, please let me know what and why. Rep Dyson said something to the effect that this shouldn't just be jumped into. I couldn't agree more!

Michael C. Coons, MICP, NREMT-P, AAS EMS
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P.S. The law to educate EMS on what to do in these cases (Continuing Education Requirement) is too vague. DFYS has been contacted by our Borough head of EMS and they didn't know what to do. We are getting a State Trooper to teach the course and even she doesn't know what the course outline is to be like!

P.S.S. Plea bargaining by the DA offices needs to be looked at! I see far too much in the press about plea bargaining child abuse/sexual abuse down to short years, with parole. Mandatory sentencing on any counts of child abuse/sexual abuse must be in the law. Otherwise, the law is hollow and means nothing!

MEMORANDUM

ALASKA PUBLIC DEFENDER AGENCY

900 West Fifth Avenue, Suite 200
Anchorage, Alaska 99501

Tel: (907) 264-4400
Direct line: 264-4433
Fax: (907) 269-5476

TO: Rep. Con Bunde, Chairman
House Health & Social Services Committee
ATTN: Lynn Smith

FROM: Blair McCune, Deputy Public Defender *Blair McCune*

RE: HB 375 -- Child Protection legislation

DATE: February 26, 1998

I have comments on the proposed legislation on behalf of the Alaska Public Defender Agency.

Comments on the Legislation

The Public Defender Agency (PDA) has considerable interest in this legislation. PDA represents parents in the Child in Need of Aid (CINA) cases covered by this bill. CINA cases represent a significant part of PDA's work. PDA gets involved in child protection cases after we are appointed by Superior Court Judges to represent parents. Alaska Statutes and Court Rule require the court to appoint of counsel in CINA cases "for a parent or guardian who is financially unable to employ counsel."

First, we want to note that a lot of hard work went into this bill. We were able to provide our comments at all stages of the drafting of this legislation. A lot of our comments resulted in changes to the bill -- many did not. Obviously, these are difficult policy matters. The basic policy question is the age-old problem of the power of the government to intervene to protect children, versus the family's right to raise their kids on their own.

PDA thinks it is worthwhile for the legislature to have the parent's perspective on the bill. PDA is concerned about whether the legislation strikes the proper balance between parents' rights to raise their children and the government's right to intervene. The current law allows intervention only when there are "serious

forms of parental misconduct" or "to remedy severe parenting deficiencies and prevent significant harm to children." The legislation radically changes this balance.

An example of how the government's power to intervene is increased is intervention for "emotional harm." Under the bill, DFYS can intervene if it can prove that a parent has caused a child to suffer "emotional harm." "Emotional harm" is defined as "injury to the emotional well-being or intellectual or psychological capacity of a child ...". We are concerned that a law which allows the state to intervene if it believes a child's "emotional well-being or intellectual or psychological capacity" is injured opens up a family's decisions to second guessing by social workers and therapists.

Specific Provisions in CINA Legislation

Section 1

This section includes broad language on the rights of children. PDA is concerned that it is too broad.

Section (a)(1)(B) and (C). We believe that it is too much to expect to guarantee all children the right to freedom from "emotional abuse."

Section (a)(2). We do not believe that parents should have a duty to "remove any impediment" to their ability to perform their parental duties. A parent should not always have to subordinate his or her interests to the interests of the child.

Section (a)(4)(A) and (a)(6). We support including offering "family support services" as a "policy" of the state and not moving children unnecessarily.

PDA does not believe that there is a need to overrule In Re S.A., 912 P.2d 1235 (Alaska 1996). In S.A., the state petitioned to terminate a mother's parental rights even though she had two years of sobriety. The mother had custody of another child and was a good parent to that child. Despite this clear evidence of parental fitness, the state convinced a superior court judge to terminate the mother's parental rights based on a therapist's opinion that the child would be better off in another home. The Alaska Supreme Court overturned the termination. It found that the court and state misinterpreted the CINA laws as follows:

[The State's] interpretation [of the CINA statute] would permit the State to assume custody over any child who had needs the child's parents could not meet. Applied to the facts of this case, the State's interpretation would justify terminating [the mother's] parental rights on the grounds that [the children] would not "meet their