

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9133 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

dominated Alaskan news for the past year. I urge you to wait upon the completion of these audits and give the Department the needed time over the next year for to make appropriate administrative and procedural changes internally before enacting major reforms that "widen the net" such as HB 375.

Foster Care System Overload. We cannot even properly take care of the children we place in state's custody under existing law. We can't properly support the foster parents and foster children we have now, and are incapable of recruiting enough foster parents for children now in custody. *Where are you going to place the dramatic increase in foster children that will certainly result in such a widening of the net? How are you going to pay for the increased foster care expenditures?* Logic dictates strengthening our foster care system first, then and then considering extending DFYS' authority to widen the net.

Correctional System Overload. Criminalizing nonsupport creates a new criminal class. We're under court orders for overcrowding of correctional facilities now for the real criminals, i.e., murders, rapists, drug dealers, etc. *Where will you put this new class of criminals?* More importantly, *the public does not want to support deadbeats with housing, food and clothing via prisons or jails. Why would you?* Scare tactics via contempt proceedings have proven costly and ineffective.

Accountability. Over the past year, the demand for Department DFYS accountability from legislators and the public has been loud and clear. HB 375 fails to increase DFYS accountability. To the contrary, by providing DFYS with immunity it reduces DFYS' existing accountability to zero. While it may be great for the state, it is very detrimental to children and families receiving services. *Would you want your child in the care of anyone who legally had no duty of care to your child? What would your child want?* Why would you demand a lesser standard of care for abused children than that which you would demand for your own child? If DFYS is incapable of protecting children without immunity as they claim, then it is time to privatize the Department entirely.

Family Preservation (Homebuilders). Family preservation, *if and when implemented correctly by the agency*, has proven in other states to not only significantly decrease child fatalities and child abuse, but also decrease the cost of child protection services. Family preservation does not cause children to linger in the state system or prevent early termination when warranted. *if and when implemented correctly by the agency*. The Department has not implemented family preservation properly.² Family preservation services have actually been proven to assist the agency to more quickly identify cases in which early termination is warranted. We can and should learn from other states which have accomplished phenomenal safety records for children through

² Inadequate resources that cause a system of "crisis management" by social workers often causes the social worker to offer appropriate services to the family only shortly before having to attend a hearing and make a showing of "reasonable effort".

family preservation.¹ Commissioner Perdue acknowledged that she was reviewing family preservation for Alaska at the foster care hearing sponsored by Representative Hodgins about December 15, 1997. However, to enact major reforms that "widen the net" to the degree of HB 375 prior to implementing family preservation can and will prove to be disastrous for our children. I urge legislators to learn the facts about family preservation principals and, and armed with the results of the DFYS and OPA audits, enact legislation *based upon informed decision making* that incorporates homebuilder principals into child protection services and provides for early termination when justified.

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¹ Since adopting family preservation, in the past ten years Minnesota has had only two fatalities of children receiving child protection services whether services were provided in the home and during foster care. Representative Fred Dyon and I have conferred with the Director of Minnesota who offered the services of Minnesota to help Alaska in any way possible, including by sending trainers, and remains a valuable resource to help Alaska enter into meaningful reform. To my knowledge, no requests from Alaska for help have been made.

TO: Health, Education & Social Services Committee
SUBJECT: Testimony at Public Hearing on HB 375
FROM: Michael C. Coons, MICP, NREMT-P

In addition to testimony I gave at the last public hearing, I am still opposed to this bill, not so much as to it's intent but as to the substance. My concerns today are about the Child Fatality Review and Multidisciplinary Child Protection Teams.

These sections loosely resemble the SART/SANE teams in existence to investigate rape cases. However, as written, the similarities are only superficial. The success of SART has been because of a small and highly trained team whose primary function is to find out the truth and give the District Attorney's the information needed for a conviction.

There are several sections that most concern me and would like to speak to those specifically. First the Child Fatality Review Team.

"A person appointed to a local, regional, or district child fatality review team is not eligible to receive compensation from the state for service on the team"

How are you going to get team members to volunteer for this? As the list of members are stated you will be taking Physicians away from there normal jobs without compensation? As to the State Trooper, and Social Workers, will there departments be funded for this? If not this is a budget breaker for them.

"(2) the following persons, or that person's designee, appointed by the commissioner of health and social services:

- (A) a physician licensed under AS 08.64 who*
 - (i) specializes in neonatology or perinatology; or*
 - (ii) is certified by the American Board of Pediatrics."*

With the SART team in the Valley is a physician who works with the Nurse Practitioners. She is, according to a member of the SART team, a very special person. However, relying on only physicians for this team to cover the medical aspects is not realistic. Physicians, though qualified are going to be hard to find when you consider having them to break away from their practice, without compensation. The alternative is to use Nurse Practitioner's who have extensive experience in pediatrics. Nurse Practitioners will add depth to the team. Nurse Practitioners already are used in the SART Team with great success. They are more available, trained better in dealing with families and have proven that they can perform the same history and assessment functions consistently and with objectivity. Compensation is still a matter that must be addressed.

"Sec. 12.65.120.

(C) an investigator with the state troopers who has experience in conducting investigations of homicide, child abuse, or child neglect, appointed by the commissioner of public safety.

(D) a social worker with the Department of Health and Social Services who has experience in conducting investigations of child abuse and neglect, appointed by the commissioner of health and social services;"

In the SART Team the Social Worker is the victim's advocate, not an investigator. During our department training the Social Worker on the SART team made it very clear that investigation should be by law enforcement, NOT Social Services. Not only philosophically do I agree with this, but the SART teams conviction rate bears this out!

"Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.

(f) A person who is a member or an employee of, or who furnishes services to or advises the state child fatality review team, is not liable for damages or other relief in an action brought by reason of the performance of a duty, a function, or an activity of the review team."

Based on past Social Services abuses, I find this section deplorable! As a Paramedic, I am liable for civil litigation, no matter if I have done something wrong or not! Nationally, people have been wrongfully accused by Social Services and their lives are never the same again! The SART Team in there approach have determined false reports and based on their two year history, those that were guilty of rape were prosecuted where the false report, as far as I'm aware, never made it past initial investigation, much less to a Grand Jury. With rape and child abuse the perception by the community is that once it gets to the publics attention, then the person did it! The stigma is always there even after being found not guilty!. Wrongful accusation must be accountable!

*** Sec. 52. AS 47.14 is amended by adding a new section to read: Multidisciplinary child protection team.*

(a) The department may create a multidisciplinary child protection team to assist in the evaluation and investigation of reports made under AS 47.17 and to provide consultation on child protection cases to the department under AS 47.10.

(b) If a team is created under (a) of this section, the department shall appoint persons with knowledge of and experience in child abuse and neglect matters to the 21 team, whenever possible. These persons include

- (1) mental and physical health practitioners licensed under AS 5;*
- (2) child development specialists;*
- (3) educators;*

- (4) peace officers as defined in AS 11.81.900;*
- (5) victim counselors as defined in AS 18.66.250; and*
- (6) experts in the assessment and treatment of substance abuse."*

My main question is who is the lead agency here? If it is DFYS, then I strongly object! If it is law enforcement, I couldn't agree more! This goes back toward my earlier comments on investigative skills compared to law enforcement versus Social Services.

"(h) A person who serves on a multidisciplinary child protection team is not liable for damage or other relief in an action brought by the reason of the performance of a duty, a function, or an activity of the team.

* Sec. 53. AS 47.14 is amended by adding a new section to read:

. Immunity from liability. Nothing in this title creates a duty or standard of care for services to children and their families being served under AS 47.10. The department and its officers, agents, employees, or contractors and the state are not liable for civil damages as a result of an act or omission in the provision of services to children and their families under AS 47.10. This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct.

Again, my comments on accountability on this subject with the Fatality Review Team are the same. Where I really object is: *Nothing in this title creates a duty or standard of care for services to children and their families being served under AS 47.10.* Police Officers, EMT's, Paramedics, Nurses and Doctors ALL have duty and standards of care that we must follow! Why should Social Services be held to a lower standard? Of note in this section, "Sec 53. AS 47.14 is amended to: *"...This section does not preclude liability for civil damages as a result of gross negligence or reckless or intentional misconduct"*. Why wasn't this in the previous section pertaining to the Fatality Board? This sentence I do agree with.

One last point, that I have not discussed but must be, is the funding for these teams and the SART/SANE teams. In order to correct the problems we have, not only takes good programs but money to allow those programs to work efficiently. Using SART/SANE as an example, the State Troopers and Social Services pay for the team members time through their department budgets. Once that money is gone do the rapes stop? As to the Nurse Practitioners, they are funded by Valley Hospital (payroll) and a Federal Grant. However, the Grant money is being depleted, again, when that is gone will rapes stop until more funding is available? I am not opposed to funding programs that work! I am however, very vocally opposed to throwing money at a problem without a history of quality results!

In closing, the intent in these sections is to develop a team approach in investigating child abuse fatalities and child abuse. I applaud this! Now, take this intent, look closely at what already works, the SART/SANE Teams, and develop programs that will work based on success!

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Alaska State Legislature

Please enter into the record my testimony to the _____
committee on HB 375 (committee name) dated March 12, '98
bill/subject

I am in favor of passage of the
Smart Start legislation because it
acknowledges the importance of early
child care and because it addresses
health, prevention and protection.
Early health care and support of parents
and foster parents will, in the long
run, benefit our society and our economy.
I am pleased to see that foster parents
are included in this bill. As a former foster
parent and as a current foster parent trainer
& support provider, I know the incredible
responsibility given foster parents. The
stipend which foster parents receive

Signed: Ann Finney Phone: 247-2356 (H)
225-4135 (W)
Representing (Optional)
Address 14767 N. Tongass, Ketchikan, AK
99901

Fax transmitted from Ketchikan Legislative Information Office
Phone: 225-9675 Fax: 225-8546

Alaska State Legislature

Please enter into the record my testimony to the _____
committee on HB 375 (committee name), dated 9-18-98.
bill/subject:

is not pay for their efforts, but a reimbursement for expenses. In many cases, the daily stipend is less than the cost of a few hours of child care. Therefore, the amount proposed for respite care will benefit foster parents greatly. Presently, foster parents must pay for child care while attending required foster parent training. The provision of respite care will help foster parents participate in training and have a break from the difficult job they are doing for our society.

Signed:

Grace Kinney
Testifier

Phone: 947-2356

Representing (Optional)

Address

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March 12, 1998

Dear HESS Committee Representatives:

On March 5th, the HESS Committee held a public hearing on House Bill 375 (Crimes Against Children). Susan Wibker stated that this piece of legislation was based in part on Public Law 105-89 (The Adoption and Safe Families Act of 1997). As a staunch child advocate, a member of "Hear My Voice" and "Parents United for Custodial Justice" ("Hear My Voice", a national organization that advocates for safe, permanent homes for all children and worked with other child advocacy organizations for the passage of PL 105-89), I am disheartened at HB 375's attempt to comply with PL 105-89. After a week of research, which includes speaking with US Congressman Camp's office (the sponsor of PL 105-89), I present the following argument against this piece of legislation and hope for its rejection.

PL 105-89 was enacted to promote reasonable efforts for the placement of foster care children that are languishing in the system to permanent, safe homes. Reports from the National Center for the Prevention of Child Abuse have added up years of rising child abuse deaths in this country. Each year, 1,200 to 2,000+ children die of abuse and neglect at the hands of their caregivers. Of deceased children, over 80 percent are four years of age and younger, and over 50 percent are infants under one year of age. Worse yet, *almost fifty percent of all children who have been killed by their caregivers die following or during an open child welfare contact. In other words, these children were killed after having been sent or left home by child welfare workers.* It has been the public outcry of these cases, most tragic was that of Elisa Izquierdo in New York, that demanded Congress to act and put together legislation that finally clarifies that the safety and permanence of abused and neglected children. Enactment of this law begins to correct seventeen years of suffering children have had to endure due to legislation created in the 80's (PL 96-272). By understanding what prompted this Congress to act, please understand why HB 375 can't be passed the way it is written.

There is no language in the federal law that demands DFYS to become a "police force". Why is the continued language about what is a crime and prison terms outlined here? Why isn't it a crime to commit these acts all ready and why aren't they in our criminal codes, investigated by the police and sentenced by judges? You will be bring CSED into this legislation with the language of criminal non-support. These areas are not part of the federal law.

The federal law clearly mandates that if a parent has subjected a child (or that child's sibling) to abuse (abandonment, torture, sexual abuse) that these are grounds for termination. Up until this law, parents have been able to have their children returned to them (current cases in the District of Columbia and Wisconsin have made national news) even when they have murder another

of Columbia and Wisconsin have made national news) even when they have murder another child. Social workers and judges have repeatedly said that it is mandated by law to reunify the family (at any cost, Elisa and little Lance Helms of CA). To have this language in HB 375 will granted DFYS the same powers as our police force and judicial system. This may not be apparent at this moment but it will happen and most noted, it is not what Congress intended or wrote.

Another issue in this bill, not written in the federal law, is the immunity of the Child Fatality Review Team. Why do they need immunity. Personally, I become nervous when there is no accountability in an area of public service. We don't continually sue our coroners, unless they make a horrible error and are held accountable, why should we be granting immunity to the Child Fatality Review Team? This is not in the federal law.

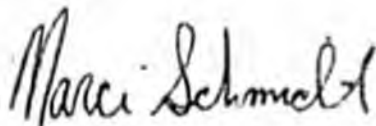
HB 375 has no language regarding the use of the Federal Parent Locator Service to assist with the enforcement of child custody or visitation orders. If a parent has been forced out of a child's life and comes into the foster care system, where is the language on locating that parent within a reasonable amount of time. This is in the federal law but not HB 375.

The one area that no one has mentioned is money. If PL 105-89 is not placed into Alaskan law, DFYS could lose an estimated 30 million dollars in federal funds. It would distress many people if this bill is being passed on money issues. HB 375 should have been written to follow the federal law regarding the adoption and placement of foster care children, not as an opportunity to add extra power and immunity because money will be lost if some form of the federal law isn't passed. HB 375 needs go back to the writing table with the first and foremost effort in following the federal law pristine. It will do more damage than good if passed in this form.

Our children's' lives should not be bought off with this bill. Please consider the State of Colorado as an example of compliance. Short, sweet and simple. I included this ten page piece of legislation in the hopes that you will make DFYS and the Governor go back and ask for what is written in PL 105 89 (word for word) and not what can be seen as an opportunity to add on language that is not federal intent.

Remember, many children have died to make PL 105-89 a reality. Don't let more children suffer another seventeen years to correct Aleska's law if HB 375 is passed. Thank you for your time and consideration with regard to this matter and for letting the voices of children be heard in this letter.

Sincerely,



Marci Schmidt
Parent and Child Advocate

[Click here for Fiscal Note](#)

Second Regular Session

Sixty-first General Assembly

LLS NO. 98-0560.01 JGG HOUSE BILL 98-1307

STATE OF COLORADO

BY REPRESENTATIVES Keller and K. Alexander;

also SENATOR Hopper.

JUDICIARY

A BILL FOR AN ACT

CONCERNING IMPLEMENTATION OF THE FEDERAL "ADOPTION AND SAFE FAMILIES ACT OF 1997".

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes the following changes to the "Colorado Children's Code" in order to comply with the federal "Adoption and Safe Families Act of 1997":

! Recognizes that one of the goals of all child placement decisions is the safety of the child;

! Defines the term "foster care" as the placement of a child into the legal custody or authority of a county department of social services for residence in a certified or licensed facility;

! Amends the definition of "reasonable efforts" to specify that in determining whether reasonable efforts are appropriate, the child's health and safety is to be the paramount concern;

! In determining reasonable efforts with respect to a child, requires a guardian ad litem to make the child's health and safety the paramount concern;

! Requires the court to provide to foster parents, preadoptive parents, or relative providing care to a child notice of hearings and review concerning the child, and specifies that the notices shall not reveal addresses, last names, or other identifying information;

! Directs the court to proceed with a permanency planning hearing when it finds that an appropriate treatment plan cannot be devised;

! Specifies that efforts to place a child for adoption or with a legal guardian may be made concurrently with reasonable efforts to reunify the family;

! With regard to the criteria for terminating the parent-child relationship, changes the phrase "gravely disabling" injury to "serious bodily" injury and adds existence of an identifiable pattern of sexual abuse of the child as a criterion;

! Makes the fact that a child has been in foster care for 15 of the most recent 22 months a basis for termination of parental rights unless certain factors exist;

! Makes the murder or the voluntary manslaughter of a child's sibling and related inchoate crimes the basis for termination of parental rights;

! Makes felony assault that results in serious bodily injury to the child or another child of the parent a basis for termination of parental rights;

! Requires a permanency planning hearing to be held no later than 12, rather than 18, months after the child has entered foster care;

! States that a child is deemed to have entered foster care at the time of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is 60 days after the child was removed from his or her home, whichever is earlier;

! Directs the permanency planning hearing to occur no later than 30 days after a determination that an appropriate treatment plan cannot be devised;

! Specifies what the court findings shall include with respect to placement goals for the child;

! Changes focus of periodic reviews to the safety of the child;

! Requires the county department of social services or child placement agency to conduct a criminal background check of the prospective adoptive parent and directs the court to deny the final adoption decree if it determines that the prospective adoptive parent has been convicted of certain felony offenses.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 19-3-100.5, Colorado Revised Statutes, is amended to read:

19-3-100.5. Legislative declaration. (1) The general assembly hereby finds and declares that the stability and preservation of the families of this state and the safety and protection of children are matters of statewide concern. The general assembly finds that the federal "Adoption Assistance and Child Welfare Act of 1980", Federal Public Law 96-272, requires that each state

make a commitment to make "reasonable efforts" to prevent the placement of abused and neglected children out of the home and to reunify the family whenever appropriate.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT THE FEDERAL "ADOPTION AND SAFE FAMILIES ACT OF 1997", FEDERAL PUBLIC LAW 105-89, CLARIFIES WHAT CONSTITUTES "REASONABLE EFFORTS" BY DECREERING THAT WHEN DECIDING WHETHER TO MAKE SUCH EFFORTS AND IN THE PROCESS OF MAKING SUCH EFFORTS, THE HEALTH AND SAFETY OF THE CHILD IS THE PARAMOUNT CONCERN. THIS FEDERAL LAW FURTHER ENCOURAGES EXPEDITING PERMANENCY PLANNING FOR CHILDREN IN OUT-OF-HOME PLACEMENT BY REMOVING BARRIERS TO PERMANENCY AND STREAMLINING ENTITLEMENT SERVICES. THE LAW SPECIFIES THAT ONE OF THE GOALS OF ALL PLACEMENT DECISIONS, WHETHER LEAVING THE CHILD IN THE HOME OR PLACING THE CHILD OUTSIDE THE HOME, IS SAFETY FOR THE CHILD.

(3) The general assembly further finds that the implementation of the federal "Adoption Assistance and Child Welfare Act of 1980", Federal Public Law 96-272, is not the exclusive responsibility of the state department of social services or of local departments of social services. Elected officials at the state and local levels must ensure that resources and services are available through state and local social services agencies and through the involvement of the resources of public and private sources. Judges, attorneys, and guardians ad litem must be encouraged to take independent responsibility to ensure that "reasonable efforts" TO PREVENT OUT-OF-HOME PLACEMENTS have been made ONLY WHEN APPROPRIATE, THAT PERMANENCY OCCURS FOR CHILDREN IN FOSTER CARE, AND THAT SAFE CHILD PLACEMENTS OCCUR in each case.

(4) Therefore, in order to carry out the requirements addressed in this section, and to decrease the need for out-of-home placement, the general assembly shall define "reasonable efforts" and identify the services and processes which THAT must be in place to ensure that "reasonable efforts" have been made. The general assembly shall provide that "reasonable efforts" are deemed to be met when a county or city and county provides services in accordance with section 19-3-208.

SECTION 2. 19-1-103 (89), Colorado Revised Statutes, is amended, and the said 19-1-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-1-103. Definitions. As used in this title or in the specified portion of this title, unless the context otherwise requires:

(51.3) "FOSTER CARE" MEANS THE PLACEMENT OF A CHILD INTO THE LEGAL CUSTODY OR LEGAL AUTHORITY OF A COUNTY DEPARTMENT OF SOCIAL SERVICES FOR PHYSICAL PLACEMENT OF THE CHILD IS IN A CERTIFIED OR LICENSED FACILITY.

(89) "Reasonable efforts", as used in article 3 of this title, means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement, to provide, purchase, or develop the supportive and rehabilitative services to the family that are required both to prevent unnecessary placement of children outside of such children's homes and to foster, whenever appropriate, the SAFE reunification of children with the families of such children. IN DETERMINING WHETHER REASONABLE EFFORTS ARE APPROPRIATE, AS DESCRIBED IN SECTION 19-3-208, AND IN MAKING SUCH REASONABLE EFFORTS, THE CHILD'S HEALTH AND SAFETY SHALL BE THE PARAMOUNT CONCERN. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (89). Nothing in this subsection (89) shall be construed to conflict with federal law. SECTION 3. 19-3-203 (3), Colorado Revised Statutes, is amended to read:

19-3-203. Guardian ad litem. (3) The guardian ad litem shall be charged in general with the representation of the child's interests. To that end, the guardian ad litem shall make such further investigations as the guardian ad litem deems necessary to ascertain the facts and shall talk with or observe the child involved, examine and cross-examine witnesses in both the adjudicatory and dispositional hearings, introduce and examine the guardian ad litem's own witnesses, make recommendations to the court concerning the child's welfare, appeal matters to the court of appeals or the supreme court, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the guardian ad litem, if in the best interest of the child, shall seek to assure that reasonable efforts are being made to prevent unnecessary placement of the child out of the home and to facilitate reunification of the child with the child's family. IN DETERMINING WHETHER SAID REASONABLE EFFORTS ARE MADE WITH RESPECT TO A CHILD, AND IN MAKING SUCH REASONABLE EFFORTS, THE CHILD'S HEALTH AND SAFETY SHALL BE THE PARAMOUNT CONCERN.

SECTION 4. 19-3-502, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-3-502. Petition form and content - limitations on claims in dependency or neglect actions - notice. (7) THE COURT SHALL PROVIDE NOTICE OF ALL HEARINGS AND REVIEWS HELD REGARDING A CHILD TO FOSTER PARENTS, PREADOPTIVE PARENTS, OR RELATIVES PROVIDING CARE TO THE CHILD. SUCH PERSONS SHALL BE PROVIDED THE OPPORTUNITY TO BE HEARD AT SUCH HEARINGS AND REVIEWS. THE FOSTER PARENT, PREADOPTIVE PARENT, OR RELATIVE PROVIDING CARE TO A CHILD SHALL NOT BE MADE A PARTY TO THE ACTION FOR PURPOSES OF ANY HEARINGS OR REVIEWS SOLELY ON THE BASIS OF SUCH NOTICE AND OPPORTUNITY TO BE HEARD. NOTICE OF HEARINGS AND REVIEWS SHALL NOT REVEAL TO THE RESPONDENT PARENT OR OTHER RELATIVE THE ADDRESS, LAST NAME, OR OTHER SUCH IDENTIFYING INFORMATION REGARDING ANY PERSON PROVIDING CARE TO THE CHILD.

SECTION 5. 19-3-508 (1) (e) (1), Colorado Revised Statutes, is amended, and the said 19-3-508 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19-3-508. Neglected or dependent child - disposition - concurrent planning. (1) When a child has been adjudicated to be neglected or dependent, the court may enter a decree of disposition the same day, but in any event it shall do so within forty-five days unless the court finds that the best interests of the child will be served by granting a delay. In a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the court shall enter a decree of disposition within thirty days after the adjudication and shall not grant a delay unless good cause is shown and unless the court finds that the best interests of the child will be served by granting the delay. It is the intent of the general assembly that the dispositional hearing be held on the same day as the adjudicatory hearing, whenever possible. If a delay is granted, the court shall set forth the reasons why a delay is necessary and the minimum amount of time needed to resolve the reasons for the delay and shall schedule the hearing at the earliest possible time following the delay. When the proposed disposition is termination of the parent-child legal relationship, the hearing on termination shall not be held on the same date as the adjudication, and the time limits set forth above for dispositional hearings shall not apply. When the proposed disposition is termination of the parent-child legal relationship, the court may continue the dispositional hearing to the earliest available date for hearing in accordance with the provisions of part 6 of this article. When the decree does not terminate the parent-child legal relationship, the court shall approve an appropriate treatment plan that shall include but not be limited to one or more of the following provisions of paragraphs (a) to (d) of this subsection (1):

(c) (1) Except where the proposed disposition is termination of the parent-child legal relationship, the court shall approve an appropriate treatment plan involving the child named and each respondent named and served in the action. However, the court may find that an appropriate treatment plan cannot be devised as to a particular respondent because the child has been abandoned as set forth in section 19-3-604 (1) (a) and the parents cannot be located, or because the child has been adjudicated as neglected or dependent based upon section 19-3-102 (2), or due to the unfitness of the parents as set forth in section 19-3-604 (1) (b). WHEN THE COURT FINDS THAT AN APPROPRIATE TREATMENT PLAN CANNOT BE DEVISED, THE COURT SHALL CONDUCT A PERMANENCY PLANNING HEARING AS SET FORTH IN SECTION 19-3-702 (1).

(7) EFFORTS TO PLACE A CHILD FOR ADOPTION OR WITH A LEGAL GUARDIAN MAY BE MADE CONCURRENTLY WITH REASONABLE EFFORTS TO PRESERVE AND REUNIFY THE FAMILY.

SECTION 6. 19-3-604 (1) (b), Colorado Revised Statutes, is amended, and the said 19-3-604 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-3-604. Criteria for termination. (1) The court may order a termination of the parent-child legal relationship upon the finding by clear and convincing evidence of any one of the

following:

(b) That the child is adjudicated dependent or neglected and the court finds that no appropriate treatment plan can be devised to address the unfitness of the parent or parents. In making such a determination, the court shall find one of the following as the basis for unfitness:

(I) That the parent or parents have surrendered physical custody of the child for a period of six months or more and have not manifested during such period the firm intention to resume physical custody of the child or to make permanent legal arrangements for the care of the child except in cases when voluntary placement is renewable under section 19-3-701 (1);

(II) A single incident resulting in a ~~gravely disabling~~ SERIOUS BODILY injury or disfigurement of the child;

(III) Long-term confinement of the parent of such duration that the parent is not eligible for parole for at least six years after the date the child was adjudicated dependent or neglected or, in a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), the long-term confinement of the parent of such duration that the parent is not eligible for parole for at least thirty-six months after the date the child was adjudicated dependent or neglected and the court has found by clear and convincing evidence that no appropriate treatment plan can be devised to address the unfitness of the parent or parents;

(IV) ~~Gravely disabling~~ SERIOUS BODILY injury or death of a sibling due to proven parental abuse or neglect;

(V) An identifiable pattern of habitual abuse to which another child has been subjected and, as a result of which, a court has adjudicated another child as neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such abuse has caused the death of another child;

(VI) AN IDENTIFIABLE PATTERN OF SEXUAL ABUSE OF THE CHILD.

(d) THAT THE CHILD HAS BEEN IN FOSTER CARE UNDER THE RESPONSIBILITY OF THE COUNTY DEPARTMENT FOR FIFTEEN OF THE MOST RECENT TWENTY-TWO MONTHS, UNLESS:

(I) THE CHILD IS BEING CARED FOR BY A RELATIVE OF THE CHILD;

(II) THE COUNTY DEPARTMENT OR A STATE AGENCY HAS DOCUMENTED IN THE CASE PLAN, WHICH SHALL BE AVAILABLE FOR COURT REVIEW, A COMPELLING REASON FOR DETERMINING THAT FILING SUCH A PETITION WOULD NOT BE IN THE BEST INTERESTS OF THE CHILD; OR

(III) THE STATE HAS NOT MADE REASONABLE EFFORTS TO ASSURE THAT

SERVICES HAVE BEEN PROVIDED TO THE FAMILY AND CHILD FOR THE SAFE RETURN OF THE CHILD TO THE CHILD'S HOME.

SECTION 7. The introductory portion to 19-3-604 (2) and 19-3-604 (2) (d) and (2) (g), Colorado Revised Statutes, are amended, and the said 19-3-604 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

19-3-604. Criteria for termination. (2) In determining unfitness, conduct, or condition for purposes of paragraph (c) of subsection (1) of this section, the court shall find that continuation of the legal relationship between parent and child is likely to result in grave risk of death or serious BODILY injury to the child or that the conduct or condition of the parent or parents renders the parent or parents unable or unwilling to give the child reasonable parental care to include, at a minimum, nurturing and safe parenting sufficiently adequate to meet the child's physical, emotional, and mental health needs and conditions. In making such determinations, the court shall consider, but not be limited to, the following:

(d) A single incident of life-threatening or ~~gravely disabling~~ SERIOUS BODILY injury or disfigurement of the child;

(g) Injury or death of a sibling due to proven parental abuse or neglect, MURDER, VOLUNTARY MANSLAUGHTER, OR CIRCUMSTANCES IN WHICH A PARENT AIDED, ABETTED, OR ATTEMPTED THE COMMISSION OF OR CONSPIRED OR SOLICITED TO COMMIT MURDER OF A CHILD'S SIBLING;

(j) WHETHER A PARENT COMMITTED FELONY ASSAULT THAT RESULTED IN SERIOUS BODILY INJURY TO THE CHILD OR TO ANOTHER CHILD OF THE PARENT.

SECTION 8. 19-5-105 (3.1) (a) (II), Colorado Revised Statutes, is amended to read:

19-5-105. Proceeding to terminate parent-child legal relationship. (3.1) The court may order the termination of the other birth parent's parental rights upon a finding that termination is in the best interests of the child and that there is clear and convincing evidence of one or more of the following:

(a) That the parent is unfit. In considering the fitness of the child's parent, the court shall consider, but shall not be limited to, the following:

(II) A single incident of life-threatening or ~~gravely disabling~~ SERIOUS BODILY injury or disfigurement of the child or other children;

SECTION 9. 19-3-702 (1), (3), (4), and (6), Colorado Revised Statutes, are amended to read:

19-3-702. Permanency planning hearing. (1) In order to provide stable permanent homes for children in as short a time as possible, a court on its own motion or upon motion brought by any

party shall conduct a permanency planning hearing if a child cannot be returned home under section 19-1-115 (4) (b) for the purpose of making a determination regarding the future status of the child. Such permanency planning hearing shall be held as soon as possible following the dispositional hearing but shall be held no later than ~~eighteen months after the original placement~~ **TWELVE MONTHS AFTER THE DATE THE CHILD IS CONSIDERED TO HAVE ENTERED FOSTER CARE** and from time to time as deemed necessary by the court; except that, in a county designated pursuant to section 19-1-123, if the child is under six years of age at the time a petition is filed in accordance with section 19-3-501 (2), such permanency planning hearing shall be held no later than three months after the decree of disposition of the child. A **CHILD SHALL BE CONSIDERED TO HAVE ENTERED FOSTER CARE ON THE DATE OF THE FIRST JUDICIAL FINDING THAT THE CHILD HAS BEEN SUBJECTED TO CHILD ABUSE OR NEGLECT OR THE DATE THAT IS SIXTY DAYS AFTER THE DATE ON WHICH THE CHILD WAS REMOVED FROM THE HOME, AS PROVIDED FOR IN SECTION 19-3-403 (2), WHICHEVER IS EARLIER. IF THE COURT FINDS THAT AN APPROPRIATE TREATMENT PLAN CANNOT BE DEvised AT A DISPOSITIONAL HEARING IN ACCORDANCE WITH SECTION 19-3-508 (1) (e) (I), THE PERMANENCY PLANNING HEARING SHALL BE HELD NO LATER THAN THIRTY DAYS AFTER SUCH DETERMINATION. WHERE POSSIBLE, the permanency planning hearing shall be combined with the six-month review as provided for in section 19-1-115 (4) (c).**

(3) Except as provided in subsection (2.5) of this section, at the permanency planning hearing, the court shall first determine whether the child ~~should~~ **SHALL** be returned to the child's parent or guardian, pursuant to section 19-1-115 (4) (b) **AND, IF APPLICABLE, THE DATE ON WHICH THE CHILD SHALL BE RETURNED.** If the child is not returned to the custody of the child's parent or guardian, the court shall determine whether there is a substantial probability that the child will be returned to the physical custody of the child's parent, guardian, or legal custodian within ~~six~~ months. If the court so determines, it shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(4) If the court determines that the child cannot be returned to the physical custody of such child's parent or guardian and that there is not a substantial probability that the child will be returned to the physical custody of such child's parent or guardian within six months, the court shall enter an order determining the future status or placement of the child. Any court order regarding future status or placement of a child out of the home shall include specific findings concerning the placement goal for the child. Such findings shall include a determination of whether the placement goal for the child is that the child be returned to the parent, ~~continue in foster care for a specified period, remain in foster care on a permanent or long-term basis because of special needs or circumstances, be placed for adoption, be placed in legal guardianship or guardianship of the person, or be considered for emancipation or independent living~~ **BE REFERRED FOR LEGAL GUARDIANSHIP, OR BE PLACED FOR ADOPTION, IN WHICH CASE THE COUNTY DEPARTMENT SHALL FILE A PETITION FOR TERMINATION OF PARENTAL RIGHTS. IN CASES IN WHICH THE COUNTY DEPARTMENT HAS DOCUMENTED TO THE COURT A COMPELLING REASON FOR**

DETERMINING THAT IT WOULD NOT BE IN THE BEST INTERESTS OF THE CHILD TO RETURN HOME, THE COURT'S FINDINGS SHALL INCLUDE A DETERMINATION OF WHETHER THE PLACEMENT GOAL FOR THE CHILD IS THAT THE CHILD BE REFERRED FOR TERMINATION OF PARENTAL RIGHTS, BE PLACED FOR ADOPTION, BE PLACED WITH A FIT AND WILLING RELATIVE, BE PLACED WITH A LEGAL GUARDIAN, OR BE PLACED IN ANOTHER PERMANENT LIVING ARRANGEMENT.

(6) Periodic reviews conducted by the court or, if there is no objection by any party to the action, in the court's discretion, through an administrative review conducted by the state department of human services, shall determine WHETHER THE CHILD'S SAFETY IS PROTECTED IN THE PLACEMENT, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care and shall project a likely date by which the child may be returned to AND SAFELY MAINTAINED AT the home, placed for adoption, legal guardianship, or guardianship of the person, or be placed in another permanent SAFE placement setting.

SECTION 10. 19-5-207, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

19-5-207. Written consent and report - criminal records check. (2.5) (a) IN ALL PETITIONS FOR ADOPTION, WHETHER BY THE COURT, THE COUNTY DEPARTMENT OF SOCIAL SERVICES, OR CHILD PLACEMENT AGENCIES, IN ADDITION TO THE WRITTEN REPORT DESCRIBED IN SUBSECTION (2) OF THIS SECTION, THE COURT SHALL REQUIRE EITHER THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE CHILD PLACEMENT AGENCY TO CONDUCT A CRIMINAL RECORDS CHECK FOR ANY PROSPECTIVE ADOPTIVE PARENT AND TO REPORT TO THE COURT ANY CASE IN WHICH A RECORD CHECK REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED AT ANY TIME OF FELONY CHILD ABUSE OR NEGLECT, SPOUSAL ABUSE, ANY CRIME AGAINST A CHILD, OR ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE, EXCLUDING OTHER PHYSICAL ASSAULT OR BATTERY OR IF THE RECORD CHECK REVEALS THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED IN THE FIVE YEARS IMMEDIATELY PRECEDING THE ADOPTION OF FELONY PHYSICAL ASSAULT, BATTERY, OR A DRUG-RELATED OFFENSE.

(b) THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES SETTING FORTH THE PROCEDURES FOR THE CRIMINAL RECORDS CHECK DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (2.5).

SECTION 11. 19-5-207 (6), Colorado Revised Statutes, is amended to read:

19-5-207. Written consent and report. (6) The department shall establish rules and regulations that provide for county departments of social services to charge a fee, not to exceed

five hundred dollars in the case of a first adoption and not to exceed two hundred fifty dollars for a second or subsequent adoption by the same party or parties, for reports, and investigations, AND CRIMINAL RECORDS CHECKS provided in accordance with this article.

SECTION 12. 19-5-210 (2) and (4), Colorado Revised Statutes, are amended to read:

19-5-210. Hearing on petition. (2) No sooner than six months after the date of the placement, unless for good cause shown that time is extended or shortened by the court, the court shall hold a hearing on the petition and shall enter a decree setting forth its findings and grant to the petitioner a final decree of adoption if it is satisfied as to:

(a) The availability of the child for adoption;

(b) The good moral character, the ability to support and educate the child, and the suitability of the home of the person adopting such child;

(b.5) THE CRIMINAL RECORDS CHECK OF THE PROSPECTIVE ADOPTIVE PARENT AS REPORTED TO THE COURT BY THE COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE CHILD PLACEMENT AGENCY PURSUANT TO SECTION 19-5-207 (2.5) DOES NOT REVEAL A CRIMINAL HISTORY DESCRIBED IN 19-5-207 (2.5) (a);

(c) The mental and physical condition of the child as a proper subject for adoption in said home; and

(d) The fact that the best interests of the child will be served by the adoption.

(4) If, after the hearing, the court is not satisfied as to the matters listed in subsection (2) of this section, the petition for adoption may be either continued or dismissed in the discretion of the court. IF THE COURT DETERMINES THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED AT ANY TIME BY A COURT OF COMPETENT JURISDICTION OF FELONY CHILD ABUSE OR NEGLECT, SPOUSAL ABUSE, ANY CRIME AGAINST A CHILD, OR ANY CRIME INVOLVING VIOLENCE, RAPE, SEXUAL ASSAULT, OR HOMICIDE, EXCLUDING OTHER PHYSICAL ASSAULT OR BATTERY OR IF THE COURT DETERMINES THAT THE PROSPECTIVE ADOPTIVE PARENT WAS CONVICTED SOMETIME DURING THE FIVE YEARS IMMEDIATELY PRECEDING THE ADOPTION OF FELONY PHYSICAL ASSAULT, BATTERY, OR A DRUG-RELATED OFFENSE, THEN THE COURT SHALL NOT GRANT THE DECREE OF FINAL ADOPTION.

SECTION 13. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to causes of action commenced on or after said date.

SECTION 14. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE H.E.S.S.
 Committee on HB 375 Committee Name Dated 3-12-98
Bill / Subject

MY TESTIMONY WAS
 CENSORED BY CHAIRMAN
 CON BUNDE, SO THAT
 PROPONENTS OF HB 375
 WOULD BE PREDOMINANT;
 AND, TODAY, FAVORABLE
 TESTIMONY HAS BEEN
 MARSHALLED FROM AMONG
 AGENCIES AND SEVERAL OTHER
 SPECIAL INTERESTS.

I HAVE NOTED CENSORSHIP
 ON THE PUBLIC HEARING SIGNUP LIST.

SIGNED:

Scott Calder
 Testifier

SCOTT TRAFFORD CALDER
 Representing

P.O. 75011 FBKS 99707/474-0174
 Address / Phone Number

Alaska State Legislature

Please enter into the record my testimony to the HESSE Committee
 committee on 375 / (committee name)
 bill/subject dated _____

I urge you to support this bill
for all Alaskan children. I have been a
foster parent for over 20 years and
strongly support a permanent plan be
implemented after 12 months instead
of the 18 months now in place. Too many
of these kids are ~~long~~ lingering in foster
care. These kids deserve a permanent
home and parents and social workers need
to be held responsible. I also am on
the review board as a community representative
I have seen children remain in foster care
for many years - often too long to be able
to be placed for adoption. I am now seeing
infants I had many years ^{as emergency placement} ago now in the
criminal system. We need to prevent this cycle.

Signed:

Jacquie O'Sullivan Phone: 225-4378

Foster Parent & Adoptive Parent

Representing (Optional)

1758 - 15th Ave.

Address Ketchikan

Fax transmitted from Ketchikan Legislative Information Office
 Phone: 225-9675 Fax: 225-8546

Palmer Junior Middle School

1159 S. Chugach, Palmer, Alaska 99645
Phone 745-3812 745-3028
Fax 907-745-4833
George Troxel, Principal
Phil Milton, Assistant Principal

3/12/98

To Whom it May Concern:

I would like to show my support for the Division of Youth and Family Services and the Child Protective Services. Since 1980, the population of the Mat-Su Valley has increased 400% with no increase in staffing to support children's safety.

With over 1400 reports of possible child abuse or neglect - investigations can only be done on about 600 - less than 50%.

This program is an invaluable part of the child safety net in the valley. Without the ability to investigate and act on findings - our children will be at risk.

Shelley W. Filton ED
school nurse

P O Box 871631
Wasilla 99687-1631
746-1674



Alaska State Legislature

Please enter into the record my testimony to the House HESS
committee name

committee on HB #375 . dated March 12, '98
bill/subject

Thank-you for this opportunity to speak.
My concern is with sec. 11, on page 9 which "criminalizes non-payment in the first degree for a parent under a support order (sec. 11(b)), and sec. 12, on page 10, which "criminalizes in the second degree for non-support of a support order with arrearages over \$10,000. Our jails are already full; so why should we criminalize more non-custodial parents for non-payment. Please delete sec. 11 & 12 as these are not detailed enough & would probably be "misconstructed" & criminalize an innocent parent. These sec. 11 & 12 do not belong in this bill. Please delete sec. 11 & 12 from this Bill.

Please read seriously read Marci Schmidt's letter relating to Public Law 105-89. We believe that this bill ~~was~~ ^{was} written according to Public Law 105-89, but does a very poor job, & is so vague.

Signed: _____

Testifier

"Parents United for Custodial Justice"

Representing (Optional)

P.O. Box 2402, Palmer, AK 99645

Address

746-2863

Phone No.

TO: House Health, Education and Social Services Committee
 From: Mary Lou Canney
 re: HB 375, before the House HESS Committee, March 12, 1998

I would like to relate a story about my sister-in-law who lives in Holy Cross, Ak. Two Thanksgivings ago she spent the day with us because she was staying at an alcohol treatment center in Fairbanks. She was sort of proud of herself because she was moving along in her program and was looking forward to going back to Holy Cross soon. She told me that she was almost finished with her "phrases" and then she would be finished. I asked her what the "phrases" were. She said that after she talked to her counselor she wrote phrases on paper to answer questions.

Two days later she called to say that she was kicked out of the program, and could she stay with us for a day until she could get a flight home. I asked why she was kicked out and she didn't know. She let me talk to her counselor. The counselor said that she had not moved from the second phase in a timely manner. I asked the counselor if she realized that my sister-in-law did not understand the program, did not even understand that there were Phases and not "phrases". It is disturbing to me that the counselor did not pick up on this basic fact! This is more disturbing than the fact that the woman from Holy Cross had not understood the program.

Can you terminate someone's rights when the treatment has been innappropriate and ineffective? Actually it did more harm than good because it was another failure for the client.

I am not a radical parents rights advocate. I fall on the side of the child.

I do not believe in having children in foster homes for years. But I also know we do not have a system that can support the families to get back on track. I often get calls from foster parents who are referring to the child as "possible foster adopt" when the child has just been taken away from the parents. I would not like to see them give up on me immediately and I'm sure you wouldn't either.

I hope that DFYS can put the following in place:

Professional foster homes that are trained to work with the families aggressively and immediately to get the children back in the home. This would mean foster homes that were paid well enough to do this as a job. Supports that include respite, transportation, parenting, support groups, in home visiting and meeting basic needs.

Social workers that are trained to have the view that the child belongs with the parent and the sooner the better and the expertise to make it happen.

As a person who has been sober for 14 years I can tell you that support is the only thing that will work. I often say that having a car and a high school diploma made the difference between my success and someone else's failure.

We don't have enough foster homes for the amount of children that this bill is talking about. Aside from the fact that the children will be loyal to their parents. It is something that you can't take away from these children. And it is worse if they are FAS or FAE because loyalty is one of their biggest traits. **We should look honestly and realistically at the homes and realize that some parents will never be able to be the full time care giver for their child. This is true for a lot of parents who are FAS or FAE themselves.** They have value for their children but will need open adoptions or some kind of supported living to remain part of their child's life.

These are very difficult issues that are being looked at. I am glad that DFYS is there and does the hard job that they do. As a family advocate at Head Start I was glad they were there to step in when needed. I know that they save lives even though it only hits the newspaper when there is a death. I appreciate their honesty when they reviewed their department this year.

Thank You.

Mary Lou Canney

1-888-456 6770



Alaska State Legislature

Please enter into the record my testimony to the HES Committee
 committee name
 committee on HB 375 , dated March 12, 1998 .
 bill/subject

Dear Representatives:

I urge you separate the foster care language from the crimes against children portion. We need RL 105-89 implemented desperately. The two areas combine will leave chaos in its path. Please divide so we can review the criminal sections and adhere to the federal sections

Signed: Marc Schmitt
 Testifier

Representing (Optional)
2040 Wasilla Fishhook Rd Wasilla 99654
 Address

907-357-3618
 Phone No.

AMENDMENT

OFFERED IN THE HOUSE

BY

Brice

TO: HB 375

1 Page 4, line 4:

2 Following "(A)":

3 Insert "Matter of J.L.F., 912 P.2d 1255 (Alaska 1996)."

4 Following "In Re S.A., 912 P.2d 1235 (Alaska 1996)"

5 Insert ","

6 Page 8, line 6, following "not present, and"

7 Insert "knowing"

8 Page 10, lines 5 - 7:

9 Delete all material

10 Insert "(2) the person

11 (A) is required to make payments by a support order issued under

12 AS 25.27;

13 (B) without lawful excuse fails to make payments as required by the

14 order; and

15 (C) owes over \$10,000 in support under the order."

16 Page 11, lines 29 - 30:

17 Delete all material

18 Insert "(2) the next working day following [SEVEN DAYS OF] conviction for a sex
19 offense if the sex offender is not incarcerated at the time of conviction [SENTENCED TO
20 A TERM OF INCARCERATION]; or

21 Page 23, line 10, following "substances;":

1 Insert "if a court has found that a child is a child in need of aid under this paragraph."

2 Page 23, line 11, following "custodian":

3 Delete ","

4 Page 23, line 11, following "rehabilitation":

5 Delete "or"

6 Page 23, line 12:

7 Delete "a period of abstinence."

8 Page 23, line 13:

9 Delete "paragraph:"

10 Insert "paragraph, but only if the resumption of use occurs within one year after
11 rehabilitation is terminated:"

12 Page 23, line 20, following "Abandonment.":

13 Insert "(a)"

14 Page 24, following line 15:

15 Insert "(b) In this section, "justifiable cause" includes conduct or an omission by a
16 domestic violence victim to protect that victim or a child in that victim's care from further
17 acts of domestic violence."

18 Page 29, lines 13 - 15:

19 Delete "AS 47.10.142(c) or is committed to the custody of the department under (c)(1)
20 or (3) of this section or AS 47.14.100(c)"

21 Insert "AS 47.10.142(c) OR COMMITTED TO THE CUSTODY OF THE
22 DEPARTMENT UNDER (c)(1) OR (3) OF THIS SECTION OR AS 47.14.100(c)"]"

1 Page 43, following line 24:

2 Insert a new bill section to read:

3 **** Sec. 56.** AS 47.17.020 is amended by adding new subsections to read:

4 (h) This section does not require a person required to report child abuse or
5 neglect under (a)(7) of this section to report emotional harm to a child as a result of
6 exposure to domestic violence as described in AS 47.10.011(a)(8) so long as the
7 person has reasonable cause to believe that the child is in safe and appropriate care and
8 not presently in danger of emotional harm as a result of exposure to domestic violence.

9 (i) This section does not require a person required to report child abuse or
10 neglect under (a)(8) of this section to report the resumption of use of drugs or
11 intoxicants or of a controlled substance as described in AS 47.10.011(a)(10) so long
12 as the person does not have reasonable cause to suspect that a child has suffered harm
13 as a result of the resumption."

14 Renumber the following bill sections accordingly.

15 Page 44, following line 8:

16 Insert a new bill section to read:

17 **** Sec. 59.** 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" include

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
28 violence offender from the child's residence if it is determined that the

1 child or another family or household member is in danger of domestic
2 violence; and

3 (C) services to help protect the child from being placed or
4 having unsupervised visitation with the domestic violence offender until the
5 department determines that the offender has met conditions considered
6 necessary by the department to protect the safety of the domestic violence
7 victim and household members;

8 (2) a person is the victim of domestic violence, the department shall
9 provide the victim with a written notice of the rights of and services available to
10 victims of domestic violence that is substantially similar to the notice provided to
11 victims of domestic violence under AS 18.65.520."

12 Renumber the following bill sections accordingly.

13 Page 44, line 31, following "each person":

14 Insert "older than 16 years of age"

15 Page 48, line 2:

16 Delete "sec. 64"

17 Insert "sec. 66"

18 Page 48, line 9:

19 Delete "sec. 66"

20 Insert "sec. 68"

21 Page 48, line 15:

22 Delete "sec. 68"

23 Insert "sec. 70"

24 Page 48, line 20:

1 Delete "sec. 70"

2 Insert "sec. 72"

3 Page 48, line 25:

4 Delete "sec. 72"

5 Insert "sec. 74"

6 Page 48, line 31:

7 Delete "sec. 74"

8 Insert "sec. 76"

9 Page 49, line 9:

10 Delete "sec. 76"

11 Insert "sec. 78"

APR-01-1996 10:24

GLN LIO

19878225591 P.01



Alaska State Legislature

Please enter into the record my testimony to the HOUSE HESS COMMITTEE
committee name
 committee on HB 375 , dated 3-20-98
bill/subject

1 page from Anchorage Daily News
 dated March 16, 1998

Signed: Walter Struthers
Testifier
GUARDIANS of Family Rights
Representing (Optional)
Box 2246
Address
235-2809
Phone No

WHAT'S HAPPENING: Meet

MONDAY, March 16, 1998



LYNNE CURRY

Fired worker is threat

Question: We just fired a counselor for back-handing a child in his care. This guy has quite a temper and needless to say the firing interview scene wasn't pretty. His parting shot was we'd rue the day we fired him and he'd pay us back if we didn't give him a positive reference when he went for a better job. We assured him that we'd say only positive things about him and that I'd write him a positive letter of reference. I'm concerned because he told me he'd come back tomorrow to pick it up.

Answer: Rue the day how? Is this man violent? If so, you'll want to take precautions such as contacting the police and temporarily retaining a security guard if you feel this man might return to your work site and harm managers, employees or children.

Next, visit an attorney and learn the legal issues that affect any reference comments you give concerning your former employee. You risk legal consequences if you give a favorable recommendation for an employee dismissed for violence on the job. If he becomes violent while working for an employer who hires him based on your reference, anyone he hurts can sue you.

Because your former employee apparently works in jobs in which he deals with children, you need to exercise special care. In *Randi W. vs. Livingston Union School District*, the school hired an administrator based on excellent references from three former employers. What these prior employers

Please see Page F-4, CURRY

Continued from Page F-1

failed to mention was they'd each dismissed this administrator for sexual misconduct. When the administrator molested a 13-year-old student in his office, the student's family sued each of the former employers. Court rulings found each former employer liable for fraud and misrepresentation. In addition to these legal concerns, how will you feel if your former employee hurts a child he encounters in his next job?

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

WHAT'S HAPPENING: Meet

MONDAY, March 16, 1998



LYNNE CURRY

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Question: We just fired a counselor for back-handing a child in his care. This guy has quite a temper and needless to say the firing interview scene wasn't pretty. His parting shot was we'd rue the day we fired him and he'd pay us back if we didn't give him a positive reference when he went for a better job. We assured him that we'd say only positive things about him and that I'd write him a positive letter of reference. I'm concerned because he told me he'd come back tomorrow to pick it up.

Answer: Rue the day how? Is this man violent? If so, you'll want to take precautions such as contacting the police and temporarily retaining a security guard if you feel this man might return to your work site and harm managers, employees or children.

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Please see Page F-4. CURRY

Continued from Page F-1

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Alaska State Legislature

Please enter into the record my testimony to the House HESS
 committee name
 committee on HB# 375 , dated March 20th '98
 bill/subject

HB# 375 - Scrap the bill.

It would take an ~~immense~~ ^{pernicious} amount of fixing in order for this bill to become more inline with the Federal Adoption & Safe Families Act of 1997, for which, I understand, this bill was intended to be written under. It appears to me that families, safe families, & adoption only should be on this bill & Not the sections for criminalizing non-parental child support, a Not my community etc. Please refer to Marc Schmidt's letter sent / faxed on March 12th.

Signed: Carol Palmer

Testifier

myself & "Parents United for Constitutional Justice"
 Representing (Optional)

1 PO Box 24002, Palmer, AK 99645
 Address

(907) 746 2863
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Health, Education & Social Services committee name

committee on HB 375 dated 3-20-98
bill/subject

3 pages

Signed Carrie McKee
Testifier

self
Representing (Optional)

Po Box 2246, Homer, AK 99603
Address

Phone No

①

We the undersigned residents of this state of Alaska, intimately know the family lifestyle of Carrie Mckee and her upbringing of her 6 children. We feel that the actions and allegations perpetrated against Carrie Mckee, and the unwarranted removal of her children from her home are highly illegal, and in itself destructive to this family. We demand that the Mckee children be returned to their home with their mother immediately and the person and/or persons involved in this illegal and unwarranted action be investigated and held accountable for their violations and the damage that has been done to Carrie Mckee and all 6 of her children.

NAME	ADDRESS	PHONE
Charlotte Bradford	P.O. Box 940271 Houston	892-2082
Joni [unclear]	P.O. Box 678933 Wasilla, AK	9987
Margie E. Nelson	P.O. Box 521585 Big Lake	99652
Betty Lowe	P.O. Box 877622 Wasilla AK	99687
Ernie G. Gumbo	P.O. Box 407 Palmer AK	99645
Virginia Williams	P.O. Box 976507 Wasilla AK	746-3676
Matt Overt	P.O. Box 521131 Big Lake	376-3132
Pat [unclear]	376-4476	
Patricia Kay [unclear]	746-5251 (Palmer)	
[unclear]	Big Lake	746-7722
[unclear]	746-5722 (Palmer)	none
Don J. [unclear]	52 Box 228 Talaruk, AK	733-1416
Lisa [unclear]	32 728 Talaruk, AK	733-1416
Amy [unclear]	P.O. Box 878323 Wasilla, AK	99687-779 373-5615
JERRY NELSON	P.O. Box 521585 Big Lake	99652
E. [unclear]	Box 1027 Palmer AK	99645
Doug Anderson	P.O. Box 521585 Big Lake	N/A
Dona Wilson	P.O. Box 872213 WAS AK	
Theresa [unclear]	P.O. Box 240272 Houston AK	
Frank [unclear]	P.O. Box 873462 Wasilla AK	
Shirley G. [unclear]	P.O. Box 520016 Big Lake AK	
Deborah L. [unclear]	P.O. Box 3684 Palmer AK	
Doreen [unclear]	P.O. Box 521585 Big Lake AK	
[unclear]	P.O. Box 976507 Wasilla AK	698-95
[unclear]	Box 520964 Big Lake, AK	99652
[unclear]	Big Lake, AK	99652
Shirley [unclear]	P.O. Box 873252 Wasilla AK	

We the undersigned residents of this state of Alaska, intimately know the family lifestyle of Carrie Mckee and her upbringing of her 6 children. We feel that the actions and allegations perpetrated against Carrie Mckee, and the unwarranted removal of her children from her home are highly illegal, and in itself destructive to this family. We demand that the McKee children be returned to their home with their mother immediately and the person and/or persons involved in this illegal and unwarranted action be investigated and held accountable for their violations and the damage that has been done to Carrie Mckee and all 6 of her children.

NAME	ADDRESS	PHONE
Robert & Margaret	P.O. Box 520249 Big Lake AK 99622	892-6515
Tom R. Hudonoff	P.O. Box 391 Houston AK 99694	
David Dean	P.O. Box 990271 Houston, AK 99694	892-7082
W. Blodgett	P.O. Box 873614 Wasilla AK	2687-273-5866
W. Blodgett	P.O. Box 873614 Wasilla, AK 99687	376-5866
Mr. Bruce Masterson	P.O. Box 52142 Big Lake, AK	892-6761
Lise M. Shea	12100 Gregory Ave AK	345-9342
Lynne A. Miller	P.O. Box 873855 Wasilla AK 99687	746-2457
Chae Futsen	P.O. Box 3693 Wasilla, AK 99687	376-2965
Marilyn Reed	P.O. Box 871427 Wasilla AK 99687	376-2799
Bob Barton Blodgett	P.O. Box 8643 Palmer AK 99645	376-7995
Miss Lynn	275 1/2 rd. Ni	376-2024
Robert W. Cooksey	P.O. Box 875601, WASILLA	373-5701
Charles Katigoff	H.C. 30 Box 12850 Wasilla	376-1037 message
Lucinda Smith	P.O. Box 3684 Palmer, AK	746-5077
Clyde A. Rogers	P.O. Box 872765 Wasilla AK	746-1326
Patricia Blodgett	P.O. Box 873614 Wasilla AK	373-5866
Elizabeth Jankowski	1830 S. Ina. Hwy STE 457 Big Lake AK 99687	376-4458
Phonnie L. Smith	1820 S. Ina. Hwy STE 457 Big Lake AK 99687	376-2188
Bill Nilsen	Box 872969 Was. AK 99687	373-2535
John C. Hendrick	P.O. Box 520187 Big Lake	772-3670
R. Lee Hendricks	P.O. Box 520187 Big Lake	11 11
Nancy Deason	335 S. Cobb St Palmer, AK 99645	746-3013
Public Linn	H.C. 32 Box 6872 Wasilla, AK 99684	376-5460
Pete Harvey	P.O. Box 874827 Wasilla AK 99687	376-3352
Sherry Leo	P.O. Box 876514 Wasilla AK 99687	892-7940
George Devenari	P.O. Box 100342 Anchorage AK 99510	745-5660

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 375

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to children in need of BRU: Trib. Courts
aid matters & proceedings Component: _____
 Sponsor: Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 788

Expenditures/Revenue

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	141.2	141.2	141.2	97.6	97.6	97.6
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES	5.0	5.0	5.0	5.0	5.0	5.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	151.2	151.2	151.2	107.6	107.6	107.6

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	151.2	151.2	151.2	107.6	107.6	107.6
1006 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	151.2	151.2	151.2	107.6	107.6	107.6

Estimate of any current year (FY 98) cost: None

Positions

Full-Time	3	3	3	3	3	3
Part-Time	2	2	2			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, General Counsel
 Agency: Alaska Court System

Phone: 264-8228
 Date: 03/19/98

Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Date: 03/19/98

PREPARED TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

Alaska Court System**Fiscal Analysis****HB 376****FUNDING OVERVIEW**

This fiscal note reflects only the costs of implementing this legislation. This legislation forms a part of a multifaceted effort by the Executive Branch to improve the child protection legal system. The court system recognizes the anticipated impact in three separate but related funding requests. The court's FY 99 operating budget request includes an increment for \$386,500 which reflects the impact on the judicial system of the Governor's Smart Start children's initiative. This proposed increment was based on the Department of Law's budget request for 8 additional child protection attorneys. In a related supplemental budget request, the court system is seeking \$84,000 for judicial staff, courtroom support staff and travel funds to deal with the new emphasis on processing adoptions of children in foster care. Finally, the court is requesting \$151,200 via this fiscal note for the impact of this legislation. Please note that the supplemental budget request duplicates portions of the FY 99 operating budget request and the fiscal note. The schedule below summarizes our funding requests.

	Funding Requested in		
	Operating Budget	Fiscal Note	FY 98 Supple- mental* <i>(Duplicate funding in operating & budget & FY request)</i>
Personal Services			
Pro Tem Superior Court Judge, Anchorage, PPT, 12 months	\$ 87,000		\$ 84,300
Family Court Master, Anchorage, 24A, PFT, 12 months	84,700		
Family Court Master, Fairbanks, 24A, PFT, 12 months	96,000		
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge & master)</i>	40,600		24,700
In-Court Clerk, Anchorage, 12A, PFT, 12 months <i>(support to judge & master)</i>	20,300	20,300	
In-Court Clerk, Fairbanks, 12A, PFT, 12 months <i>(support to judge & master)</i>	45,400		
Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months		27,000	
Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months		16,700	
Court Clerk II, Anchorage, 10A, PFT, 12 months		38,600	
Court Clerk II, Fairbanks, 10A, PFT, 12 months		40,600	
Total Personal Services	374,000	141,200	79,000
Travel		5,000	5,000
Supplies		5,000	
Equipment	12,600		
	\$ 386,600	\$ 151,200	\$ 84,000

* The FY 98 Supplemental budget request covers a 15-month period: 3 months in FY 98 and 12 months in FY 99.

FISCAL NOTE**Incremental costs of HB 376 only**

The court's fiscal note is based on information from the Department of Law and the Division of Family and Youth Services. According to this information, the courts are experiencing a dramatic increase in child in need of aid (CINA) cases and can expect additional work as a backlog of cases for children in foster care is processed. This workload will severely impact both the judicial and clerical resources of the court. It is anticipated that the increase in CINA cases will have a long-term impact while the impact from processing the backlog of cases is expected to end after three fiscal years. The

Alaska Court SystemFiscal AnalysisHR 375

court plans to use pro tem superior court judges to handle the judicial workload. Permanent judges would actually be assigned to the CINA cases and the pro tem judges would assume their existing non-CINA workloads. The Department of Law estimates that there is a backlog of 450 cases, which require a petition for termination of parental rights. The court has assumed that 75% of these petitions will result in a trial. Each trial is estimated to last 2 1/2 days. The judicial staffing assumes that 1/3 of the backlogged cases will be processed in each of the next 3 fiscal years. A small amount of time has been added to the estimated judicial time to accommodate travel to courts outside the assigned location.

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem Superior Court Judge, Fairbanks, PPT, 4 months (FY 99 - FY 01 only)	19,378	7,650	27,029
Pro Tem Superior Court Judge, Juneau, PPT, 2.5 months (FY 99 - FY 01 only)	11,944	4,715	16,659
In-Court Clerk, Anchorage, 12A, PFT, 12 months (support to judge & master)	14,468	5,845	20,311
Court Clerk II, Anchorage, 10A, PFT, 12 months	25,844	10,978	36,822
Court Clerk II, Fairbanks, 10A, PFT, 12 months	28,932	11,691	40,623

Total Personal Services	141,244
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Travel

Travel to other courts to process caseload	5,000
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Supplies

Case processing supplies and supplies for new positions	5,000
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Estimated total cost	<u>\$ 151,244</u>
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March 17, 1998

To the people of Alaska:

To Governor Tony Knowles:

To my state legislators and committee members:

I am writing this letter in response to the proposed bills regarding the protection of children that are before us. We must take a serious hard look at these before we proceed with any of them. Many of these laws are mandated or tied to federal funds. If we don't pass the laws the federal government wants then we won't get the federal money for these programs. What we want for Alaska and what the federal government wants for Alaska are not always the same. Lets not let federal money dictate to us how we want Alaska's families taken care of. I would like to caution you about a few major problems that have occurred in other states with similar laws on the books.

My aim first and foremost is the PROTECTION OF CHILDREN AND FAMILIES.

All child protection laws should be written not to intervene and separate families. These laws must do there best to maintain the family integrity and provide services to the family and children.

Too many times I have seen children removed from their homes against their will, and against the will of their parents and family without regard to how damaging the result of this removal is.

One of the most severe types of abuse that can be perpetrated against a child and family comes from the state. The act of removing a child from his(her) home and placing that child in foster care is simply devastating and can cause severe emotional distress and long lasting emotional problems. There is also the problem of that child's safety outside of his(her) parents custody.

A foster parent is no better then a natural parent when you look at a cross section of society. There are just as many children abused by foster parents as by natural parents. Taking children out of there homes and placing them in foster care is not the answer. It also further damages the child by placing him(her) in the company of other abused children. Removing a child from his(her) home should be a last resort and should take into account what the child wishes. There must always be clear and convincing evidence that child abuse has occurred.

Too often children services decide for the children and their families what is best for them. The judges are basically powerless in these situations to do anything because if they intervene and leave the child with his parents and something does occur then the judge becomes the person responsible for the abuse. No judge is willing to take that chance, thus the children services people become the judge and jury in these cases. Even if the judge feels there is probably no abuse he will often rule on the side of children services just to protect himself.

The child can be separated from his(her) family for many months while the state delays the case. Thus causing further severe child abuse in the form of separation of a child from there family. These cases often take many months or years to be completed due to delays caused by the prosecution. Thus the idea of severing parental rights after 1 year of

foster care is further abuse by the state. Normal families can have their lives completely destroyed in a matter of months. Their homes lost, their jobs or business lost and their life savings drained in a very short time trying to protect themselves and their children from the state.

Whatever the laws read, there must be clear and convincing evidence that a crime has occurred before children can be removed from a home. The only exception to this rule should be when the child themselves requests separation from a parent. Even with this it must be clear that this is what the child really wants. Often times a child would rather be placed in the care of a Grandparent, Aunt or Uncle or older sibling. Almost no child wants the state to come into their family and remove them and their siblings and place them in foster care.

We have many laws already to protect children. We arrest the abusers. Children placed in foster care often feel they are the one that are being arrested and punished. One needs to take into account the fact that removing a child from his(her) home in a non-abusive situation is just as abusive as leaving the child in a bad situation.

All too often states take children out of homes while they try to make a case. These people have no regard as to how the child or parents feel. Removing a child from his(her) home should be a last resort not a first act of protection or prevention. If a child must be removed from his(her) family then the agency in charge of doing this should have to prove with clear and convincing evidence that there is a problem. If they remove a child needlessly then the agency responsible should be held accountable. Workers who routinely remove children needlessly should be able to be prosecuted just as a child abuser is prosecuted.

Children Services should be held accountable for their action as the public is placing their trust of our children in their hands. All too often children and families are abused needlessly by the state because of the possibility that there may be a problem. This country is based on the promise that all people are innocent until proven guilty. This must hold true in the case of children also. Keep in mind that children are protected by these laws also and if they request help they should be given this help. This could also include removal from an abusive family. But there must be clear and convincing evidence that a crime has occurred.

Another problem with bills in other states is the ability of the State to remove a child from his school and have them taken to a doctor. Up front this sounds fine but when you look closely at this practice you realize what kind of power this puts in the hands of the state children services division. Think of this: Every day when you send your child to school you have to face the real life fear that your child may be removed by force from his(her) school against their will and taken to a doctor of the state's choosing not your own. Forget about the laws that say you decide where your children go to see a doctor. The state decides in this case who the child is going to see.

During these doctor exams these children are subject to pelvic and anal exams, video taped during their exams and asked leading sexual questions in a Gestapo type interview. Often non-medical people are present during these exams and a multitude of medical people are standing around while the child is left lying on a bed. Examinations which can be most embarrassing and intrusive to adults are even more painful and emotionally upsetting to a child. The pain and emotional abuse caused by these exams on children without their parents at their side can be devastating and stay with them for the

rest of their lives. Parents should not have to fear every day when they send their children to school that this can happen to them.

You say this could not happen to my child listen to how it can:

A husband and wife are separating. The wife is afraid the father will seek custody of the children. She does not want this so she calls DYS to complain of sexual abuse, thinking he will never get custody. She is right he won't. Even an accusation, even if it is never proved is enough to prevent a judge from ever giving this father custody. In the mean time however the children will be removed from their home or school, examined by doctors and maybe placed in foster care while the state decides if there is enough evidence to proceed.

During this time the father will be forbidden any contact with his children. This includes letters, phone calls, and even supervised contact with his children. The father from this day forward will always be assumed guilty of abusing his children. It is up to the father to prove he is innocent rather than the wife to prove he is guilty.

This can also occur when a brother in law, mother in law or some one else is trying to separate a husband and wife. (boyfriends, girlfriends etc.) . This type of complaint from an outside person such as a girlfriend, almost always causes the state to remove all of the children from the home. The state thinks the mother maybe a party to the abuse. This type of false accusation can cost a family their jobs, homes and upwards of \$100,000 in a few very short weeks or months. It can also cause severe emotional abuse for the children and parents. Many times these kind of cases end in suicide. Often times there is protection written into the law for these people to protect them from being sued for slander. Anyone who charges someone else should realize the seriousness of their action and must be held accountable if they accuse someone falsely or maliciously. Whenever some one says a man is guilty of sexual abuse we always assume they are guilty. This charge, even if it is never proven can stay with him and his family the rest of their lives.

Often times these sexual abuse charges have no basis at all. Maybe a guy looks funny or some one doesn't like him. This can result in accusations. We get to the point where a father is not allowed to have any contact with his children for fear of being accused of sexual abuse. These charges can be as simple as a mother or father who allow their 3-4 year old to go to the bathroom or take a bath with the door open.

Another so called "problem" that is often used by child protective services to remove children from their homes is when children sleep with their parents. What parent has not had a 3 year old come to their parents bed after a nightmare or when they were lonely. Should that child be turned away and spanked and sent to their room. I think not, I want to be able to comfort my child and make him feel better, not isolate and leave him alone.

A third problem that often comes up is when one sibling is allegedly touching or abusing another sibling. These are often very minor situations and are not so much sexual abuse but simply normal childhood discovery. These children should be helped and taught that this is not proper behavior. All parties involved could receive counseling including the parents on preventing further problems. These children should not be labeled as Sexual abusers and have to register and carry this label the rest of their lives. The states role should be in helping families not in making problems worse. They should not have their lives destroyed and their parents lives destroyed because of these types of situations that often occur in normal families.

A fourth problem is the fact that Children services have a job to protect children. This puts a lot of pressure on the workers to remove children, rather than fully investigate problems. A worker who removes a child from a home, finds a problem and gets a conviction is doing a good job. This puts a lot of pressure on workers to "find" problems so that they can "fix" them. Even if no problem existed in the first place. Workers are judged by how many families they help. Not by how many they don't find a problem with. Thus the worker must try to find a "problem", no matter how small so that they can "fix" it. This includes years of therapy etc. Fear and anxiety generated just so that a worker can fix a problem that was not there can cause problems down the road for other children. Problems generated by this premature protection and removal is the fact that victims of state abuse will never call for help in their own families later. They know how abusive the state can be.

I hope you take heed of my warnings and protect yourself and the children of Alaska from the problems associated with too much protection from the state.

Thank you for your time,
Alaska State resident

HB

375

File 2

March 24, 1998

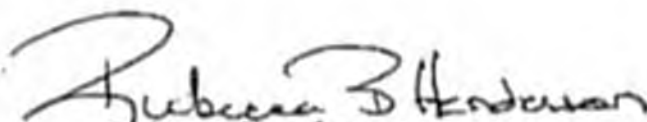
I am writing in support of HB 375, the Smart Start Initiative.

We read too much today in all our newspapers about Alaska's children not measuring up. Many of these kids have the potential to do the job you're doing today. Without the support of programs that will be supported by Smart Start, many of those same kids don't have a chance.

Sure, they get to go to school, but they don't go to school ready to learn. They get sick more often, they go without good meals, they live in homes where violence is the norm.

GIVE THEM A BREAK!

Thanks for supporting HB 375.



Rebecca Henderson
P.O. 82717
Fairbanks, AK 99708



Family Training Associates

P.O. Box 81016, Fairbanks, Alaska 99708
Phone: (907) 479-7461

March 24, 1998

TO WHOM IT MAY CONCERN:

Try to imagine a world where every child grows up in a safe and nurturing environment. Try to imagine it even just for Alaska. It's a possibility, but only if we begin caring today about the fate of children in every family, in every community, across our state.

The SMART START Initiatives for Alaska's families are a *smart* way to insure that children in our state remain a focus of prevention efforts. Alaska's kids depend on your support of HB 375. DO IT!

Thank you .

Carol H. Brice

Carol H. Brice, RN, MEd.

0-GH2009\B

Lauterbach

3/23/98

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;

1 relating to liability for actions concerning matters involving child protection and
2 fatality reviews and children in need of aid; relating to persons required to
3 report suspected child abuse or neglect; relating to foster care placement and
4 foster care licensing; relating to access to certain criminal justice information and
5 licensure of certain child care facilities; amending Rule 218, Alaska Rules of
6 Appellate Procedure; amending the Alaska Child in Need of Aid Rules; and
7 providing for an effective date."

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

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

12 (b) The purpose of this Act is to

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

15 (2) expressly override the court decisions in the following cases:

16 (A) *In Re S.A.*, 912 P.2d 1235 (Alaska 1996), and *F.T. v. State*, 862
17 P.2d 857 (Alaska 1993), concerning the standards to adjudicate a child in need of aid
18 when a parent or caregiver is willing, 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

1 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions
 2 resulting from the ownership of stock or a membership in a corporation organized
 3 under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement
 4 Act), the corporation paying the dividends or making the other distributions shall retain
 5 the dividends and other distributions in an interest bearing account for the benefit of
 6 the child [MINOR] during the state custody.

7 • Sec. 3. AS 11.41.100(a) is amended to read:

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

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

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

11 (B) compels or induces any person to commit suicide through

12 duress or deception; or

13 (2) the person knowingly engages in conduct directed toward (.
 14 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE

15 VALUE OF HUMAN LIFE. IN A PATTERN OR PRACTICE OF ASSAULT OR

16 TORTURE OF) a child under the age of 16, and [ONE OF THE ACTS OF ASSAULT

17 OR TORTURE RESULTS IN THE DEATH OF THE CHILD; FOR PURPOSES OF

18 THIS PARAGRAPH, A PERSON "ENGAGES IN A PATTERN OR PRACTICE OF

19 ASSAULT OR TORTURE" IF] the person with criminal negligence causes

20 [INFLICTS] serious physical injury to the child by at least two separate acts, and one

21 of the acts results in the death of the child; or

22 (3) the person with criminal negligence causes the death of a child

23 under the age of 16 during the course of committing or attempting to commit

24 sexual assault in the first degree, sexual abuse of a minor in the first degree, or

25 kidnapping.

26 • Sec. 4. AS 11.41.110(a) is amended to read:

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

28 (1) with intent to cause serious physical injury to another person or

29 knowing that the conduct is substantially certain to cause death or serious physical

30 injury to another person, the person causes the death of any person;

31 (2) the person knowingly engages in conduct that results in the death

1 of another person under circumstances manifesting an extreme indifference to the value
2 of human life:

3 (3) acting either alone or with one or more persons, the person commits
4 or 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 the person

12 (1) fails to provide adequate supervision of the child under
13 circumstances 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 or serious physical
 19 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, the person

26 (1) while caring for the child, knowingly possesses a controlled
 27 substance that is not prescribed by a licensed health care practitioner;

28 (2) while caring for the child, abuses a controlled substance that is
 29 prescribed by a licensed health care practitioner; or

30 (3) while caring for the child, is incapacitated by alcohol or a controlled
 31 substance; in this paragraph, "incapacitated by alcohol or a controlled substance" means

1 that a person, as result of alcohol or a controlled substance, or both, is unconscious, or
2 the person's judgment is so impaired that the person is incapable of making rational
3 decisions with respect to the basic safety or personal needs of a child.

4 (b) Endangering the welfare of a child in the second degree is a violation.

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

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

12 (2) the person is an obligor under a support order under AS 25.27 and
13 without lawful excuse has failed to pay support to an extent that over \$30,000 of
14 arrearages have accrued, not including interest and penalties.

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

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

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

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

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

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

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

24 (i) Except as provided by AS 12.55.125(a)(3), ~~12.55.125(k)(2)~~ [12.55.125(k)],
25 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard
26 of proof applies to sentencing proceedings.

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

28 (c) A defendant convicted of a class A felony may be sentenced to a definite
29 term of imprisonment of not more than 20 years [.] and shall be sentenced to the
30 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
31 12.55.175:

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

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

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

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

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

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

17 • Sec. 15. AS 12.55.125(k) is amended to read:

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

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

24 (2) except as provided in (1) of this subsection, may not be sentenced
25 to a term of unsuspended imprisonment that exceeds the presumptive term for a second
26 felony offender convicted of the same crime unless the court finds by clear and
27 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that
28 circumstances exist that would warrant a referral to the three-judge panel under
29 AS 12.55.165.

30 • Sec. 16. AS 12.65.005(a) is amended to read:

31 (a) Unless the person has reasonable grounds to believe that notice has already

1 been given, a person who attends a death or has knowledge of a death, in addition to
2 notifying a peace officer, shall immediately notify the state medical examiner when the
3 death appears to have

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

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

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

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

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

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

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

17 (8) occurred in a foster home;

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

19 [OR]

20 (10) occurred while the deceased was in the custody of, or was being
21 taken into the custody of, the state or a political subdivision of the state or a public
22 officer or agent of the state or a political subdivision of the state; or

23 (11) been of a child under 18 years of age or under the legal custody
24 of the Department of Health and Social Services, subject to the jurisdiction of
25 AS 47.10 or AS 47.12, unless the

26 (A) child's death resulted from a natural disease process and
27 was medically expected; and

28 (B) the child was under supervised medical care during the
29 24 hours before the death.

30 * Sec. 17. AS 12.65.015 is amended by adding a new subsection to read:

31 (e) The state medical examiner may appoint local, regional, and district child

1 fatality review teams to assist local, regional, and district medical examiners in
2 determining the cause and manner of deaths of children under 18 years of age. If a
3 team is appointed under this section, the team shall have the same access to
4 information, confidentiality requirements, and immunity as provided to the state child
5 fatality review team under AS 12.65.140. A meeting of a team appointed under this
6 subsection is closed to the public and not subject to the provisions of AS 44.62.310 and
7 44.62.312. A review by a local, regional, or district child fatality review team does not
8 relieve the state child fatality review team under AS 12.65.120 of the responsibility for
9 reviewing these deaths under AS 12.65.130. A person appointed to a local, regional,
10 or district child fatality review team is not eligible to receive compensation from the
11 state for service on the team, but the person is eligible for travel expenses and per diem
12 under AS 39.20.180. A person appointed to a team under this subsection serves at the
13 pleasure of the state medical examiner.

14 * Sec. 18. AS 12.65 is amended by adding new sections to read:

15 Sec. 12.65.120. State child fatality review team. (a) The state child fatality
16 review team is established in the Department of Health and Social Services to assist the
17 state medical examiner. The team is composed of

18 (1) the following persons, or that person's designee:

19 (A) the state medical examiner;

20 (B) a state prosecutor with experience in homicide prosecutions,
21 appointed by the attorney general;

22 (C) an investigator with the state troopers who has experience
23 in conducting investigations of homicide, child abuse, or child neglect,
24 appointed by the commissioner of public safety;

25 (D) a social worker with the Department of Health and Social
26 Services who has experience in conducting investigations of child abuse and
27 neglect, appointed by the commissioner of health and social services;

28 (2) the following persons, or that person's designee, appointed by the
29 commissioner of health and social services:

30 (A) a physician licensed under AS 08.64 who

31 (i) specializes in neonatology or perinatology; or

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(ii) is certified by the American Board of Pediatrics;

(B) a municipal law enforcement officer with experience in conducting investigations of homicide, child abuse, or child neglect;

(C) other persons whose experience and expertise would, as determined by the commissioner of health and social services, contribute to the effectiveness of the team.

(b) A team member is not eligible to receive compensation from the state for service on the team. A member appointed under (a)(2) of this section

(1) is eligible for travel expenses and per diem under AS 39.20.180; and

(2) serves at the pleasure of the commissioner of health and social services.

(c) In addition to the persons specified in (a) and (b) of this section, the team may invite a person to participate as a member of the team if the person has expertise that would be helpful to the team in a review of a specific death. A person participating under this subsection is eligible only for travel expenses and per diem under AS 39.20.180.

(d) The state medical examiner serves as chair of the team.

Sec. 12.65.130. State child fatality review team duties. The state child fatality review team shall review deaths of children in state custody and upon request of a law enforcement agency. The team shall

(1) assist the state medical examiner in determining the cause and manner of the deaths of children in state custody under 18 years of age;

(2) unless the child's death is currently being investigated by a law enforcement agency, review any report of a death of a child within 48 hours of the report being received by the medical examiner if

(A) the death is of a child under 10 years of age.

(B) the deceased child, a sibling, or a member of the deceased child's household

(i) is in the legal or physical custody of the state under AS 47, or under similar custody of another state or political subdivision of a state; or

1 (ii) has been the subject of a report of harm under
2 AS 47.17, or a child abuse or neglect investigation by the Department
3 of Health and Social Services or by a similar child protective service in
4 this or another state;

5 (C) a protective order under AS 18.66.100 or 18.66.110 has been
6 in effect during the previous year in which the petitioner or respondent was a
7 member of the deceased child's immediate family or household; or

8 (D) the child's death occurred in a mental health institution,
9 mental health treatment facility, foster home, or other residential or child care
10 facility, including a day care facility;

11 (3) review records concerning

12 (A) abuse or neglect of the deceased child or another child in the
13 deceased child's household;

14 (B) the criminal history or juvenile delinquency of a person who
15 may have caused the death of the child and of persons in the deceased child's
16 household; and

17 (C) a history of domestic violence involving a person who may
18 have caused the death of the child or involving persons in the deceased child's
19 household, including records in the central registry of protective orders under
20 AS 18.65.540;

21 (4) if a local, regional, or district child fatality review team has not been
22 appointed under AS 12.65.015 or is not available, be available to provide
23 recommendations, suggestions, and advice to state or municipal law enforcement
24 agencies in the investigation of deaths of children.

25 **Sec. 12.65.140. Records; information; meetings; confidentiality.** (a) The
26 state child fatality review team and its members shall have access to all information and
27 records to which the state medical examiner has access under this chapter. The state
28 child fatality review team and its members shall maintain the confidentiality of
29 information and records concerning deaths under review, except when disclosures may
30 be necessary to enable the team to carry out its duties under this chapter. However, the
31 state child fatality review team and its members may not disclose a record that is

1 confidential under federal or state law.

2 (b) Except for public reports issued by the state child fatality review team,
3 records and other information collected by the team or its members related to duties
4 under this chapter are confidential and not subject to public disclosure under
5 AS 09.25.100 - 09.25.220.

6 (c) Meetings of the state child fatality review team are closed to the public and
7 are not subject to the provisions of AS 44.62.310 and 44.62.312.

8 • Sec. 19. AS 14.20.020(f) is amended to read:

9 (f) The [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
10 THE] department may not issue a teacher certificate to a person who has been
11 convicted of a crime involving a minor under AS 11.41.434 - 11.41.440, 11.41.455,
12 11.41.458, or 11.41.460, or under a law in another jurisdiction with elements
13 substantially similar to an offense described in AS 11.41.434 - 11.41.440, 11.41.455,
14 11.41.458, or 11.41.460, or that is an attempt, solicitation, or conspiracy to commit
15 a crime described in this subsection or a law or ordinance in another jurisdiction
16 with similar elements. [WHEN FIVE YEARS HAVE ELAPSED AFTER A PERSON
17 HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR A CONVICTION OF
18 A CRIME LISTED IN THIS SUBSECTION, THE PERSON MAY PETITION THE
19 DEPARTMENT TO ISSUE THE CERTIFICATE IN SPITE OF THE CONVICTION
20 IF THE PERSON OTHERWISE SATISFIES THE REQUIREMENTS FOR THE
21 CERTIFICATE. WHEN DECIDING WHETHER TO GRANT OR DENY THE
22 PETITION, THE DEPARTMENT SHALL CONSIDER THE NATURE OF THE
23 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
24 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE
25 DEPARTMENT DETERMINES ARE SIGNIFICANT.]

26 • Sec. 20. AS 14.20.030(b) is amended to read:

27 (b) Upon receipt of a judgment of conviction, the department [THE
28 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES
29 COMMISSION] shall permanently revoke, effective immediately, [FOR LIFE] the
30 certificate of a person who has been convicted of a crime involving a minor under
31 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or under a law in

1 another jurisdiction with elements substantially similar to an offense described in
 2 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or that is an attempt,
 3 solicitation, or conspiracy to commit a crime described in this subsection or a law
 4 or ordinance in another jurisdiction with similar elements. If the judgment of
 5 conviction is reversed on appeal and the person is otherwise eligible for licensure,
 6 the department shall reinstate the license. [WHEN FIVE YEARS HAVE ELAPSED
 7 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR
 8 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR
 9 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE
 10 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE
 11 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
 12 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE COMMISSION
 13 DETERMINES ARE SIGNIFICANT.]

14 • Sec. 21. AS 22.15.100 is amended to read:

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

16 Each district judge and magistrate has the power

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

21 (2) of a notary public;

22 (3) to solemnize marriages;

23 (4) to issue warrants of arrest, summons, and search warrants according
 24 to manner and procedure prescribed by law and the supreme court;

25 (5) to act as an examining judge or magistrate in preliminary
 26 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
 27 release of defendants under bail;

28 (6) to act as a referee in matters and actions referred to the judge or
 29 magistrate by the superior court, with all powers conferred upon referees by laws;

30 (7) of the superior court in all respects including but not limited to
 31 contempts, attendance of witnesses, and bench warrants;

1 (8) to order the temporary detention of a minor, or take other action
2 authorized by law or rules of procedure, in cases arising under AS 47.10 [AS 47.10.010
3 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous
4 or injurious to the welfare of the minor or others that requires immediate action; the
5 action may be continued in effect until reviewed by the superior court in accordance
6 with rules of procedure governing these cases;

7 (9) to issue a protective order in cases involving domestic violence as
8 provided in AS 18.66.100 - 18.66.180;

9 (10) to review an administrative revocation of a person's driver's license
10 or nonresident privilege to drive, and an administrative refusal to issue an original
11 license, when designated as a hearing officer by the commissioner of administration and
12 with the consent of the administrative director of the state court system;

13 (11) to establish the fact of death or inquire into the death of a person
14 in the manner prescribed under AS 09.55.020 - 09.55.069.

15 • Sec. 22. AS 25.23.050(a) is amended to read:

16 (a) Consent to adoption is not required of

17 (1) for purposes of this section, a parent who has abandoned a child for
18 a period of at least six months;

19 (2) a parent of a child in the custody of another [.] if the parent for a
20 period of at least one year has failed significantly without justifiable cause, including
21 but not limited to indigency,

22 (A) to communicate meaningfully with the child; [.] or

23 (B) to provide for the care and support of the child as required
24 by law or judicial decree;

25 (3) the father of a minor if the father's consent is not required by
26 AS 25.23.040(a)(2);

27 (4) a parent who has relinquished the right to consent under
28 AS 25.23.180;

29 (5) a parent whose parental rights have been terminated by order of the
30 court under AS 25.23.180(c)(3) or AS 47.10.080(c)(5) [AS 47.10.080(c)(3)];

31 (6) a parent judicially declared incompetent or mentally defective if the

1 court dispenses with the parent's consent;

2 (7) a parent of the person to be adopted [,] if the person is 19 or more
3 years of age [,] and the court dispenses with the consent of the parent;

4 (8) a guardian or custodian specified in AS 25.23.040(a)(3) or (4) who
5 has failed to respond in writing to a request for consent for a period of 60 days or who,
6 after examination of the guardian's or custodian's written reasons for withholding
7 consent, is found by the court to be withholding consent unreasonably; or

8 (9) the spouse of the person to be adopted [,] if the requirement of
9 consent to the adoption is waived by the court by reason of prolonged unexplained
10 absence, unavailability, incapacity, or circumstances constituting an unreasonable
11 withholding of consent.

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

13 (c) The relationship of parent and child may be terminated by a court order
14 issued in connection with a proceeding under this chapter or a proceeding under
15 AS 47.10 on the grounds [:]

16 (1) [ON THE GROUNDS] specified in AS 47.10.080(a) or 47.10.088
17 [AS 47.10.080(c)(3)];

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

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

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

27 Sec. 47.05.065. Legislative findings related to children. The legislature finds
28 that

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

31 (A) a safe and happy childhood;

- 1 (B) reasonable safety, adequate care, and adequate treatment;
- 2 (C) freedom from physical abuse, sexual abuse, exploitation, and
- 3 substance abuse;
- 4 (D) special safeguards and care, including appropriate legal
- 5 protection before as well as after birth;
- 6 (E) permanency with a safe, loving family;
- 7 (2) parents and guardians should make reasonable efforts to afford their
- 8 children the rights listed in (1) of this section; parents and guardians should make
- 9 reasonable efforts to remove any impediment that substantially impairs their ability to
- 10 afford these rights to their children; and when a parent or guardian fails to make
- 11 reasonable efforts to fulfill these responsibilities, the court may determine that it is in
- 12 the best interests of this child to remove the child from the parent or guardian, either
- 13 temporarily or permanently;
- 14 (3) it is the policy of the state to recognize that the purpose of this title
- 15 and the services provided to families under this title is to protect children from child
- 16 abuse and neglect and to preserve and strengthen the family and that
- 17 (A) except in those cases involving serious risk to a child's
- 18 health or safety, the Department of Health and Social Services should make
- 19 reasonable efforts to offer appropriate family support services that identify and
- 20 provide to parents and guardians the necessary opportunities to adjust their
- 21 circumstances, conduct, or conditions to prevent removal of a child from the
- 22 home and, if the child is removed, to make return of the child possible so as to
- 23 prevent termination of parental rights; and
- 24 (B) when a child is removed from the home, the department
- 25 should make reasonable efforts to provide weekly supervised or unsupervised
- 26 visitation between the child and the child's parent or guardian and extended
- 27 family members unless the visitation would be harmful to the child;
- 28 (4) it is the policy of the state to recognize that, when a child is a ward
- 29 of the state, the child is entitled to reasonable safety, adequate care, and adequate
- 30 treatment and that the Department of Health and Social Services as legal custodian and
- 31 the child's guardian ad litem as guardian of the child's best interests and their agents

1 and assignees, each should make reasonable efforts to ensure that the child is provided
2 with reasonable safety, adequate care, and adequate treatment for the duration of time
3 that the child is a ward of the state;

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

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

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

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

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

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

16 (6) parents and guardians have the right to direct the upbringing of their
17 children, including their medical care and the right to exercise reasonable corporal
18 discipline;

19 (7) parents and guardians should make reasonable efforts to actively
20 participate in family support services so as to facilitate the child's being able to remain
21 in the home; when children are removed from the home, the parents and guardians
22 should actively participate in family support services to make return of their children
23 to the home possible; and

24 (8) numerous studies establish that

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

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

31 (C) it is important to provide for an expedited placement

1 procedure to ensure that all children, especially those under the age of six years,
2 who have been removed from their homes are placed in permanent homes
3 expeditiously.

4 • Sec. 25. AS 47.05 is amended by adding a new section to read:

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

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

13 • Sec. 26. AS 47.10 is amended by adding a new section to read:

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

18 • Sec. 27. AS 47.10.010 is repealed and reenacted to read:

19 **Sec. 47.10.010. Jurisdiction.** (a) Proceedings relating to a child under 18
20 years of age residing or found in the state are governed by this chapter, except as
21 otherwise provided in this chapter, when the child is alleged to be or may be
22 determined by the court to be a child in need of aid under AS 47.10.011

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

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

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

1 (1) the parent or guardian has abandoned the child as described in
2 AS 47.10.013;

3 (2) a parent, guardian, or custodian is incarcerated;

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

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

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

13 (6) the child has suffered substantial physical harm, or there is a
14 substantial risk that the child will suffer substantial physical harm, as a result of
15 conduct by or conditions created by the child's parent, guardian, or custodian or by the
16 failure of the parent, guardian, or custodian to supervise the child adequately;

17 (7) the child has suffered sexual abuse, or there is a substantial risk that
18 the child will suffer sexual abuse, as a result of conduct by or conditions created by the
19 child's parent, guardian, or custodian or by the failure of the parent, guardian, or
20 custodian to adequately supervise the child; if a parent, guardian, or custodian has
21 actual notice that a person has been convicted of a sex offense against a minor within
22 the past 15 years, is registered or required to register as a sex offender under AS 12.63,
23 or is under investigation for a sex offense against a minor, and the parent, guardian, or
24 custodian subsequently allows a child to be left with that person, this conduct
25 constitutes prima facie evidence that the child is at substantial risk of being sexually
26 abused;

27 (8) conduct by or conditions created by the parent, guardian, or
28 custodian have subjected the child or another child in the same household to neglect;

29 (9) the parent, guardian, or custodian's ability to parent has been
30 substantially impaired by the addictive or habitual use of intoxicants or controlled
31 substances; the resumption of use of intoxicants or of a controlled substance by a

1 parent, guardian, or custodian after rehabilitation or a period of abstinence is prima
2 facie evidence that the ability to parent is substantially impaired as described in this
3 paragraph;

4 (10) the parent, guardian, or custodian has a mental illness, serious
5 emotional disturbance, or mental deficiency of a nature and duration that has caused
6 substantial physical harm to the child or creates a risk of substantial physical harm to
7 the child;

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

10 **Sec. 47.10.013. Abandonment.** For purposes of this chapter, the court may
11 find abandonment of a child if a parent or guardian has shown a conscious disregard
12 of parental responsibilities toward the child by failing to provide reasonable support,
13 maintain regular contact, or provide normal supervision and the failure is accompanied
14 by intention on the part of the parent or guardian to permit the failure to continue for
15 an indefinite period. Abandonment of a child also includes instances when the parent
16 or guardian, without justifiable cause,

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

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

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

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

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

28 (6) failed to respond to notice of child protective proceedings; or

29 (7) was unwilling to provide care, support, or supervision for the child.

30 **Sec. 47.10.014. Neglect.** For purposes of this chapter, the court may find
31 neglect of a child if the parent, guardian, or custodian fails to provide the child with

1 adequate food, clothing, shelter, education, medical attention, or other care and control
2 necessary for the child's physical health and development, though financially able to
3 do so or offered financial or other reasonable means to do so.

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

6 (1) the child was the victim of an act described in AS 11.41.100 -
7 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm
8 occurred as a result of conduct by or conditions created by a parent, guardian, or
9 custodian; or

10 (2) a negligent act or omission by a parent, guardian, or custodian
11 creates a substantial risk of injury to the child.

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

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

20 (a) Whenever circumstances subject a child [MINOR] to the jurisdiction of the
21 court under AS 47.10.005 - 47.10.142 [AS 47.10.010 - 47.10.142], the court shall
22 appoint a competent person or agency to make a preliminary inquiry and report for the
23 information of the court to determine whether the best interests of the child [MINOR]
24 require that further action be taken, If [; IF], under this subsection, the court appoints
25 a person or agency to make a preliminary inquiry and to report to it, then, upon the
26 receipt of the report, the court may

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

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

30 (3) [IF MAY] authorize the person or agency having knowledge of the
31 facts of the case to file with the court a petition setting out the facts[; IF THE COURT

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INFORMALLY ADJUSTS THE MATTER, THE MINOR MAY NOT BE DETAINED OR TAKEN INTO THE CUSTODY OF THE COURT AS A CONDITION OF THE ADJUSTMENT, AND THE MATTER SHALL BE CLOSED BY THE COURT UPON ADJUSTMENT].

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

(b) The petition and all subsequent pleadings shall be styled as follows: "In the matter of, a child [MINOR] under 18 years of age."

The petition may be executed upon the petitioner's information and belief [.] and must be verified. It must include the following information:

(1) the name, address, and occupation of the petitioner, together with the petitioner's relationship to the child [MINOR], and the petitioner's interest in the matter;

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

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

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

(5) the tribal affiliation, if any, of the child;

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

* Sec. 31. AS 47.10.050(a) is amended to read:

(a) Whenever in the course of proceedings instituted under this chapter it appears to the court that the welfare of a child [MINOR] will be promoted by the appointment of an attorney to represent the child [MINOR OR AN ATTORNEY OR OTHER PERSON TO SERVE AS GUARDIAN AD LITEM], the court may make the appointment. If it appears to the court that the welfare of a child in the proceeding will be promoted by the appointment of an attorney or other person to serve as guardian ad litem, the court shall make the appointment. Appointment of a guardian ad litem or attorney shall be made under the terms of AS 25.24.310.

* Sec. 32. AS 47.10.070(a) is amended to read:

(a) The court may conduct the hearing on the petition in an informal manner in the courtroom or in chambers. The court shall give notice of the hearing to the

1 department, the child's parents, and the child's guardian and guardian ad litem, if
2 any [AND IT MAY SEND A REPRESENTATIVE TO THE HEARING]. The court
3 shall also transmit a copy of the petition to the persons to whom the court must send
4 notice of the hearing [DEPARTMENT]. The persons to whom the court must send
5 notice of the hearing and assistants of those persons are entitled to
6 [REPRESENTATIVE OF THE DEPARTMENT MAY ALSO] be heard at the hearing.
7 The public shall be excluded from the hearing, but the court, in its discretion, may
8 permit individuals, such as the child's health care providers, to attend a hearing if
9 their attendance is compatible with the best interests of the child [MINOR].

10 * Sec. 33. AS 47.10.080(a) is amended to read:

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

16 * Sec. 34. AS 47.10.080(c) is amended to read:

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

19 (1) order the child committed to the custody of the department for
20 placement with the child's parent if the conditions of this paragraph are satisfied;
21 if the finding that the child is a child in need of aid is based on actions of another
22 person who lives with the child, the court shall consider whether the continued
23 presence of the other person in the home presents a substantial risk of harm to the
24 child and whether it would be in the child's best interest for the court to order the
25 other person to leave the home and to allow the child to remain in the home; if the
26 continued presence of the other person in the home presents a substantial risk of
27 harm to the child and it is in the child's best interest for the court to issue an
28 order requiring the other person to leave the home and allowing the child to
29 remain in the home, the court shall do so; the order must be accompanied by
30 findings on the record of why the continued presence of the other person in the
31 home would present a substantial risk of harm to the child and why the order is

1 in the best interest of the child; the order must also include appropriate protective
2 orders; the court may not let the child remain in a home under this paragraph
3 and shall issue an order that complies with another paragraph of this subsection
4 unless the court finds that conditions and care in the home after the other person
5 has left will be adequate to safeguard the child from harm to the child's life,
6 physical health, and mental well-being;

7 (2) if the court determines that a relative by blood or marriage has
8 requested that the child be placed with the relative and that placement with the
9 relative would be in the best interest of the child, the court shall order the child
10 committed to the department for placement with the relative for a period of time
11 not to exceed two years or, in any event, past the date the child becomes 19 years
12 of age, except that the department or the child's guardian ad litem may petition
13 for and the court, upon a showing of exceptional circumstances, may grant in a
14 hearing (A) one-year extensions of commitment that do not extend beyond the
15 child's 19th birthday if the extensions are in the best interest of the child; and (B)
16 an additional one-year period of state custody past age 19 if the continued state
17 custody is in the best interest of the person and the person consents to it; if more
18 than one relative requests placement of the child under this paragraph, the court
19 shall give preference to a relative who can demonstrate compliance with the
20 minimum standards of care for children established under AS 47.14.120; if the
21 court orders the department to place a child with a relative under this paragraph,
22 the court shall also order the department to submit to the court, within seven days
23 after the child is placed with the relative, the results of a name-check criminal
24 background investigation conducted by the department for all members of the
25 relative's household who are 12 years of age or older and the results of an
26 investigation as to whether any member of the relative's household who is 12 years
27 of age or older has been the perpetrator in a substantiated report of abuse; for
28 purposes of this paragraph, the department is a criminal justice agency conducting
29 a criminal justice activity; the court shall also order the department to submit to
30 the court, within 14 days after the child is placed with the relative, a home study
31 of the relative's home; if the court determines that there is a household member

1 12 years of age or older who has a criminal record or a history of committing
2 abuse, the court shall order the department to remove the child from the
3 household within 24 hours and place the child in licensed foster care, except that
4 the court may continue the child's placement in the relative's household if the
5 criminal record and history of committing abuse does not include any felonies; if
6 the court determines from the home study that the child should be removed from
7 the relative's home, the court shall promptly order the department to remove the
8 child from the household within 24 hours and place the child in licensed foster
9 care;

10 (3) order the child [MINOR] committed to the department for placement
11 in an appropriate setting for a period of time not to exceed two years or in any event
12 past the date the child [MINOR] becomes 19 years of age, except that the department
13 or the child's guardian ad litem may petition for and the court, upon a showing of
14 exceptional circumstances, may grant in a hearing (A) one-year [TWO-YEAR]
15 extensions of commitment that do not extend beyond the child's [MINOR'S] 19th
16 birthday if the extension is in the best interests of the child [MINOR]; and (B) an
17 additional one-year period of state custody [SUPERVISION] past age 19 if the
18 continued state custody [SUPERVISION] is in the best interests of the person and the
19 person consents to it; the department may transfer the child [MINOR], in the child's
20 [MINOR'S] best interests, from one placement setting to another, and the child
21 [MINOR], the child's [MINOR'S] parents or guardian, the child's foster parents or
22 out-of-home relative caregiver, the child's health care providers, the child's
23 guardian ad litem, [AND] the child's [MINOR'S] attorney, and the child's tribe, if
24 any, are entitled to reasonable notice of the transfer;

25 (4) [(2)] order the child [MINOR] released to a parent, relative, or
26 guardian of the child [THE MINOR'S PARENTS, GUARDIAN.] or to another
27 [SOME OTHER] suitable person, and, in appropriate cases, order the parent, relative
28 [PARENTS], guardian, or other person to provide medical or other care and treatment;
29 if the court releases the child [MINOR], it shall direct the department to supervise the
30 care and treatment given to the child [MINOR], but the court may dispense with the
31 department's supervision if the court finds that the adult to whom the child [MINOR]

1 is released will adequately care for the child [MINOR] without supervision; the
 2 department's supervision may not exceed two years or in any event extend past the date
 3 the child [MINOR] reaches age 19, except that the department or the child's guardian
 4 ad litem may petition for and the court, upon a showing of exceptional
 5 circumstances, may grant in a hearing

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

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

12 (5) [(3) BY] order, under the grounds specified in (o) of this section
 13 or AS 47.10.088, the termination of [UPON A SHOWING IN THE ADJUDICATION
 14 BY CLEAR AND CONVINCING EVIDENCE THAT THERE IS A CHILD IN NEED
 15 OF AID UNDER AS 47.10.010(a) AS A RESULT OF PARENTAL CONDUCT AND
 16 UPON A SHOWING IN THE DISPOSITION BY CLEAR AND CONVINCING
 17 EVIDENCE THAT THE PARENTAL CONDUCT IS LIKELY TO CONTINUE TO
 18 EXIST IF THERE IS NO TERMINATION OF PARENTAL RIGHTS, TERMINATE]
 19 parental rights and responsibilities of one or both parents [,] and commit the child to
 20 the custody of the department [OR TO A LEGALLY APPOINT. GUARDIAN OF
 21 THE PERSON OF THE CHILD], and the department [OR GUARDIAN] shall report
 22 quarterly [ANNUALLY] to the court on efforts being made to find a permanent
 23 placement for the child.

24 • Sec. 35. AS 47.10.080(d) is amended to read:

25 (d) An order issued under (c)(5) [(c)(3)] of this section authorizes the
 26 commissioner of health and social services or a designee or the guardian of the person
 27 of the child to consent to the adoption of the child.

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

29 (f) A child [MINOR] found to be a child in need of aid is a ward of the state
 30 while committed to the department or the department has the power to supervise the
 31 child's [MINOR'S] actions. After the permanency hearing required by (l) of this

1 section, the [THE] court shall review an order made under (c)(2) - (4) [(c)(1) or (2)]
2 of this section annually, and may review the order more frequently, to determine if
3 continued placement or supervision, as it is being provided, is in the best interest of the
4 child [MINOR. IF ANNUAL REVIEW UNDER THIS SUBSECTION WOULD
5 ARISE WITHIN 90 DAYS OF THE HEARING REQUIRED UNDER (1) OF THIS
6 SECTION, THE COURT MAY POSTPONE REVIEW UNDER THIS SUBSECTION
7 UNTIL THE TIME SET FOR THE HEARING]. The department, the child, and
8 [MINOR], the child's [MINOR'S] parents, guardian, foster parents, child health care
9 providers, and guardian ad litem [OR CUSTODIAN] are entitled, when good cause
10 is shown, to a review on application. If the application is granted, the court shall afford
11 these persons [PARTIES] and their counsel or other representative reasonable notice
12 in advance of the review and hold a hearing where these persons [PARTIES] and their
13 counsel or other representative shall be afforded an opportunity to be heard. The
14 child [MINOR] shall be afforded the opportunity to be present and to be heard at the
15 review.

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

17 (i) A child or [MINOR.] the child's [MINOR'S] parents, [OR] guardian,
18 guardian ad litem, foster parent, relative with whom the child is living, or
19 attorney, acting on the child's [MINOR'S] behalf, or the department may appeal a
20 judgment or order, or the stay, modification, setting aside, revocation, or enlargement
21 of a judgment or order issued by the court under this chapter. Absent extraordinary
22 circumstances, a decision on the appeal shall be issued no later than 90 days after
23 the latest of the following:

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

25 (2) the date oral argument would have been heard under applicable
26 court rules if oral argument had been timely requested.

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

28 (l) Within 12 [18] months after the date the child enters foster care as
29 calculated under AS 47.10.088(f) [A CHILD IS INITIALLY REMOVED FROM THE
30 CHILD'S HOME BY THE DEPARTMENT UNDER AS 47.10.142(c)] or is committed
31 to the custody of the department under (c)(2), (3), or (5) [(c)(1) or (3)] of this section

1 or AS 47.14.100(c), the court shall hold a permanency hearing to review the placement
 2 and services provided and to determine the future status of the child. The persons
 3 entitled to be heard at the hearing under AS 47.10.070 or under (D) of this section
 4 are also entitled to be heard at the hearing under this subsection [MINOR]. The
 5 court shall make appropriate written findings, including findings related to the
 6 following:

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

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

11 (3) [(2)] whether the child should remain in out-of-home care for a
 12 specified period;

13 (4) [(3)] whether the child should remain in out-of-home care on a
 14 permanent or long-term basis because of special needs or circumstances;

15 (5) [(4)] whether the child should be placed for adoption or legal
 16 guardianship;

17 (6) whether the department has made reasonable efforts to offer
 18 appropriate family support services to remedy the parent's or guardian's conduct
 19 or conditions in the home that made the child a child in need of aid under this
 20 chapter.

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

22 (o) For purposes of terminating a parent's parental rights under (c)(5) [THE
 23 STANDARDS IN (c)(3)] of this section, the court may determine that incarceration of
 24 the parent is sufficient grounds for determining that a child [MINOR] is a child in need
 25 of aid under AS 47.10.011 [AS 47.10.010(a)(1)] as a result of parental conduct and that
 26 the parental rights of the incarcerated parent should be terminated [CONDUCT
 27 IS LIKELY TO CONTINUE] if the court finds, based on clear and convincing
 28 evidence, that [THE]

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

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

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

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

7 (p) If the court orders a child committed to the department under (c) of this
8 section for out-of-home placement, the court shall also order that the child's parents and
9 extended family may have visitation with the child at least once a week, beginning
10 within 72 hours after the order is issued, unless the court determines that visitation,
11 even if supervised, may be harmful to the child. When the court grants visitation rights
12 under this subsection, the visitation may be supervised or unsupervised, at the discretion
13 of the department. If the court initially denies weekly visitation rights under this
14 subsection based on a determination that visitation, even if supervised, may be harmful
15 to the child, the court shall order the department to provide for a psychological
16 evaluation or counseling, or both, for the child within 30 days to determine the
17 appropriateness and conditions of visitation that may be consistent with the child's
18 well-being. The department shall report to the court within 30 days after the order
19 under (c) of this section concerning the results of the child's psychological evaluation
20 and counseling, and the court shall determine whether visitation may be granted without
21 harm to the child; the court shall issue appropriate orders to implement the
22 determination.

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

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

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