

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9210 HOUSE JUDICIARY

1 victim of domestic violence;

2 (2) the perpetrator's history of causing physical harm, bodily injury,  
3 or assault, or of causing reasonable fear of physical harm, bodily injury, or assault  
4 to another person.

5 (c) If a parent is absent or relocates because of an act of domestic violence  
6 by the other parent, the court may not consider the absence or relocation as a  
7 factor against that parent in determining custody.

8 (d) The court may award [IF] visitation [IS AWARDED] to a parent who has  
9 committed a crime involving domestic violence, against the other parent or a child of  
10 the two parents, only if the court finds the safety of the child and the other parent  
11 can be protected.

12 (e) If visitation is awarded under (d) of this section [WITHIN THE FIVE  
13 YEARS PRECEDING THE AWARD OF VISITATION], the court may set conditions  
14 for the visitation, including the following:

15 (1) the transfer of the child for visitation must occur in a protected  
16 setting;

17 (2) visitation shall be supervised by another person or agency and under  
18 specified conditions as ordered by the court;

19 (3) the perpetrator shall attend and complete, to the satisfaction of the  
20 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
21 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
22 counseling; the perpetrator shall be required to pay the costs of the program or other  
23 counseling;

24 (4) the perpetrator shall abstain from possession or consumption of  
25 alcohol or controlled substances during the visitation and for 24 hours before visitation;

26 (5) the perpetrator shall pay costs of supervised visitation as set by the  
27 court;

28 (6) the prohibition of overnight visitation;

29 (7) the perpetrator shall post a bond to the court for the return and  
30 safety of the child; and

31 (8) any other condition necessary for the safety of the child, the other

1 parent, or other household member.

2 \* Sec. 23. AS 25.20.070 is amended to read:

3 Sec. 25.20.070. **Temporary custody of the child.** Unless it is shown to be  
4 detrimental to the welfare of the child or the court determines that domestic violence  
5 has occurred, the child shall have, to the greatest degree practical, equal access to both  
6 parents during the time that the court considers an award of custody under  
7 AS 25.20.060 - 25.20.130.

8 \* Sec. 24. AS 25.20.090 is amended to read:

9 Sec. 25.20.090. **Factors for consideration in awarding shared child custody.**

10 In determining whether to award shared custody of a child the court shall consider

11 (1) presumptions under AS 25.20.061;

12 (2) the child's preference if the child is of sufficient age and capacity  
13 to form a preference;

14 (3) [(2)] the needs of the child;

15 (4) [(3)] the stability of the home environment likely to be offered by  
16 each parent;

17 (5) [(4)] the education of the child;

18 (6) [(5)] the advantages of keeping the child in the community where  
19 the child presently resides;

20 (7) [(6)] the optimal time for the child to spend with each parent  
21 considering

22 (A) the actual time spent with each parent;

23 (B) the proximity of each parent to the other and to the school  
24 in which the child is enrolled;

25 (C) the feasibility of travel between the parents;

26 (D) special needs unique to the child that may be better met by  
27 one parent than the other;

28 (E) which parent is more likely to encourage frequent and  
29 continuing contact with the other parent;

30 (8) [(7)] any findings and recommendations of a neutral mediator;

31 (9) [(8)] any evidence of domestic violence, child abuse, or child neglect

1 in the proposed custodial household or a history of violence between the parents;

2 (10) [(9)] evidence that substance abuse by either parent or other  
3 members of the household directly affects the emotional or physical well-being of the  
4 child;

5 (11) [(10)] other factors the court considers pertinent.

6 \* Sec. 25. AS 25.23.180(c) is amended to read:

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

10 (1) [ON THE GROUNDS] specified in AS 47.10.080(o) or 47.10.088  
11 [AS 47.10.080(c)(3)];

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

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

20 \* Sec. 26. AS 25.24.150(c) is amended to read:

21 (c) The court shall determine custody in accordance with the best interests of  
22 the child under AS 25.20.060 - 25.20.130. In determining the best interests of the child  
23 the court shall consider

24 (1) presumptions under AS 25.20.061:

25 (2) the physical, emotional, mental, religious, and social needs of the  
26 child;

27 (3) [(2)] the capability and desire of each parent to meet these needs;

28 (4) [(3)] the child's preference if the child is of sufficient age and  
29 capacity to form a preference;

30 (5) [(4)] the love and affection existing between the child and each  
31 parent;

1                   (6) [(5)] the length of time the child has lived in a stable, satisfactory  
2 environment and the desirability of maintaining continuity;

3                   (7) [(6)] the desire and ability of each parent to allow an open and  
4 loving frequent relationship between the child and the other parent;

5                   (8) [(7)] any evidence of domestic violence, child abuse, or child neglect  
6 in the proposed custodial household or a history of violence between the parents;

7                   (9) [(8)] evidence that substance abuse by either parent or other  
8 members of the household directly affects the emotional or physical well-being of the  
9 child;

10                  (10) [(9)] other factors that the court considers pertinent.

11 \* Sec. 27. AS 43.23.065(b) is amended to read:

12                  (b) An exemption is not available under this section for permanent fund  
13 dividends taken to satisfy

14                   (1) child support obligations required by court order or decision of the  
15 child support enforcement agency under AS 25.27.140 - 25.27.220;

16                   (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
17 or AS 47.12.120(b)(4);

18                   (3) claims on defaulted scholarship loans under AS 43.23.067;

19                   (4) court ordered fines;

20                   (5) writs of execution under AS 09.35 of a judgment that is entered

21                   (A) against a minor in a civil action to recover damages and  
22 court costs;

23                   (B) under AS 34.50.020 against the parent, parents, or legal  
24 guardian of an unemancipated minor;

25                   (6) a debt owed by an eligible individual to an agency of the state,  
26 unless the debt is contested and an appeal is pending, or the time limit for filing an  
27 appeal has not expired;

28                   (7) a debt owed to a person for a program for the rehabilitation of  
29 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),  
30 AS 25.20.061(e)(3) [AS 25.20.061(3)], or AS 33.16.150(f)(2).

31 \* Sec. 28. AS 47.05 is amended by adding a new section to read:

1           **Sec. 47.05.065. Legislative findings related to children.** The legislature finds  
2 that

3                   (1) parents have the following rights and responsibilities relating to the  
4 care and control of their child while the child is a minor:

5                           (A) the responsibility to provide the child with food, clothing,  
6 shelter, education, and medical care;

7                           (B) the right and responsibility to protect, nurture, train, and  
8 discipline the child, including the right to direct the child's medical care and the  
9 right to exercise reasonable corporal discipline;

10                          (C) the right to determine where and with whom the child shall  
11 live;

12                          (D) the rights and responsibility to make decisions of legal or  
13 financial significance concerning the child;

14                          (E) the right to obtain representation for the child in legal  
15 actions; and

16                          (F) the responsibility to provide special safeguards and care,  
17 including appropriate protection for the child;

18                   (2) it is the policy of the state to strengthen families and to protect  
19 children from child abuse and neglect; the state recognizes that, in some cases,  
20 protection of a child may require removal of the child from the child's home; however,

21                           (A) except in those cases involving serious risk to a child's  
22 health or safety, the Department of Health and Social Services should provide  
23 time-limited family support services to the child and the child's family in order  
24 to offer parents the opportunity to remedy parental conduct or conditions in the  
25 home that placed the child at risk of harm so that a child may return home  
26 safely and permanently; and

27                           (B) the state also recognizes that when a child is removed from  
28 the home, visitation between the child and the child's parents or guardian and  
29 family members reduces the trauma for the child and enhances the likelihood  
30 that the child will be able to return home; therefore, whenever a child is  
31 removed from the parental home, the Department of Health and Social Services

1 should encourage frequent, regular, and reasonable visitation of the child with  
2 the child's parent or guardian and family members;

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

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

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

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

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

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

20 (E) frequent, regular, and reasonable visitation with the parent  
21 or guardian and family members should be encouraged; and

22 (F) parents and guardians must actively participate in family  
23 support services so as to facilitate the child's being able to remain in the home;  
24 when children are removed from the home, the parents and guardians must  
25 actively participate in family support services to make return of their children  
26 to the home possible;

27 (5) numerous studies establish that

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

30 (B) a child who has not attached with an adult caregiver during  
31 this critical stage will suffer significant emotional damage that frequently leads

1 to chronic psychological problems and antisocial behavior when the child  
2 reaches adolescence and adulthood; and

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

7 \* **Sec. 29.** AS 47.05 is amended by adding a new section to read:

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

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

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

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

21 \* **Sec. 31.** AS 47.10.010 is repealed and reenacted to read:

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

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

31 \* **Sec. 32.** AS 47.10 is amended by adding new sections to read:

1           **Sec. 47.10.011. Children in need of aid.** Subject to AS 47.10.019 and  
2 AS 47.14.100(i), the court may find a child to be a child in need of aid if it finds by  
3 a preponderance of the evidence that the child has been subjected to any of the  
4 following:

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

8           (2) a parent, guardian, or custodian is incarcerated, the other parent is  
9 absent or has committed conduct or created conditions that cause the child to be a child  
10 in need of aid under this chapter, and the incarcerated parent has not made satisfactory  
11 arrangements for the child;

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

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

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

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

25           (7) the child has suffered sexual abuse, or there is a substantial risk that  
26 the child will suffer sexual abuse, as a result of conduct by or conditions created by the  
27 child's parent, guardian, or custodian or by the failure of the parent, guardian, or  
28 custodian to adequately supervise the child; if a parent, guardian, or custodian has  
29 actual notice that a person has been convicted of a sex offense against a minor within  
30 the past 15 years, is registered or required to register as a sex offender under AS 12.63,  
31 or is under investigation for a sex offense against a minor, and the parent, guardian, or

1       custodian subsequently allows a child to be left with that person, this conduct  
2       constitutes prima facie evidence that the child is at substantial risk of being sexually  
3       abused;

4               (8) conduct by or conditions created by the parent, guardian, or  
5       custodian have resulted in mental injury to the child or placed the child at substantial  
6       risk of mental injury;

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

9               (10) the parent, guardian, or custodian's ability to parent has been  
10       substantially impaired by the addictive or habitual use of an intoxicant, and the  
11       addictive or habitual use of the intoxicant has resulted in a substantial risk of harm to  
12       the child; if a court has previously found that a child is a child in need of aid under this  
13       paragraph, the resumption of use of an intoxicant by a parent, guardian, or custodian  
14       within one year after rehabilitation is prima facie evidence that the ability to parent is  
15       substantially impaired and the addictive or habitual use of the intoxicant has resulted  
16       in a substantial risk of harm to the child as described in this paragraph;

17              (11) the parent, guardian, or custodian has a mental illness, serious  
18       emotional disturbance, or mental deficiency of a nature and duration that places the  
19       child at substantial risk of physical harm or mental injury;

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

22              **Sec. 47.10.013. Abandonment.** (a) For purposes of this chapter, the court  
23       may find abandonment of a child if a parent or guardian has shown a conscious  
24       disregard of parental responsibilities toward the child by faili... to provide reasonable  
25       support, maintain regular contact, or provide normal supervision. Abandonment of a  
26       child also includes instances when the parent or guardian, without justifiable cause,

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

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

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

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

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

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

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

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

11 (b) For purposes of (a) of this section, a parent or guardian who is a victim of  
12 domestic violence, or who has a child in the parent's or guardian's care who is the  
13 victim of domestic violence, is considered to have justifiable cause to take an action  
14 or to fail to take an action that would otherwise be considered to be abandonment of  
15 a child under (a) of this section if the action or failure to act is necessary to protect the  
16 parent or guardian, or a child in the care of the parent or guardian, from further acts  
17 of domestic violence. However, a parent or guardian who initially had justifiable cause  
18 to act or fail to act as described in this subsection may be considered to have  
19 abandoned the child without justifiable cause for purposes of (a) of this section if the  
20 parent or guardian does not take reasonable steps to reunify with or provide care for  
21 the abandoned child after becoming secure from further acts of domestic violence or  
22 after providing that another child in the care of the parent or guardian is secure from  
23 further acts of domestic violence.

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

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

31 (1) the child was the victim of an act described in AS 11.41.100 -

1 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm  
 2 occurred as a result of conduct by or conditions created by a parent, guardian, or  
 3 custodian; or

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

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

13 \* **Sec. 33.** AS 47.10.020(a) is amended to read:

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

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

22 (2) determine whether the best interests of the child require that  
 23 further action be taken; [,] or

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

30 \* **Sec. 34.** AS 47.10.020(b) is amended to read:

31 (b) The petition and all subsequent pleadings shall be styled as follows: "In the

1 matter of . . . . ., a child [MINOR] under 18 years of age."  
2 The petition may be executed upon the petitioner's information and belief [,] and must  
3 be verified. It must include the following information:

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

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

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

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

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

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

14 \* Sec. 35. AS 47.10.030(b) is amended to read:

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

31 \* Sec. 36. AS 47.10.050(a) is amended to read:

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

9 \* Sec. 37. AS 47.10.070(a) is amended to read:

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

24 \* Sec. 38. AS 47.10.080(a) is amended to read:

25 (a) An adjudication hearing shall be completed within 120 days after a  
 26 finding of probable cause is entered unless the court finds good cause to continue  
 27 the hearing. When determining whether to grant a continuance for good cause,  
 28 the court shall take into consideration the age of the child and the potential  
 29 adverse effect that the delay may have on the child. The court, at the conclusion of  
 30 the hearing, [OR THEREAFTER] as the circumstances of the case may require, shall  
 31 find and enter a judgment that the child [MINOR] is or is not a child in need of aid.

1 \* Sec. 39. AS 47.10.080(c) is amended to read:

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

4 (1) order the child [MINOR] committed to the department for placement  
5 in an appropriate setting for a period of time not to exceed two years or in any event  
6 past the date the child [MINOR] becomes 19 years of age, except that the department  
7 or the child's guardian ad litem may petition for and the court may grant in a hearing  
8 (A) one-year [TWO-YEAR] extensions of commitment that do not extend beyond the  
9 child's [MINOR'S] 19th birthday if the extension is in the best interests of the child  
10 [MINOR]; and (B) an additional one-year period of state custody [SUPERVISION]  
11 past age 19 if the continued state custody [SUPERVISION] is in the best interests of  
12 the person and the person consents to it; [THE DEPARTMENT MAY TRANSFER  
13 THE MINOR, IN THE MINOR'S BEST INTERESTS, FROM ONE PLACEMENT  
14 SETTING TO ANOTHER, AND THE MINOR, THE MINOR'S PARENTS OR  
15 GUARDIAN, AND THE MINOR'S ATTORNEY ARE ENTITLED TO  
16 REASONABLE NOTICE OF THE TRANSFER;]

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

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

31 (B) an additional one-year period of supervision past age 19 if

1 the continued supervision is in the best interests of the person and the person  
2 consents to it; or

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

15 \* Sec. 40. AS 47.10.080(f) is amended to read:

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

1 REVIEW] and hold a permanency hearing where these persons [PARTIES] and their  
 2 counsel shall be afforded an opportunity to be heard. The persons entitled to notice  
 3 under AS 47.10.030(b) are entitled to notice of a permanency hearing under this  
 4 subsection and are also entitled to be heard at the hearing. The child [MINOR]  
 5 shall be afforded the opportunity to be present and to be heard at the permanency  
 6 hearing. After the permanency hearing, the court shall make the written findings  
 7 that are required under (l) of this section. The court shall review an order made  
 8 under (c)(2) of this section at least annually to determine if continued supervision,  
 9 as it is being provided, is in the best interest of the child; this review is not  
 10 considered to be a permanency hearing and is not governed by the provisions of  
 11 this subsection that relate to permanency hearings [REVIEW].

12 \* Sec. 41. AS 47.10.080(i) is amended to read:

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

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

20 (2) 45 days after the last date oral argument could have been timely  
 21 requested if oral argument was not requested.

22 \* Sec. 42. AS 47.10.080(l) is repealed and reenacted to read:

23 (l) Within 12 months after the date a child enters foster care as calculated under  
 24 AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and  
 25 permanent plan developed in the hearing are governed by the following provisions:

26 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of  
 27 this section are also entitled to be heard at the hearing held under this subsection;

28 (2) when establishing the permanent plan for the child, the court shall  
 29 make appropriate written findings, including findings related to whether

30 (A) and when the child should be returned to the parent or  
 31 guardian;

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

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

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

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

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

15 (B) whether the parent or guardian has made substantial progress  
16 to remedy the parent's or guardian's conduct or conditions in the home that  
17 made the child a child in need of aid under this chapter; and

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

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

26 \* Sec. 43. AS 47.10.080(o) is amended to read:

27 (o) For purposes of terminating a parent's parental rights under the standards  
28 in (c)(3) of this section, the court may determine that incarceration of the parent is  
29 sufficient grounds for determining that a child [MINOR] is a child in need of aid under  
30 AS 47.10.011 [AS 47.10.010(a)(1)] as a result of parental conduct and that the parental  
31 rights of the incarcerated parent should be terminated [CONDUCT IS LIKELY TO

1 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

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

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

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

10 \* Sec. 44. AS 47.10.080 is amended by adding new subsections to read:

11 (p) If a child is removed from the parental home, the department shall provide  
12 reasonable visitation between the child and the child's parents, guardian, and family.  
13 The court may require the department to file a visitation plan with the court. The  
14 department may deny visitation to the parents, guardian, or family members if there is  
15 clear and convincing evidence that visits are not in the child's best interests. A parent  
16 or guardian who is denied visitation may request a review hearing.

17 (q) If the court orders a child committed to the department under (c) of this  
18 section and the department places the child in licensed foster care, the department shall

19 (1) provide the foster parent with a copy of

20 (A) appropriate information held by the department regarding the  
21 child to the extent required by AS 47.12.310(b)(8);

22 (B) all initial, updated, and revised case service plans for the  
23 child, court orders relating to the child, and the child's medical, mental, and  
24 education reports prepared by or for the department, including reports compiled  
25 before the child was placed with the foster parent; and

26 (C) supplements to the plans, orders, and reports described in (B)  
27 of this paragraph;

28 (2) require the foster parent to

29 (A) maintain and update records regarding medical, mental,  
30 educational, and behavioral services provided to the child;

31 (B) provide all records described in (A) of this paragraph to the

1 department when the child leaves the foster home placement; and

2 (C) maintain the confidentiality of records regarding a child  
3 placed in the foster home except when disclosure of the records is allowed  
4 under regulations of the department or when disclosure is reasonably necessary  
5 to ensure continuation of care for the child through appropriate medical, mental,  
6 educational, and behavioral services.

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

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

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

15 (s) The department may transfer a child, in the child's best interests, from one  
16 placement setting to another, and the child, the child's parents or guardian, the child's  
17 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's  
18 attorney, and the child's tribe are entitled to advance notice of a nonemergency transfer.  
19 A party opposed to the proposed transfer may request a hearing and must prove by  
20 clear and convincing evidence that the transfer would be contrary to the best interests  
21 of the child for the court to deny the transfer. A foster parent or out-of-home caregiver  
22 who requests a change in placement of the child should provide the department with  
23 reasonable advance notice of the requested change.

24 \* Sec. 45. AS 47.10.082 is amended to read:

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

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

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

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

1 \* **Sec. 46.** AS 47.10.084(a) is amended to read:

2 (a) When a child is committed under AS 47.10.080(c)(1) to the department,  
3 released under AS 47.10.080(c)(2) to the child's parents, guardian, or other suitable  
4 person, or committed to the department or to a legally appointed guardian of the person  
5 of the child under AS 47.10.080(c)(3), a relationship of legal custody exists. This  
6 relationship imposes on the department and its authorized agents or the parents,  
7 guardian, or other suitable person the responsibility of physical care and control of the  
8 child, the determination of where and with whom the child shall live, the right and duty  
9 to protect, nurture, train, and discipline the child, [AND] the duty of providing the  
10 child with food, shelter, education, and medical care, and the right and responsibility  
11 to obtain legal representation for, and make decisions of legal or financial  
12 significance concerning, the child. These obligations are subject to any residual  
13 parental rights and responsibilities and rights and responsibilities of a guardian if one  
14 has been appointed. When a child is committed to the department and the department  
15 places the child with the child's parent, the parent has the responsibility to provide and  
16 pay for food, shelter, education, and medical care for the child. When parental rights  
17 have been terminated, or there are no living parents and no guardian has been  
18 appointed, the responsibilities of legal custody include those in (b) and (c) of this  
19 section. The department or person having legal custody of the child may delegate any  
20 of the responsibilities under this section, except authority to consent to marriage,  
21 adoption, and military enlistment may not be delegated. For purposes of this chapter  
22 a person in charge of a placement setting is an agent of the department.

23 \* **Sec. 47.** AS 47.10 is amended by adding new sections to read:

24 **Sec. 47.10.086. Reasonable efforts.** (a) Except as provided in (b) and (c) of  
25 this section, the department shall make timely, reasonable efforts to provide family  
26 support services to the child and to the parents or guardian of the child that are  
27 designed to prevent out-of-home placement of the child or to enable the safe return of  
28 the child to the family home, when appropriate, if the child is in an out-of-home  
29 placement. The department's duty to make reasonable efforts under this subsection  
30 includes the duty to

31 (1) identify available departmental and community services that are

1 designed to sustain and enhance the capacity of a parent or guardian to care for the  
 2 child at a level of adequacy that will allow the child either to remain in the home or  
 3 to be returned to the home; the department shall place a high priority on determining  
 4 whether appropriate community services are available;

5 (2) actively offer and attempt to provide or to refer the parent or  
 6 guardian to the services identified under (1) of this subsection; the department shall  
 7 place a high priority on referring the parents to services that are community services  
 8 if community services are available and desired by the parent or guardian;

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

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

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

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

25 (2) the parent or guardian has

26 (A) committed homicide under AS 11.41.100 - 11.41.130 of a  
 27 parent of the child or of a child;

28 (B) aided or abetted, attempted, conspired, or solicited under  
 29 AS 11.16 or AS 11.31 to commit a homicide described in (A) of this paragraph;

30 (C) committed an assault that is a felony under AS 11.41.200 -  
 31 11.41.220 and results in serious physical injury to a child; or

1 (D) committed the conduct described in (A) - (C) of this  
2 paragraph that violated a law or ordinance of another jurisdiction having  
3 elements similar to an offense described in (A) - (C) of this paragraph;

4 (3) the parental rights of a parent to a sibling of the child have been  
5 terminated by the court;

6 (4) the department has conducted a reasonably diligent search over a  
7 time period of at least three months for an unidentified or absent parent and has failed  
8 to identify and locate the parent;

9 (5) the parent or guardian is the sole caregiver of the child and the  
10 parent or guardian has a mental illness or mental deficiency that, according to a written  
11 certification of a psychologist or physician, makes it more probable than not that, even  
12 with the provision of family support services for 12 months, the caregiver will be  
13 incapable of caring for the child without creating a risk of substantial physical harm to  
14 the child;

15 (6) the parent or guardian has previously been convicted of a crime  
16 involving a child in this state or in another jurisdiction and, after the conviction, the  
17 child was returned to the custody of the parent or guardian and later removed because  
18 of an additional substantiated report of physical or sexual abuse by the parent or  
19 guardian;

20 (7) a child has suffered substantial physical harm as the result of abusive  
21 or neglectful conduct by the parent or guardian or by a person known by the parent or  
22 guardian and the parent or guardian knew or reasonably should have known that the  
23 person was abusing the child;

24 (8) the parental rights of the parent have been terminated with respect  
25 to another child because of child abuse or neglect, the parent has not remedied the  
26 conditions or conduct that led to the termination of parental rights, and the parent has  
27 demonstrated an inability to protect the child from substantial harm or the risk of  
28 substantial harm;

29 (9) the child has been removed from the child's home on at least two  
30 previous occasions, family support services were offered or provided to the parent or  
31 guardian at those times, and the parent or guardian has demonstrated an inability to

1 protect the child from substantial harm or the risk of substantial harm; or

2 (10) the parent or guardian is incarcerated and is unavailable to care for  
3 the child during a significant period of the child's minority, considering the child's age  
4 and need for care by an adult.

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

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

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

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

30 (f) The department may develop and implement an alternative permanency plan  
31 for the child while the department is also making reasonable efforts to return the child

1 to the child's family under (a) of this section.

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

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

8 (1) by clear and convincing evidence that

9 (A) the child has been subjected to conduct or conditions  
10 described in AS 47.10.011; and

11 (B) the parent

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

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

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

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

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

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

26 (3) the harm caused to the child;

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

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

29 (c) In a proceeding under this chapter involving termination of the parental  
30 right of a parent, the court shall consider the best interests of the child.

31 (d) Except as provided in (e) of this section, the department shall petition for

1 termination of a parent's rights to a child, without making further reasonable efforts,  
 2 when a child is under the jurisdiction of the court under AS 47.10.010 and 47.10.011,  
 3 and

4 (1) the child has been in foster care for at least 15 of the most recent  
 5 22 months;

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

8 (3) the court has made a finding under AS 47.10.085(b) or a  
 9 determination under AS 47.10.086(c) that the best interests of the child do not require  
 10 further reasonable efforts by the department;

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

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

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

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

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

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

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

28 (2) 60 days after the date of removal of the child from the child's home  
 29 under this chapter.

30 (g) This section does not preclude the department from filing a petition to  
 31 terminate the parental rights and responsibilities to a child for other reasons, or at an

1 earlier time than those specified in (d) of this section, if the department determines that  
2 filing a petition is in the best interests of the child.

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

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

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

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

23 \* Sec. 48. AS 47.10.092(a) is amended to read:

24 (a) Notwithstanding AS 47.10.090 and 47.10.093, a parent or legal guardian of  
25 a child [MINOR] subject to a proceeding under AS 47.10.005 - 47.10.142  
26 [AS 47.10.010 - 47.10.142] may disclose confidential or privileged information about  
27 the child or the child's family [MINOR], including information that has been lawfully  
28 obtained from agency or court files, to the governor, the lieutenant governor, a  
29 legislator, the ombudsman appointed under AS 24.55, the attorney general, and the  
30 commissioners of health and social services, administration, or public safety, or an  
31 employee of these persons, for review or use in their official capacities. The

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

10 \* Sec. 49. AS 47.10.093(b) is amended to read:

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

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

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

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

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

29 (5) [(4)] a governmental agency as may be necessary to obtain that  
 30 agency's assistance for the department in its investigation o. to obtain physical custody  
 31 of a child;

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

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

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

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

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

15 \* Sec. 50. AS 47.10.141(f) is amended to read:

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

1 determination not to proceed with the petition, including the reasons on which the  
 2 determination was based. If the department is unable to obtain a reasonably reliable  
 3 address for a parent or guardian, the department shall keep a copy of the notice on file  
 4 and, notwithstanding AS 47.10.093, release the notice to the child's [MINOR'S] parent  
 5 or guardian on request of the parent or guardian. If the department files a petition  
 6 alleging that the child [MINOR] is a child in need of aid, the court shall proceed under  
 7 AS 47.10.142(d).

8 \* **Sec. 51.** AS 47.10.141(g) is amended to read:

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

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

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

19 \* **Sec. 52.** AS 47.10.142(a) is amended to read:

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

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

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

29 (3) the child [MINOR] has been subjected to physical harm [CHILD  
 30 ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare,  
 31 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the

# 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

1 determination not to proceed with the petition, including the reasons on which the  
 2 determination was based. If the department is unable to obtain a reasonably reliable  
 3 address for a parent or guardian, the department shall keep a copy of the notice on file  
 4 and, notwithstanding AS 47.10.093, release the notice to the child's [MINOR'S] parent  
 5 or guardian on request of the parent or guardian. If the department files a petition  
 6 alleging that the child [MINOR] is a child in need of aid, the court shall proceed under  
 7 AS 47.10.142(d).

8 \* Sec. 51. AS 47.10.141(g) is amended to read:

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

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

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 21 of a child [MINOR] upon discovering any of the following circumstances:

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

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

29 (3) the child [MINOR] has been subjected to physical harm [CHILD  
 30 ABUSE OR NEGLECT] by a person responsible for the child's [MINOR'S] welfare,  
 31 [AS "CHILD ABUSE OR NEGLECT" IS DEFINED IN AS 47.17.290,] and the

1 department determines that immediate removal from the child's [MINOR'S]  
 2 surroundings is necessary to protect the child's [MINOR'S] life or that immediate  
 3 medical attention is necessary; or

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

6 \* **Sec. 53.** AS 47.10.142(c) is amended to read:

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

21 \* **Sec. 54.** AS 47.10.142(h) is amended to read:

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

25 \* **Sec. 55.** AS 47.10 is amended by adding a new section to read:

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

29 \* **Sec. 56.** AS 47.10.990(1) is amended to read:

30 (1) "care" [OR "CARING" UNDER AS 47.10.010(a)(1) AND  
 31 47.10.120(a)] means to provide for the physical, [EMOTIONAL,] mental, and social

1 needs of the child;

2 \* Sec. 57. AS 47.10.990(2) is amended to read:

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

5 \* Sec. 58. AS 47.10.990 is amended by adding new paragraphs to read:

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

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

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

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

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

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

24 (14) "hazardous volatile material or substances" has the meaning given  
25 in AS 47.37.270;

26 (15) "intoxicant" means a substance that temporarily diminishes a  
27 person's control over mental or physical powers, including alcohol, controlled  
28 substances under AS 11.71, and a hazardous volatile material or substance misused by  
29 inhaling its vapors;

30 (16) "mental injury" has the meaning given in AS 47.17.290;

31 (17) "parent" means the biological or adoptive parent of the child;

1 (18) "permanency hearing" means a hearing

2 (A) designed to reach a decision in a case concerning the  
3 permanent placement of a child under AS 47.10; and

4 (B) at which the direction of the case involving the child is  
5 determined;

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

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

12 (21) "serious physical injury" has the meaning given in  
13 AS 11.81.900(b);

14 (22) "sexual abuse" means the conduct described in AS 11.41.410 -  
15 11.41.460; conduct constituting "sexual exploitation" as defined in AS 47.17.290, and  
16 conduct prohibited by AS 11.66.100 - 11.66.150;

17 (23) "support" has the meaning given in AS 11.51.120(b).

18 \* Sec. 59. AS 47.12.310(b) is amended to read:

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

21 (1) a guardian ad litem appointed by the court or to a citizen review  
22 board or local review panel for permanency planning authorized by AS 47.14.200 -  
23 47.14.220;

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

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

1 (4) a governmental agency as may be necessary to obtain that agency's  
2 assistance for the department in its investigation or to obtain physical custody of a  
3 minor;

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

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

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

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

18 \* Sec. 60. AS 47.14.100(a) is amended to read:

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

26 \* Sec. 61. AS 47.14.100(d) is amended to read:

27 (d) In addition to money paid for the maintenance of foster children under (b)  
28 of this section, the department  
29 (1) shall pay the costs of caring for physically or mentally handicapped  
30 foster children, including the additional costs of medical care, habilitative and  
31 rehabilitative treatment, services and equipment, special clothing, and the indirect costs

1 of medical care, including child care and transportation expenses;

2 (2) may pay for respite care; in this paragraph, "respite care" means  
3 child care for the purpose of providing

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

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

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

11 (B) PROTECTION FOR THE CHILD WHEN THE FOSTER  
12 PARENT IS

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

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

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

22 \* Sec. 62. AS 47.14.100(e) is amended to read:

23 (e) A child may not be placed in a foster home or in the care of an agency or  
24 institution providing care for children if a [BLOOD] relative by blood or marriage  
25 [EXISTS WHO] requests placement [CUSTODY] of the child in the relative's home.  
26 However, the department may retain custody of the child and provide for its placement  
27 in the same manner as for other children if the department

28 (1) [IT] makes a determination, supported by clear and convincing  
29 evidence, that placement [THE CUSTODY] of the child with [BY] the [BLOOD]  
30 relative will result in physical or mental injury; in [EMOTIONAL DAMAGE. IN]  
31 making that determination, poverty, including inadequate or crowded housing, on the

1 part of the blood relative, is not considered prima facie evidence that physical or  
 2 emotional damage to the child will occur; this [. THIS] determination may be appealed  
 3 to the superior court to hear the matter de novo;

4 (2) determines that there is a member of the relative's household  
 5 who is 16 years of age or older who has a criminal record or was the perpetrator  
 6 in a substantiated report of abuse under AS 47.17; for the purpose of obtaining  
 7 criminal justice information under this paragraph, the department is a criminal  
 8 justice agency conducting a criminal justice activity under AS 12.62; or

9 (3) disqualifies the relative's home based on the results of a criminal  
 10 background check from criminal justice information available under AS 12.62; the  
 11 department shall conduct a criminal background check of available criminal  
 12 justice information received under AS 12.62; the department may conduct a  
 13 fingerprint background check of a relative who requests placement of the child;  
 14 the department may not place a child with a relative who does not meet the  
 15 standards required for placement in foster care as described in AS 47.35.022(a)  
 16 and (b); for the purpose of obtaining criminal justice information under this  
 17 paragraph, the department is a criminal justice agency conducting a criminal  
 18 justice activity under AS 12.62.

19 \* Sec. 63. AS 47.14.100 is amended by adding a new subsection to read:

20 (i) A child may not be placed with an out-of-home care provider, as defined  
 21 in AS 47.14.299, if the department determines that the child can remain safely at home  
 22 with one parent or guardian.

23 \* Sec. 64. AS 47.14.240(d) is amended to read:

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

30 (1) the child whose case is being reviewed if the child is 10 years of age  
 31 or older;

- 1 (2) the parents, custodians, or other relatives of the child;
- 2 (3) the child's out-of-home care provider;
- 3 (4) the child's guardian;
- 4 (5) the child's guardian ad litem;
- 5 (6) the case worker or social worker assigned to the case;
- 6 (7) the child's health care providers;
- 7 (8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
- 8 Welfare Act),

- 9 (A) the child's Indian custodian; and
- 10 (B) the designated representative of the child's Indian tribe if the
- 11 tribe has intervened in the court case; and
- 12 (9) [(8)] other persons with a close personal knowledge of the case.

13 \* Sec. 65. AS 47.14.240(h) is amended to read:

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

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

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

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

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

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

20 \* Sec. 66. AS 47.14 is amended by adding a new section to read:

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

22 **Sec. 47.14.300. Multidisciplinary child protection teams.** (a) The

23 department shall create multidisciplinary child protection teams to assist in the

24 evaluation and investigation of reports made under AS 47.17 and to provide

25 consultation and coordination for agencies involved in child protection cases under

26 AS 47.10.

27 (b) If a team is created under (a) of this section, the team may invite other

28 persons to serve on the team who have knowledge of and experience in child abuse and

29 neglect matters. These persons may include

- 30 (1) mental and physical health practitioners licensed under AS 08;
- 31 (2) child development specialists;

- 1 (3) educators;
- 2 (4) peace officers as defined in AS 11.81.900;
- 3 (5) victim counselors as defined in AS 18.66.250;
- 4 (6) experts in the assessment and treatment of substance abuse;
- 5 (7) representatives of the district attorney's office and the attorney  
6 general's office;
- 7 (8) persons familiar with 25 U.S.C. 1901 - 1963 (Indian Child Welfare  
8 Act);
- 9 (9) guardians ad litem; and
- 10 (10) staff members of a child advocacy center if a center is located in  
11 the relevant area.

12 (c) A team created under (a) and (b) of this section shall review records on a  
13 case referred to the team by the department. The department shall make available to  
14 the team its records on the case and other records compiled for planning on the case  
15 by other agencies at the request of the department. The team may make  
16 recommendations to the department on appropriate planning for the case.

17 (d) Except for a public report issued by a team that does not contain  
18 confidential information, records or other information collected by the team or a  
19 member of the team related to duties under this section are confidential and not subject  
20 to public disclosure under AS 09.25.100 and 09.25.110.

21 (e) Meetings of a team are closed to the public and are not subject to the  
22 provisions of AS 44.62.310 and 44.62.312.

23 (f) The determinations, conclusions, and recommendations of a team or its  
24 members are not admissible in a civil or criminal proceeding. A member may not be  
25 compelled to disclose a determination, conclusion, recommendation, discussion, or  
26 thought process through discovery or testimony in a civil or criminal proceeding.  
27 Records and information collected by the team are not subject to discovery or subpoena  
28 in connection with a civil or criminal proceeding.

29 (g) Notwithstanding (f) of this section, an employee of the department may  
30 testify in a civil or criminal proceeding concerning cases reviewed by a team even  
31 though the department's records were reviewed by a team and formed the basis of that

1 employee's testimony and the team's report.

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

5 (i) In this section, "team" means a multidisciplinary child protection team  
6 created under (a) and (b) of this section.

7 \* Sec. 67. AS 47.14.990(2) is amended to read:

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

10 \* Sec. 68. AS 47.17.020(a) is amended to read:

11 (a) The following persons who, in the performance of their occupational duties,  
12 or with respect to (9) of this subsection, in the performance of their appointed  
13 duties, have reasonable cause to suspect that a child has suffered harm as a result of  
14 child abuse or neglect shall immediately report the harm to the nearest office of the  
15 department:

16 (1) practitioners of the healing arts;

17 (2) school teachers and school administrative staff members of public  
18 and private schools;

19 (3) social workers;

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

21 (5) administrative officers of institutions;

22 (6) child care providers;

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

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

27 (9) members of a child fatality review team established under  
28 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created  
29 under AS 47.14.300.

30 \* Sec. 69. AS 47.17.020 is amended by adding new subsections to read:

31 (h) This section does not require a person required to report child abuse or

1 neglect under (a)(7) of this section to report mental injury to a child as a result of  
 2 exposure to domestic violence so long as the person has reasonable cause to believe  
 3 that the child is in safe and appropriate care and not presently in danger of mental  
 4 injury as a result of exposure to domestic violence.

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

9 \* Sec. 70. AS 47.17.030(d) is amended to read:

10 (d) Before the department or a local government health or social services  
 11 agency may seek the termination of parental rights under AS 47.10  
 12 [AS 47.10.080(c)(3)], it shall offer protective social services and pursue all other  
 13 reasonable means of protecting the child.

14 \* Sec. 71. AS 47.17 is amended by adding a new section to read:

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

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

23 \* Sec. 72. AS 47.17.035(b) is amended to read:

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

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

30 (A) reasonable efforts to protect the child and prevent the  
 31 removal of the child from the parent or guardian who is not a domestic

violence offender;

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

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

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

\* Sec. 73. AS 47.17.290(8) is amended to read:

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

\* Sec. 74. AS 47.35.017(b) is amended to read:

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

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

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

(3) the name and address of the administrator of the facility or agency,

1 if any;

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

5 (5) a release for the administrator or foster parent and for each other  
6 person who is 16 years of age or older, as specified by the department by regulation,  
7 who will have contact with individuals served by the facility or agency, authorizing the  
8 department to review all federal, state, and municipal criminal justice information,  
9 whether of this state, of a municipality of this state, or of another jurisdiction  
10 [LAW ENFORCEMENT], medical records, licensing records, and protective services  
11 records, identified in regulations adopted under this chapter, that are relevant to the  
12 person who is the subject of the release and to the type of license for which the  
13 application has been submitted;

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

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

24 (8) [(7)] the type of facility or agency for which the license is sought;

25 (9) [(8)] copies of all inspection reports and approvals required by state  
26 fire prevention and environmental health and safety authorities for operation of the  
27 facility or agency, including any variances granted by these authorities;

28 (10) [(9)] a plan of operation, as required by the department by  
29 regulation;

30 (11) [(10)] a staffing plan that describes the number of people who will  
31 work at the facility or agency, staff qualifications, a description of each person's

1 responsibilities, and, for a facility other than a maternity home, a supervision schedule  
 2 for the children in care that meets the requirements established by the department by  
 3 regulation;

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

6 (13) [(11)] evidence that the applicant has completed orientation or  
 7 training required by the department, by regulation, for holders of the type of license for  
 8 which the application was submitted; and

9 (14) [(12)] other information required by the department, by regulation,  
 10 in order to monitor compliance with this chapter and regulations adopted under this  
 11 chapter.

12 \* Sec. 75. AS 47.35 is amended by adding a new section to read:

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

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

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

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

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

29 (c) The department shall develop procedures for rechecking criminal justice  
 30 information records for the information described in (a) of this section for persons who  
 31 are 16 years of age or older who are living in a licensed foster home with access to

1 children placed by the department.

2 \* Sec. 76. AS 47.35.023(b) is repealed and reenacted to read:

3 (b) Notwithstanding (a) of this section, if an emergency exists and a child must  
4 be immediately placed, the department or the department's designee may issue a  
5 provisional foster home license on an emergency basis for a period of 90 days or less  
6 if the department or the department's designee determines that the applicant meets  
7 minimal requirements for emergency conditions and the applicant agrees in writing to  
8 provide the fingerprint information described in AS 47.35.017(b) within 30 days of the  
9 placement of a child in the foster home. The department may extend a provisional  
10 foster home license issued under this subsection for one or two additional periods of  
11 up to 90 days each in order to obtain the information from the national criminal  
12 background check required under AS 47.35.017(b)(6). The department may not issue  
13 a license under this subsection before checking state and national criminal justice  
14 information available to the department under AS 12.62 and regulations adopted under  
15 AS 12.62 about the administrator or foster parent and each person who is 16 years of  
16 age or older in the foster home who will have contact with the child. If the department  
17 cannot obtain direct access to the state and federal criminal justice information, the  
18 department shall request the agency having primary law enforcement responsibility for  
19 the geographic area in which the prospective foster home is located to obtain the  
20 information and provide it to the department before the license is issued under this  
21 section. If the criminal justice information readily available to the department shows  
22 an offense which a person would be required to notify the department under  
23 AS 47.35.047(b), the department may not issue the license under this subsection. If the  
24 additional criminal justice information available from the fingerprint search or another  
25 source after the license is issued reveals that the person has a record for one or more  
26 of these offenses, the department shall immediately revoke the license and move the  
27 child to an appropriate placement. For purposes of obtaining criminal justice  
28 information under this subsection, the department is a criminal justice agency  
29 conducting a criminal justice activity under AS 12.62.

30 \* Sec. 77. AS 47.35.047(b) is amended to read:

31 (b) A licensee shall notify the department within 24 hours after having

1 knowledge of a conviction or indictment, presentment, or charging by information or  
 2 complaint of an administrator, foster parent, member of the licensee's household, regular  
 3 volunteer, or staff person for a violation of the following laws or the laws of another  
 4 jurisdiction with similar elements:

5 (1) offenses against the family and vulnerable adults under  
 6 AS 11.51;

7 (2) perjury under AS 11.56.200;

8 (3) offenses included in the definition of "serious offense" under  
 9 AS 12.62.900 [FELONY, FOR A MISDEMEANOR CRIME OF ASSAULT,  
 10 RECKLESS ENDANGERMENT, CONTRIBUTING TO THE DELINQUENCY OF A  
 11 MINOR, OR MISCONDUCT INVOLVING A CONTROLLED SUBSTANCE, FOR  
 12 THE CRIME OF PERJURY, AS DEFINED IN AS 11 OR THE LAWS OF ANOTHER  
 13 JURISDICTION, OR FOR A SEX CRIME AS DEFINED IN AS 12.62.035].

14 \* Sec. 78. AS 47.35.900 is amended by adding new paragraphs to read:

15 (20) "criminal justice information" has the meaning given in  
 16 AS 12.62.900;

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

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

19 \* Sec. 79. AS 47.10.080(k), and 47.10.990(7) are repealed.

20 \* Sec. 80. COURT RULE CHANGE; EXPEDITED APPEALS. (a) AS 47.10.080(i), as  
 21 amended in sec. 41 of this Act, has the effect of amending Rule 218, Alaska Rules of  
 22 Appellate Procedure, by requiring that expedited appeals from a judgment or an order under  
 23 AS 47.10 be decided within a fixed timeframe.

24 (b) Section 41 of this Act takes effect only if this section receives the two-thirds  
 25 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

26 \* Sec. 81. COURT RULE CHANGES; CINA RULES. (a) Many provisions enacted or  
 27 amended by secs. 30 - 58 of this Act have the effect of amending the Alaska Child in Need  
 28 of Aid Rules, including rules regarding notice, parties, hearings, filing of petitions or reports,  
 29 court review of orders, termination of parental rights, and duties of the Department of Health  
 30 and Social Services.

31 (b) Sections 30 - 58 of this Act take effect only if this section receives the two-thirds

- 1 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.  
2 \* Sec. 82. APPLICABILITY. This Act applies to all new cases or proceedings filed with  
3 the court on or after the effective date of this Act and to motions filed with the court on or  
4 after the effective date of this Act in cases or proceedings pending before a court on the day  
5 before the effective date of this Act.  
6 \* Sec. 83. This Act takes effect immediately under AS 01.10.070(c).

B... H

AMENDMENT

OFFERED IN THE HOUSE  
TO: CSHB 375(HES)

1 Page 31, lines 28 - 29:

2 Delete "After the permanency hearing required by (l) of this section, the [THE]  
3 court shall hold a permanency hearing at least once a year"

4 Insert "For an order made under (c)(1) of this section, the [THE] court shall hold  
5 a permanency hearing as required by (l) of this section and at least annually thereafter  
6 during the continuation of foster care"

7 Page 32, line 1:

8 Delete "or supervision"

9 Insert "[OR SUPERVISION]"

10 Page 32, line 14, following the second occurrence of "the":

11 Insert "permanency"

12 Page 32, line 15, following the first occurrence of "the":

13 Insert "permanency"

14 Page 32, line 16, following "section":

15 Insert "The court shall review an order made under (c)(2) of this section at least  
16 annually to determine if continued supervision, as it is being provided, is in the best  
17 interest of the child; this review is not considered to be a permanency hearing and is not  
18 governed by the provisions of this subsection that relate to permanency hearings"

19 Page 32, line 27, through page 33, line 25:

20 Delete all material and insert:

1 Page 27, following line 3

2 Insert a new subsection to read:

3 "(b) For purposes of (a) of this section, a parent or guardian who is a victim  
4 of domestic violence, or who has a child in the parent's or guardian's care who is the  
5 victim of domestic violence, is considered to have justifiable cause to take an action  
6 or to fail to take an action that would otherwise be considered to be abandonment of  
7 a child under (a) of this section if the action or failure to act is necessary to protect  
8 the parent or guardian, or a child in the care of the parent or guardian, from further  
9 acts of domestic violence. However, a parent or guardian who initially had justifiable  
10 cause to act or fail to act as described in this subsection may be considered to have  
11 abandoned the child without justifiable cause for purposes of (a) of this section if the  
12 parent or guardian does not take reasonable steps to reunify with or provide care for  
13 the abandoned child after becoming secure from further acts of domestic violence or  
14 after providing that another child in the care of the parent or guardian is secure from  
15 further acts of domestic violence."

16 Page 30, line 7, following "hearing":

17 Insert "**When determining whether to grant a continuance for good cause, the**  
18 **court shall take into consideration the age of the child and the potential adverse effect**  
19 **that the delay may have on the child.**"

20 Page 30, lines 24 - 25:

21 Delete "**the child's health care providers,**"

1 changes after the hearing, the department shall promptly apply to the court for another  
2 permanency hearing, and the court shall conduct the hearing within 30 days after  
3 application by the department "

4 Page 34, lines 26 - 27

5 Delete all material

6 Page 34, line 28

7 Delete "(1)"

8 Insert "section for placement in licensed foster care, the court shall order the

9 (1) department to provide the foster parent with a copy of

10 (A) appropriate information held by the department regarding

11 the child to the extent required by AS 47.12.310(b)(8);

12 (B)"

13 Page 35, line 1:

14 Delete "(2)"

15 Insert "(C)"

16 Page 35, lines 1 - 2:

17 Delete "(1) of this subsection"

18 Insert "(B) of this paragraph:

19 (2) the foster parent to

20 (A) maintain and update records regarding medical, mental,  
21 educational, and behavioral services provided to the child;

22 (B) provide all records described in (A) of this paragraph to the  
23 department when the child leaves the foster home placement; and

24 (C) maintain the confidentiality of records regarding a child  
25 placed in the foster home except when disclosure of the records is allowed  
26 under regulations of the department or when disclosure is reasonably necessary  
27 to ensure continuation of care for the child through appropriate medical,  
28 mental, educational, and behavioral services"

- 1 Page 35, line 13  
2 Delete ", without a court order."
- 3 Page 35, line 25  
4 Delete "request a court order to allow a change in"  
5 Insert "change"
- 6 Page 35, line 30, following "placement"  
7 Insert "with the court"
- 8 Page 36, line 1:  
9 Delete "an"  
10 Insert "a timely"
- 11 Page 37, line 17:  
12 Delete "parents"  
13 Insert "parent or guardian"
- 14 Page 37, line 19:  
15 Delete "parents"  
16 Insert "parent or guardian"  
17 Following the second occurrence of "services":  
18 Insert "if community services are available and desired by the parent or  
19 guardian"
- 20 Page 38, line 6, following "of":  
21 Insert "a parent of the child or of"
- 22 Page 39, line 8:  
23 Delete "or"
- 24 Page 39, line 12, following the second occurrence of "harm":

1           Insert ", or"  
2                                 (10) the parent or guardian is incarcerated and is unavailable to care  
3           for the child during a significant period of the child's minority, considering the child's  
4           age and need for care by an adult

5   Page 46, line 29:

6           Delete "minor"

7           Insert "child [MLNOR]"

8   Page 46, line 31:

9           Delete "minor"

10          Insert "child [MLNOR]"

11   Page 59, lines 23 - 24:

12          Delete "an additional period of up to 90 days"

13          Insert "one or two additional periods of up to 90 days each"

Proposed amendment to CS for HB 375:

page 7, line 30 should read (2) is incapacitated by a controlled substance that is authorized under AS 17.30 or an intoxicant that is not authorized, and a third person who is at least 12 years of age and not incapacitated by an intoxicant is not present to care for the child.

Delete (3) lines 2-3 on page 8

(e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a relative by blood or marriage requests placement of the child in the relative home. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if it makes a determination, supported by clear and convincing evidence, that custody of the child by the relative will result in physical or emotional damage. Additionally, the department shall query available criminal history records on any relative requesting placement of the child. The department may conduct a fingerprint background check on any relative requesting placement of the child. The department shall not place a child with any relative who is currently under arrest for, charged with, or has been convicted of, or found not guilty by reason of insanity of, a serious offense. However, the department may place or continue the placement of the child with a relative who demonstrates to the satisfaction of the department that the conduct occurred at least five years prior to the placement and the conduct

- (1) did not involve a victim who was under 18 years of age at the time the conduct occurred;
- (2) was not a crime of domestic violence as defined in AS 18.66.990; and
- (3) was not a violent crime under AS 11.41.10 - 11.41.455 or a law or ordinance of another jurisdiction having similar elements.

Page 51, lines 19-30 delete entirely.

Page 55, lines 22-26 delete entirely.

Proposed Amendments to CS to HB 375:

page 34, lines 10 - 24 should be deleted entirely OR replaced with:

(p) if a child is removed from the parental home, the department shall provide reasonable visitation between the child and the parents or guardian. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents or guardian if there is clear and convincing evidence that visits are not in the child's best interests. Any parent or guardian who is denied visitation may request a review hearing.

Page 35, lines 12-31 and page 36, lines 1-4 should be deleted entirely OR replaced with:

(s) the department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's foster parents or out of home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe, if known, are entitled to advance notice of any non-emergency transfer. Any party opposed to the proposed transfer may request a hearing and must prove an abuse of discretion by the department for the court to deny the transfer. A foster parent or out of home caregiver who requests a change in placement of the child, should provide the department with reasonable advance notice of the requested change.

If (s) is inserted as above, then page 30, lines 21 after "it;" should be deleted through line 26.

Page 36, lines 22-24, the added language should be deleted OR delete line 22 "and the right and responsibility to obtain legal representation for,," The department should be concerned with protecting the child from abuse and neglect and obtaining needed services for the child's recovery.

Page two

page 43, line 19 should read "may or shall upon request" disclose....

Page 48, line 23 should read "may or shall upon request" disclose...

Page 50, lines 27 through page 51, line 18 should be replaced with:

# 5A

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE BUNDE

TO: CSHB 375(HES)

- 1 Page 25, line 17, following "adequately;":
- 2       Insert "if a child, immediately after birth, tests positive for exposure to or infection
- 3 with the human immunodeficiency virus (HIV), the court may find that the child is a child
- 4 in need of aid under this paragraph if the child's mother tested positive for exposure to or
- 5 infection with HIV before or during the pregnancy, knew about the test results, and failed to
- 6 obtain treatment for that condition during the pregnancy after learning of the test results;"

# 5 B

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE BUNDE

TO: CSHB 375(HES)

- 1 Page 25, line 17, following "adequately;":
- 2       Insert "if, at birth, the child's blood had alcoholic content, the court may find that the
- 3 child is need of aid under this paragraph;"

Bunde

# 6

Page 18, line 14.

After “;” insert “exposure to domestic violence shall be treated as in AS 25.20.061”

(again your technical assistance with this is appreciated.)

Amendment No.       

8 #7  
—

Page 7, line 24 to page 8, line 3, DELETE and REPLACE with:

**Sec. 11.51.110. Endangering the welfare of a child in the second degree.** (a) A person commits the offense of endangering the welfare of a child in the second degree if the person, while caring for a child under 10 years of age,

(1) causes or allows the child to enter or remain in a dwelling or vehicle in which a controlled substance is stored in violation of AS 11.71; or

(2) is impaired by an intoxicant, whether or not prescribed for the person under AS 17.30, and there is no third person present to care for the child who is at least 12 years of age and not impaired by an intoxicant.

5-7

Page 8, lines 5-8, DELETE and REPLACE with

“impaired” means that a person is unconscious or a person is physically or mentally affected so that the person does not have the ability to care for the basic safety or personal needs of a child with the caution characteristic of a sober person of ordinary prudence;

Page 47, line 31: Insert

“hazardous volatile material or substance” has the meaning given in AS 47.37.270;

Page 48, line 2: Replace the word “inhalants” with “a hazardous volatile material or substance misused by inhaling its vapors”

~~47.14.100~~

Amendment No. \_\_\_\_

9  
—

#8

Add a new section to the bill.

\* Sec. \_\_. AS 12.55.155(c)(23) is amended to read:

(23) the defendant is convicted of an offense specified in AS 11.71 and ~~(A)~~ the offense involved the delivery of a controlled substance under circumstances manifesting an intent to distribute the substance as part of a commercial enterprise; or (B) at the time of the conduct resulting in the conviction, the defendant was caring for or assisting in the care of a child under 10 years of age;

10

AMENDMENT

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: CSHB 375(HES)

- 1 Page 6, line 4, following "genitals":
- 2 Delete ~~(to)~~ another person"
- 3 Page 6, line 5, following "have"
- 4 Delete "on that person"

*Delete to  
in the presence of another person*

p. 8 line 31

# 11

INSERT: (after "16,")

whose death has been caused by  
any of the conditions described in  
AS 47.10.014 or AS 47.10.015;

Make pg 8, lines 30-31 look like

AS 11. 41,100 (a) (2)

P 8 30,31 when the command was knowingly  
directed <sup>toward</sup> a child under the  
eye of Q 16.

# 12

PJ 29 like 22 delete

" in the courtroom or in chambers "

# 13

PS 28 18 99 Conceptual

PS 40 In 17 + 18, -

by a clear & convincing evidence  
that the child has been subjected  
to any of the conditions listed in

Conceptual

H.1

- pg 1 line's 17 + 21 delete "immediate"

pg 2 line 4 delete "immediate"

pg 25 l: 9 as defined in 47.17.290 of mental

p 2 line 12 delete §

p 25 line 29 or placed the child at  
substantial risk to mental injury

~~p 35 line 17 add & mail~~

p 34 line 8 - add and the court place  
the child - is delete (for placement)

by & c + c evidence that the proposed ~~best~~ transfer  
is not in the best interests of the child

by clear and convincing evidence that the  
proposed transfer would be contrary to the best  
interests of the child

By col #2  
#4

A M E N D M E N T

OFFERED IN THE HOUSE  
TO: CSHB 375(HES)

- 1 Page 31, lines 28 - 29:
  - 2 Delete "After the permanency hearing required by (l) of this section, the [THE]
  - 3 court shall hold a permanency hearing at least once a year"
  - 4 Insert "For an order made under (c)(1) of this section, the [THE] court shall hold
  - 5 a permanency hearing as required by (l) of this section and at least annually thereafter
  - 6 during the continuation of foster care"
  
- 7 Page 32, line 1:
  - 8 Delete "or supervision"
  - 9 Insert "[OR SUPERVISION]"
  
- 10 Page 32, line 14, following the second occurrence of "the":
  - 11 Insert "permanency"
  
- 12 Page 32, line 15, following the first occurrence of "the":
  - 13 Insert "permanency"
  
- 14 Page 32, line 16, following "section":
  - 15 Insert "The court shall review an order made under (c)(2) of this section at least
  - 16 annually to determine if continued supervision, as it is being provided, is in the best
  - 17 interest of the child; this review is not considered to be a permanency hearing and is not
  - 18 governed by the provisions of this subsection that relate to permanency hearings"
  
- 19 Page 32, line 27, through page 33, line 25:
  - 20 Delete all material and insert:

1     \*\* Sec. 41. AS 47.10.080(l) is repealed and reenacted to read:

2             (l) Within 12 months after the date a child enters foster care as calculated  
3     under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and  
4     permanent plan developed in the hearing are governed by the following provisions:

5             (1) the persons entitled to be heard under AS 47.10.070 or under (f)  
6     of this section are also entitled to be heard at the hearing held under this subsection;

7             (2) when establishing the permanent plan for the child, the court shall  
8     make appropriate written findings, including findings related to whether

9             (A) and when the child should be returned to the parent or  
10     guardian;

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

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

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

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

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

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

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

31            (5) the court shall hold a hearing to review the permanent plan at least  
32     annually until successful implementation of the plan; if the plan approved by the court

1 changes after the hearing, the department shall promptly apply to the court for another  
2 permanency hearing, and the court shall conduct the hearing within 30 days after  
3 application by the department."

4 Page 34, lines 26 - 27:

5 Delete all material.

6 Page 34, line 28:

7 Delete "(1)"

8 Insert "section (for placement) in licensed foster care, the court shall order the

9 (1) (department to) provide the foster parent with a copy of

10 (A) appropriate information held by the department regarding  
11 the child to the extent required by AS 47.12.310(b)(8);

12 (B)"

13 Page 35, line 1:

14 Delete "(2)"

15 Insert "(C)"

16 Page 35, lines 1 - 2:

17 Delete "(1) of this subsection"

18 Insert "(B) of this paragraph;

19 (2) the foster parent to

20 (A) maintain and update records regarding medical, mental,  
21 educational, and behavioral services provided to the child;

22 (B) provide all records described in (A) of this paragraph to the  
23 department when the child leaves the foster home placement; and

24 (C) maintain the confidentiality of records regarding a child  
25 placed in the foster home except when disclosure of the records is allowed  
26 under regulations of the department or when disclosure is reasonably necessary  
27 to ensure continuation of care for the child through appropriate medical,  
28 mental, educational, and behavioral services"

*conceptual*  
*and the department places the child*  
*department*

1 Page 35, line 13:

2 Delete ", without a court order,"

3 Page 35, line 25:

4 Delete "request a court order to allow a change in"

5 Insert "change"

6 Page 35, line 30, following "placement":

7 Insert "with the court"

8 Page 36, line 1:

9 Delete "an"

10 Insert "a timely"

11 Page 37, line 17:

12 Delete "parents"

13 Insert "parent or guardian"

14 Page 37, line 19:

15 Delete "parents"

16 Insert "parent or guardian"

17 Following the second occurrence of "services":

18 Insert "if community services are available and desired by the parent or  
19 guardian"

20 Page 38, line 6, following "of":

21 Insert "a parent of the child or of"

22 Page 39, line 8:

23 Delete "or"

24 Page 39, line 12, following the second occurrence of "harm":

1           Insert "; or

2                               (10) the parent or guardian is incarcerated and is unavailable to care  
3           for the child during a significant period of the child's minority, considering the child's  
4           age and need for care by an adult"

5   Page 46, line 29:

6           Delete "minor"

7           Insert "child [MINOR]"

8   Page 46, line 31:

9           Delete "minor"

10          Insert "child [MINOR]"

11   Page 59, lines 23 - 24:

12          Delete "an additional period of up to 90 days"

13          Insert "one or two additional periods of up to 90 days each"

Amendment to Amendment #1

✓ adopted

Page 23, line 10-11

Delete (E)

Replace with "frequent, regular, and reasonable visitation with the parent or guardian and immediate family members should be encouraged; and

~~delete~~

#5

~~#4 B~~

Proposed Amendments to CS to HB 375 after 4/17 hearing:

✓ page 3, line 7 should read:  
"child or minor"

X Page 15, line 7, line 9, line 26, line 28, delete "AS 11.41.460"

Page 26, line 1-2 should read: "the parent, guardian or custodian's ability to parent has been substantially impaired by the addictive or habitual use of an intoxicant (and the addictive or habitual use of the intoxicant has resulted in a substantial risk of harm to the child;")

✓ page 28, line 26 should read: "the child, each parent, the tribe, the foster parent....."

✓ page 34, lines 10 - 24 should be replaced with:

(p) if a child is removed from the parental home, the department shall provide reasonable visitation between the child and the child's parents, guardian, and immediate family. The court may require the department to file a visitation plan with the court. The department may deny visitation to the parents, guardian or immediate family members if there is clear and convincing evidence that visits are not in the child's best interests. Any parent or guardian who is denied visitation may request a review hearing.

X ~~Page 35, lines 4-5, delete "for placement in licensed foster care or for placement with a relative of the child,"~~

Page 35, line 5 delete "or custodian"

Page 35, lines 12-31 and page 36, lines 1-4 should be replaced with:

(s) the department may transfer a child, in the child's best interests, from one placement setting to another, and the child, the child's parents or guardian, the child's foster parents or out of home caregiver, the child's guardian ad litem, the child's attorney, and the child's tribe, are entitled to advance notice of any non-emergency transfer. Any party opposed to the proposed transfer may request a hearing and must prove an abuse of discretion by the department or the court to deny the transfer. A foster parent or out of home caregiver who requests a change in

*by clear and convincing evidence that the transfer would be contrary to the best interests of the child*

page two

placement of the child, should provide the department with reasonable advance notice of the requested change.

- ✓ If (s) is inserted as above, then page 30, lines 21 after "it;" should be deleted through line 26. *do it delete p30 line 21 after it; through line 26*
- Page 36, lines 22-24, the added language should be deleted OR delete line 22 "and the right and responsibility to obtain legal representation for,." *no dot for representation but R+ of parent*
- / Page 41, line 29 "take" should be "make" (typo).

page 43, line 19 should read "may or shall upon request" disclose....

✓ Page 45, lines 17-22, "minor" should be replaced with "child."

✓ Page 48, line 11 should read:  
"...consistent attempts made during a reasonable time....."

Page 48, line 23 should read "may or shall upon request" disclose...

Page 50, lines 27 through page 51, line 18 should be replaced with:

- (e) A child may not be placed in a foster home or in the care of an agency or institution providing care for children if a relative by blood or marriage requests placement of the child in the relative home. However, the department may retain custody of the child and provide for its placement in the same manner as for other children if
- (1) the department makes a determination, supported by clear and convincing evidence, that placement of the child with the relative will result in physical or emotional damage. In making that determination.....de novo; or
  - (2) the department determines that a member of the relative's household who is 16 years of age or older has a criminal record or was the perpetrator in a substantiated report of abuse under AS 47.17; or
  - (3) the department disqualifies the relative home based on the results of a criminal background check from criminal justice information available under AS 12.62. The department must conduct a criminal background check of available criminal justice information received under AS 12.62. The department may conduct a fingerprint background check of a relative requesting placement of the

*substituted w/ mental injury*

page three

the child. The department shall not place a child with any relative who does not meet the standards required for placement in foster care as defined in AS 47.35.022 (a) and (b).

For purposes of obtaining criminal justice information under this subsection, the department is a criminal justice agency conducting a criminal justice activity under AS 12.62.

~~Page 51, lines 19-30 delete entirely.~~ pf 51 lin 22 parent or guardian.  
debt rest

✓ Page 55, lines 22-26 delete entirely.

Page 59, lines 17-25, should read, "may issue a provisional foster home license on an emergency basis until the results of the fingerprint background check required under AS 47.35.017 (b) are received by the department, provided the applicant meets the minimal requirements for emergency .....foster home. Delete lines 22 - 25 sentence.

pg 51 lin 22 "paid" after parent or guardian

pf 24 Lin 26 after AS 47.10.016

add 47.14.180

# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary / Senate AESS  
Committee on HB 375 / SB272 Committee Name Dated 4-17-98  
Bill/Subject

**OPPOSE THIS BILL WHICH INCREASES GOVERNMENT CONTROLS OVER FAMILIES THROUGH SOCIAL SERVICES.** This testimony is directed to those legislators who discern the dangers of greater government intrusion on our private lives just as we citizens realize it. We should not be expanding Social Services but rather trimming it just as we trim all other excess.

The Department of Social Services has proven to be the most dangerous and controlling of the state agencies. People have abused it by calling unfounded anonymous tips. If a liberal is in charge then conservative beliefs are considered to be "abusive." More restrictions added here are not going to solve the failures of social services to act under existing regulations. I am sorry about the two-year old and realize that this situation should not have happened but there are tragedies and the best resolution is people reaching out with charitable hearts, not through a governmental structure. Matters of the family need to be solved through loving solutions within the churches. There is nothing loving about government regulations.

As an aside, while the Department of Social Services has people who testify that they are interested in protecting children from abuse that could lead to death, these same workers testify in favor of the child abuse industry that exists in our country through abortion. The irony is that the social service workers who testify to you, use the "privacy clause" to defend a woman's right to kill her unborn baby through abortion while this same right to privacy does not seem to exist when social services want to violate privacy through their bills such as HB237 or SB272. This seems to be a schizophrenic condition within that department.

I personally knew sociology majors, future social workers, and would not rely on their "expert" testimony you are hearing. When I attended college down in Washington state all of these college students had straight A's because they would name their own grade and attended fluff courses. One of them asked me why I did not major in this as if it would be foolish not to take advantage of naming my own grade. I would not trust someone to have the power to regulate and overregulate our families in general based on my personal observations at college.

**More restrictions that are far-reaching will not solve the failures of social services' under existing programs. More is not necessarily better and especially where government is concerned.**

From A former liberal high school teacher,

SIGNED:

Quinn E. Ewing  
Testifier

2325 - 30<sup>th</sup> Avenue  
Address/Phone Number

Fairbanks, Alaska 99701

907-452-5538 (also a fax line)  
907-479-5433



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the HOUSE JUDICIARY

Committee on HB375 Committee Name Dated APRIL 20, 1998

Bill / Subject

AS A CITIZEN WITH AN ON-GOING FIGHT WITH DFYS, I BELIEVE IT IS IMPERATIVE THAT YOU, OUR LEGISLATURE UNDERSTAND THE NEGATIVE IMPACT DFYS HAS ON FAMILIES USING THE BROAD-BASED POWERS ALREADY GRANTED TO THEM. FOR INSTANCE, WHETHER THERE IS AN ABUSE ISSUE OR NOT, IMMEDIATELY DFYS HAS AN ON-CALL STRIKE FORCE WHO WILL UNDERTAKE ITS MISSION AGAINST AN INDIVIDUAL OR FAMILY WHO MAY NOT HAVE THE RESOURCES TO FIGHT EFFECTIVELY AGAINST THIS "GIANT". THERE IS LEGAL JARGON TO BE DEALT WITH AS WELL AS A LEGAL SYSTEM THAT MOST PEOPLE ARE UNABLE TO UNDERSTAND WITHOUT LEGAL ADVICE. ADDITIONALLY, EVEN THOUGH DFYS ADMINISTRATORS SAY THIS AGENCY IS AUDITED, IT IS AT BEST AN INTERNAL SCRUTINY BY INDIVIDUALS THAT HOLD THE SAME TRAIN OF THOUGHT THAT IN MANY CASES IS THE MAIN PROBLEM! I WANT YOU, OUR LEGISLATORS... MY LEGISLATORS, TO HEAR ME LOUD AND CLEAR - DFYS SHOULD HAVE TO FIGHT FOR CUSTODY OF CHILDREN OF COURSE, EXCEPT IN CASES OF LEGALLY SUBSTANTIATED REPORTS OF TRUE HARM. INSTEAD OF FAMILIES HAVING TO FIGHT TO GET DFYS OUT OF THEIR LIVES AS THEY WORK THROUGH NORMAL,

SIGNED: GERALDINE WILSON BROWN

Testifier

EVERYDAY ISSUES OF LIFE. FAMILIES MAKE STRONG CHILDREN, NOT DFYS.

SELF

Representing

PO BOX 74552, FBKS 99707-4552 (907) 451-8042

Address / Phone Number

OR 455-4386



# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary  
 Committee on HB 375 Committee Name Dated 4-20-98  
Bill / Subject

It is essential that some funding for the General Relief Medical Program be restored. GRM serves the poorest of the poor -- providing treatment for cancer, diabetes, and cardiovascular conditions. Let's not have these folks die or get so sick that they end up as inpatients. If your concern is not wanting to fund abortions for Medicaid eligible women, then keep the \$300/month income limit for all GRM recipients. This would vastly curtail state sponsored abortions since most of the women get ATAP or SSI + are thus above income. Please, please restore funding for the truly medically needy

SIGNED: Ronnie Rosenberg  
 Testifier

Representing  
448 Snowy Owl Ln, Fairbanks 99712  
 Address / Phone Number 452-6476

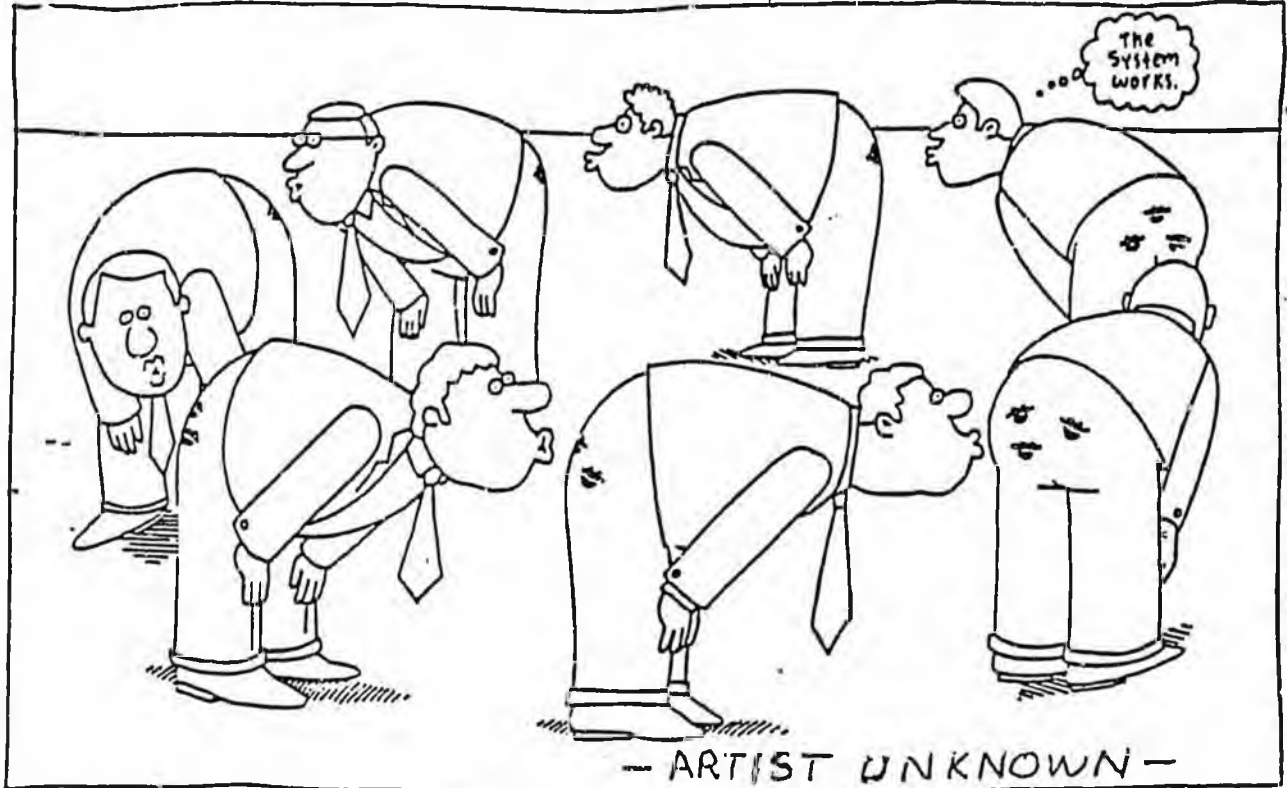


# ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the MOUSE JUDICIARY  
Committee on HB 375 Committee Name  
Dated 4-17-98

Bill / Subject  
FIGURE 1) ILLUSTRATES THE PROBLEM  
CREATED BY SUPERSTITIOUS EXCLUSION  
OF A BALANCED, CRITICAL ANALYSIS,  
OF BUREAUCRATIC DYSFUNCTION,  
D.F.Y.S. AND C.S.E.D. HAVE NEVER BEEN  
The Intricacies of Government EXPOSED TO THIS.

FIG. 1)



SEEING, THINKING, AND  
ACTING IN ONLY ONE  
DIRECTION HAS ITS EFFECT.

SIGNED: SCOTT TRAFFORD CALDER  
Testifier  
P.O. BOX 75011  
Representing Scott Calder  
FAIRBANKS, ALASKA 99707  
Address / Phone Number (907) 474-0174

Jennifer S. H. Taylor  
P. O. Box 424,  
Craig, Alaska 99921  
907 - 826 3066

Thursday Afternoon, House Bill 375 HESS Committee Hearing, April 2nd, 1998

Con Bunde, Chairman, Health Education and Social Services Committee.  
Room 104, fax:465-3871; ph: 800 892-4843

Constituent Testimony concerning House Bill 375, in the Legislature of the State of Alaska, Twentieth Legislature, Second Session. I submit my opinion and testimony to the House Committee of Health, Education, and Social Services, respectfully requesting its distribution to each Committee member, as follows:

It is my limited understanding that the opinion of the general public reflects fear of the loss of the liberty of privacy and control for parents, and the unwarranted intrusion by government entities also figures prominently in over-all resistance to H.B. 375. Nonetheless, there are portions of this bill I believe most worthy of redemption and which merit close examination, in particular consideration of the timely need for protection of the welfare of Alaska's children and Alaska's future.

Addressing Section 11. and Section 12. of HB 375 I find it imperative to point out that long term abandonment and lack of support of children left in the presumptive care of another, unemployed parent, where child support arrearages exceed the past due obligation of one year, or \$5000. as according to the Federal Child Support Recovery Act of 1992 (Title 18, Chapter 11A, Section 228) are commutative in the new equation for desperate poverty for many Alaskan children.

It is appropriate that this bill in particular address the issue of nonsupport of children as criminal, because the blatant neglect of children by parents who accumulate arrearages representing debts to their children of many months without support, reflects extreme indifference to the children's well-being and survival.

Following this Committee's attentive dedication, working in tedious Hearings until 11:00 p.m. last night on school funding, there is no doubt of your commitment to Alaskan children. It is a dedication which should be recognised by every one of our children, but which unfortunately cannot be realized by all our youth when so many are growing up with the confirmed belief that their government, as well as at least one of their parents, threw them away.

Opposition to the welfare of Alaskan children comes in the guise of displaced anger from parents who have abandoned, or are otherwise separated from their children. Significant opposition to the daily needs of innocent and defenseless children, too young by law to support themselves, is heard by you time and again

Page Two of Two

from parents who never formed adequate parental bonds with their children and lacked incentive to ensure familial ties. More often than not, the absent parents who abandoned their children have moved onto second families and their priorities are dominated by new spouses who resent the economic and emotional competition of spouses' prior relationships.

The parent left with sole physical custody in Alaska by "default", has the very tangible burden of shouldering double the responsibility of that of a parent in a unified family. Child Support Civil Rule 90.3 Commentary section VI B) freely acknowledges the, "percentage of income approach used in Alaska tends to slightly understate support relative to the national average for cases in which the custodial parent has child care expenses."

HB 375 page 10 speaks to the state's interpretation of the severity of nonsupport being charged as a class C felony, when the arrearages reach \$10,000. My concern is that there is currently so much bad press given to CSED from the obligors in not allowing for fair modifications, and that there are in fact, so many AK CSED cases currently which have gone without consequence, to exceed the \$10,000 ceiling, that sufficient pressure will eventually result in the elimination of this section unless "lawful excuse" exceptions and clearer conditions of culpability are delineated in Sec. 11.51.115.

Alaska Civil Rule 90.3 gives a list of exceptions allowing for court interpretation of good causes for support modifications such as unusual circumstances. In my mind \$10,000. in child support arrearages represents an AK average of 20 months of no financial support to a child not on welfare, and waiting this long sends a definitive message to our children of our dire lack of concern for their survival. Current AK law, AS 11.51.120(a) Criminal Nonsupport as a Misdemeanor A is rarely upheld for prosecution even when obligors are on state probation or parole and as such are prohibited from committing misdemeanor crimes as a condition of their release. (I can provide supporting documentation.)

This week marked one hundred years since Russian America was sold for American rule of Alaska. Alekandre Baranov knew in the 1790's that civil relations amongst his growing colony depended upon enforcing the responsibility of the Russian fathers toward their half-Native children while in the custody of their Native mothers. Were Alaskan children sold-out with Russian America?

Child support arrearages have been accumulating all over Alaska in direct inverse proportion to the custodial parent's moral and the children's diminishing standard of living. As the nurturing parent's resources rapidly dwindle, the real problem is not to absolve the noncustodial parent's arrearages, but how do we feed, provide and heat homes, buy warm clothing, and give nurturing care to the

Page Three of Three

children?

Government officials wonder of our state-wide predicament when Welfare support is phased out. I can answer some of these questions considering I have raised three children entirely alone since their conception, for over thirteen years, without any welfare assistance, and rarely with child support from their well-heeled fathers.

I am confident you could not imagine the physical and emotional stress I have endured. Still, their fathers will not take these children, even for a visit. One father has lived three doors away for the past four years and gone out of his way to avoid all contact with his sons for this duration. As a certified teacher I cannot find work in this part of Alaska, though I am hopeful to "relocate" to a job and home for the children; I have been on the state register as a Child Support Enforcement Officer I for two years, Alaska resident for 20 years. Construction work has kept me away from my children for 15 hours at a time, six days a week, and the cost of child care is prohibitive. You may laugh and flippantly say the children won't starve without child support. I challenge you to do the math. I do all our own carpentry, electrical repairs, plumbing, truck repairs and maintenance, and when I do, a youngster misses a meal, or two. We missed having a toilet in our home, in town, for three weeks last year when the floor fell through. Sometimes the children dress for school on a floor of ice, and they cry. There hasn't been a kitchen faucet to use in almost a year since the counter fell in, and the floor won't support a real fridge. The funny part is that one of the absent parents owns four apartments and various real estate out of state for rental income, living most of the year in a luxurious home in Homer. The other absent father owns five trucks, two full size mobile homes, and a large, expensive substance abuse addiction. Their combined total for child support arrearages exceeds \$50,000. Our annual family income for the past three years has been our permanent fund checks. We try to live on less than half the means of federal "below poverty" standards.

Do not dismiss me as a single case who fell through the cracks. I had my college degree and 24 graduate credits prior to the birth of my first child. I have put my parental responsibilities above all, because of my children's absolute need. Every Alaskan family is vulnerable to being reduced to the status of a single parent. Extreme poverty of rural Alaskan children of single parent households, not only elevates their susceptibility to abuse from stressed-out parents, poverty is the most documented reason for poor performance in school, and the lack of adequate nutrition and proper growth.

A perverse and pervasive trend has young, financially distraught single mothers seeking security with boyfriends who are impatient and indifferent to the children and subject the children to abusive torment, and sometimes murder.

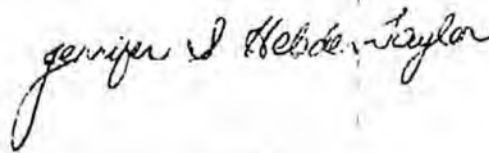
Page Four of Four

A weight is upon you to facilitate Alaskan childrens' most productive entrance into a friendly society, by ensuring the collection of the child support owed to them by their own parents. The support is their reassurance their government is working for them to keep them alive, healthy and secure. It is the most important message many Alaskan children will ever receive from Alaska. Supporting our children is the only way you can ensure that they, in turn, will support you in your twilight years in Alaska.

Please note - - - denotes the end of the section planned for the three minute limit during teleconference this afternoon.

Thankyou for the opportunity to voice my opinion and have it heard by the Alaskan House of Representatives HESS Committee.

Respectfully,



Jennifer S. H. Taylor