

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 00/2

9538 SENATE HEALTH EDUCATION & SOCIAL SERVICES 175

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

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

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

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

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

12 (B) compels or induces any person to commit suicide through
13 duress or deception; or

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

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

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

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

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

1 (2) the person knowingly engages in conduct that results in the death
2 of another person under circumstances manifesting an extreme indifference to the value
3 of human life;

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

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

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

20 (A) in violation of AS 11.41;

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

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

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

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

28 (1) the person restrains another with intent to

29 (A) hold the restrained person for ransom, reward, or other
30 payment;

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

1 (C) inflict physical injury upon or sexually assault the restrained
2 person or place the restrained person or a third person in apprehension that any
3 person will be subjected to serious physical injury or sexual assault;

4 (D) interfere with the performance of a governmental or
5 political function;

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

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

12 (2) the person restrains another

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

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

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

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

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

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

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

27 (2) while committing the act constituting the offense, the offender
28 knowingly masturbates; and

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

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

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

2 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender
3 commits the crime of indecent exposure in the second degree if the offender
4 intentionally exposes the offender's genitals in the presence of [TO] another person
5 with reckless disregard for the offensive, insulting, or frightening effect the act may
6 have [ON THAT PERSON].

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

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

11 **Sec. 11.51.100. Endangering the welfare of a child in the first degree.** (a)
12 A person commits the crime of endangering the welfare of a child in the first degree
13 if, being a parent, guardian, or other person legally charged with the care of a child
14 under 16 years of age, the person

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

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

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

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

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

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

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

1 (1) having committed an act punishable under AS 11.41.100 -
2 11.41.250; or

3 (2) having applied force to a child that, under the circumstances in
4 which it was applied, or considering the age or physical condition of the child,
5 constitutes a gross deviation from the standard of conduct that a reasonable person
6 would observe in the situation because of the substantial and unjustifiable risk of

7 (A) death;

8 (B) serious or protracted disfigurement;

9 (C) protracted impairment of health;

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

11 organ;

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

13 (F) internal bleeding or subdural hematoma;

14 (G) bone fracture; or

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

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

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

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

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

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

24 * **Sec. 10.** AS 11.51 is amended by adding a new section to read:

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

26 (a) A person commits the crime of endangering the welfare of a child in the second
27 degree if the person, while caring for a child under 10 years of age,

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

30 (2) is impaired by a controlled substance, whether or not prescribed for
31 the person under AS 17.30, and there is no third person present to care for the child

1 who is at least 12 years of age and not impaired by an intoxicant.

2 (b) In this section,

3 (1) "impaired" means that a person is unconscious or a person is
4 physically or mentally affected so that the person does not have the ability to care for
5 the basic safety or personal needs of a child with the caution characteristic of a sober
6 person of ordinary prudence;

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

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

9 * Sec. 11. AS 12.55.025(i) is amended to read:

10 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k)(2) [12.55.125(k)],
11 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard
12 of proof applies to sentencing proceedings.

13 * Sec. 12. AS 12.55.125(c) is amended to read:

14 (c) A defendant convicted of a class A felony may be sentenced to a definite
15 term of imprisonment of not more than 20 years [,] and shall be sentenced to the
16 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
17 12.55.175:

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

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

21 (A) [,] other than for manslaughter [,] and the defendant
22 possessed a firearm, used a dangerous instrument, or caused serious physical
23 injury during the commission of the offense, or knowingly directed the conduct
24 constituting the offense at a uniformed or otherwise clearly identified peace
25 officer, fire fighter, correctional employee, emergency medical technician,
26 paramedic, ambulance attendant, or other emergency responder who was
27 engaged in the performance of official duties at the time of the offense, seven
28 years;

29 (B) for manslaughter and the conduct resulting in the
30 conviction was knowingly directed toward a child under the age of 16,
31 seven years;

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

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

4 * Sec. 13. AS 12.55.125(k) is amended to read:

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

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

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

17 * Sec. 14. AS 12.55.155(c)(23) is amended to read:

18 (23) the defendant is convicted of an offense specified in AS 11.71 and
19 (A) the offense involved the delivery of a controlled substance
20 under circumstances manifesting an intent to distribute the substance as part of
21 a commercial enterprise; or

22 (B) at the time of the conduct resulting in the conviction, the
23 defendant was caring for or assisting in the care of a child under 10 years
24 of age;

25 * Sec. 15. AS 12.55.155(e) is amended to read:

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

31 * Sec. 16. AS 12.65.005(a) is amended to read:

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

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

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

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

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

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

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

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

18 (8) occurred in a foster home;

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

20 [OR]

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

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

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

29 (B) the child was under supervised medical care during the
30 24 hours before the death.

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

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

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

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

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

20 (A) the state medical examiner;

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

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

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

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

31 (A) a physician licensed under AS 08.64 who

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

- (i) specializes in neonatology or perinatology; or
 - (ii) is certified by the American Board of Pediatrics;
- (B) a municipal law enforcement officer with experience in conducting investigations of homicide, child abuse, or child neglect;
- (C) other persons whose experience and expertise would, as determined by the commissioner of health and social services, contribute to the effectiveness of the team.
- (b) A team member is not eligible to receive compensation from the state for service on the team. A member appointed under (a)(2) of this section
- (1) is eligible for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180; and
 - (2) serves at the pleasure of the commissioner of health and social services.
- (c) In addition to the persons specified in (a) of this section, the team may invite a person to participate as a member of the team if the person has expertise that would be helpful to the team in a review of a specific death. A person participating under this subsection is eligible only for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180.
- (d) The state medical examiner serves as chair of the team.
- Sec. 12.65.130. State child fatality review team duties.** (a) The state child fatality review team shall
- (1) assist the state medical examiner in determining the cause and manner of the deaths in this state of children under 18 years of age;
 - (2) unless the child's death is currently being investigated by a law enforcement agency, review a report of a death of a child within 48 hours of the report being received by the medical examiner if
 - (A) the death is of a child under 10 years of age;
 - (B) the deceased child, a sibling, or a member of the deceased child's household
 - (i) is in the legal or physical custody of the state under AS 47 or under similar custody of another state or political subdivision

1 of a state; or

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

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

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

12 (3) review records concerning

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

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

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

22 (4) if insufficient information exists to adequately determine the cause
23 and manner of death, recommend to the state medical examiner that additional
24 information be obtained under AS 12.65.020; and

25 (5) if a local, regional, or district child fatality review team has not been
26 appointed under AS 12.65.015 or is not available, be available to provide
27 recommendations, suggestions, and advice to state or municipal law enforcement or
28 social service agencies in the investigation of deaths of children.

29 (b) The state child fatality review team may

30 (1) collect data and analyze and interpret information regarding deaths
31 of children in this state;

1 (2) develop state and local data bases on deaths of children in this state;
2 (3) develop a model protocol for the investigation of deaths of children;
3 and

4 (4) periodically issue reports to the public containing statistical data and
5 other information that does not violate federal or state law concerning confidentiality
6 of the children and their families involved in the reviews; these reports may include

7 (A) identification of trends, patterns, and risk factors in deaths
8 of the children;

9 (B) analyses of the incidence and causes of deaths of children
10 in this state;

11 (C) recommendations for improving the coordination of
12 government services and investigations; and

13 (D) recommendations for prevention of future deaths of children.

14 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

15 (a) The state child fatality review team and its members shall have access to all
16 information and records to which the state medical examiner has access under this
17 chapter. The state child fatality review team and its members shall maintain the
18 confidentiality of information and records concerning deaths under review, except when
19 disclosures may be necessary to enable the team to carry out its duties under this
20 chapter. However, the team and its members may not disclose a record that is
21 confidential under federal or state law.

22 (b) Except for public reports issued by the team, records, and other information
23 collected by the team or a member of the team related to duties under this chapter are
24 confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

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

27 (d) The determinations, conclusions, and recommendations of the state child
28 fatality review team, or its members, are not admissible in a civil or criminal
29 proceeding. Members may not be compelled to disclose their determinations,
30 conclusions, recommendations, discussions, or thought processes through discovery or
31 testimony in any civil or criminal proceeding. Records and information collected by

1 the state child fatality review team are not subject to discovery or subpoena in
2 connection with a civil or criminal proceeding.

3 (e) Notwithstanding (d) of this section, the state medical examiner may testify
4 in a civil or criminal proceeding even though the death was reviewed by the state child
5 fatality review team under AS 12.65.130 and information received from the review
6 formed a basis of the state medical examiner's testimony.

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

11 * Sec. 19. AS 14.20.020(f) is amended to read:

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

29 * Sec. 20. AS 14.20.030(b) is amended to read:

30 (b) Upon receipt of a judgment of conviction, the department [THE
31 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES

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

17 * Sec. 21. AS 22.15.100 is amended to read:

18 **Sec. 22.15.100. Functions and powers of district judge and magistrate.**

19 Each district judge and magistrate has the power

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

24 (2) of a notary public;

25 (3) to solemnize marriages;

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

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

31 (6) to act as a referee in matters and actions referred to the judge or

1 magistrate by the superior court, with all powers conferred upon referees by laws;

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

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

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

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

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

18 * Sec. 22. AS 25.20.061 is amended to read:

19 Sec. 25.20.061. Presumptions [VISITATION] in proceedings involving
20 domestic violence. (a) If the court finds in a proceeding involving child custody
21 that domestic violence has occurred, rebuttable presumptions arise that it is

22 (1) detrimental to the child and not in the best interest of the child
23 to be placed in sole custody, joint legal custody, or joint physical custody with the
24 perpetrator of the domestic violence; and

25 (2) in the best interest of the child to reside with the parent who is
26 not a perpetrator of domestic violence in a location of that parent's choice, inside
27 or outside the state.

28 (b) In addition to the rebuttable presumptions that a court must consider
29 under (a) of this section, if the court finds that domestic violence has occurred, the
30 court shall consider the following factors in making an award of child custody:

31 (1) the safety and well-being of the child or of the parent who is the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

victim of domestic violence;

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

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

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

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

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

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

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

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

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

(6) the prohibition of overnight visitation;

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

(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 4/.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, as
17 defined in AS 47.17.290, and the child's parent, guardian, or custodian has knowingly
18 failed to provide the treatment;

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

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

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

1 or is under investigation for a sex offense against a minor, and the parent, guardian, or
2 custodian subsequently allows a child to be left with that person, this conduct
3 constitutes prima facie evidence that the child is at substantial risk of being sexually
4 abused;

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

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

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

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

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

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

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

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

1 child;

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

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

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

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

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

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

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

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

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

1 (1) the child was the victim of an act described in AS 11.41.100 -
2 11.41.250, 11.41.300, 11.41.410 - 11.41.455, or AS 11.51.100 and the physical harm
3 occurred as a result of conduct by or conditions created by a parent, guardian, or
4 custodian; or

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

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) An adjudication hearing shall be completed within 120 days after a
27 finding of probable cause is entered unless the court finds good cause to continue
28 the hearing. When determining whether to grant a continuance for good cause,
29 the court shall take into consideration the age of the child and the potential
30 adverse effect that the delay may have on the child. The court, at the conclusion of
31 the hearing, [OR THEREAFTER] as the circumstances of the case may require, shall

1 find and enter a judgment that the child [MINOR] is or is not a child in need of aid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 guardian;

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

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

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

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

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

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

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

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

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

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

1 rights of the incarcerated parent should be terminated [CONDUCT IS LIKELY TO
2 CONTINUE] if the court finds, based on clear and convincing evidence, that [THE]

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

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

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

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

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

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

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

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

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

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

29 (2) require the foster parent to

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

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

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

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

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

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

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

25 * Sec. 45. AS 47.10.082 is amended to read:

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

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

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

31 (3) keep the health and safety of the child as the court's paramount

1 concern [AS 47.10.010 - 47.10.142].

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

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

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

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

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

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

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

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

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

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

26 (2) the parent or guardian has

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

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

31 (C) committed an assault that is a felony under AS 11.41.200 -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

11.41.220 and results in serious physical injury to a child; or

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

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

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

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

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

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

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

(9) the child has been removed from the child's home on at least two previous occasions, family support services were offered or provided to the parent or

1 guardian at those times, and the parent or guardian has demonstrated an inability to
2 protect the child from substantial harm or the risk of substantial harm; or

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

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

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

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

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

31 (f) The department may develop and implement an alternative permanency plan

1 for the child while the department is also making reasonable efforts to return the child
2 to the child's family under (a) of this section.

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

5 **Sec. 47.10.088. Termination of parental rights and responsibilities.** (a)

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

9 (1) by clear and convincing evidence that

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

12 (B) the parent

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

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

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

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

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

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

27 (3) the harm caused to the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (g) This section does not preclude the department from filing a petition to

1 terminate the parental rights and responsibilities to a child for other reasons, or at an
2 earlier time than those specified in (d) of this section, if the department determines that
3 filing a petition is in the best interests of the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of a child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (18) "permanency hearing" means a hearing

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

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

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

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

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

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

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

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

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

22 (1) a guardian ad litem appointed by the court or to a citizen review
23 board or local review panel for permanency planning authorized by AS 47.14.200 -
24 47.14.220;

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

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

1 needs of a minor about whom information is disclosed;

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

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

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

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

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

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

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

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

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

30 (1) shall pay the costs of caring for physically or mentally handicapped
31 foster children, including the additional costs of medical care, habilitative and

1 rehabilitative treatment, services and equipment, special clothing, and the indirect costs
2 of medical care, including child care and transportation expenses;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

or older;

(2) the parents, custodians, or other relatives of the child;

(3) the child's out-of-home care provider;

(4) the child's guardian;

(5) the child's guardian ad litem;

(6) the case worker or social worker assigned to the case;

(7) the child's health care providers;

(8) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act),

(A) the child's Indian custodian; and

(B) the designated representative of the child's Indian tribe if the tribe has intervened in the court case; and

(9) [(8)] other persons with a close personal knowledge of the case.

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

(h) The report required under (g) of this section must make advisory recommendations based on the best interests of the child in accordance with AS 47.10.082 and must include notification of the right to request court review under AS 47.10.080(f). If the court has scheduled the case for review, the local review panel shall submit its report at least 20 days before the hearing, and the department shall present to the court the recommendations that are made in the report.

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

Article 3A. Multidisciplinary Child Protection Teams.

Sec. 47.14.300. Multidisciplinary child protection teams. (a) The department shall create multidisciplinary child protection teams to assist in the evaluation and investigation of reports made under AS 47.17 and to provide consultation and coordination for agencies involved in child protection cases under AS 47.10.

(b) If a team is created under (a) of this section, the team may invite other persons to serve on the team who have knowledge of and experience in child abuse and neglect matters. These persons may include

(1) mental and physical health practitioners licensed under AS 08;

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

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

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

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

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

30 (g) Notwithstanding (f) of this section, an employee of the department may
31 testify in a civil or criminal proceeding concerning cases reviewed by a team even

1 though the department's records were reviewed by a team and formed the basis of that
2 employee's testimony and the team's report.

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

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

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

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

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

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

17 (1) practitioners of the healing arts;

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

20 (3) social workers;

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

22 (5) administrative officers of institutions;

23 (6) child care providers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (A) reasonable efforts to protect the child and prevent the

1 removal of the child from the parent or guardian who is not a domestic
2 violence offender;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (8) [(7)] the type of facility or agency for which the license is sought;

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

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

31 (11) [(10)] a staffing plan that describes the number of people who will

1 work at the facility or agency, staff qualifications, a description of each person's
2 responsibilities, and, for a facility other than a maternity home, a supervision schedule
3 for the children in care that meets the requirements established by the department by
4 regulation;

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

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

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

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

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

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

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

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

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

30 (c) The department shall develop procedures for rechecking criminal justice
31 information records for the information described in (a) of this section for persons who

1 are 16 years of age or older who are living in a licensed foster home with access to
2 children placed by the department.

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

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

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

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

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

8 (2) perjury under AS 11.56.200;

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

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

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

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

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

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

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

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

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

1 (b) Sections 30 - 58 of this Act take effect only if this section receives the two-thirds
2 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

3 * **Sec. 82. APPLICABILITY.** This Act applies to all new cases or proceedings filed with
4 the court on or after the effective date of this Act and to motions filed with the court on or
5 after the effective date of this Act in cases or proceedings pending before a court on the day
6 before the effective date of this Act.

7 * **Sec. 83.** This Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

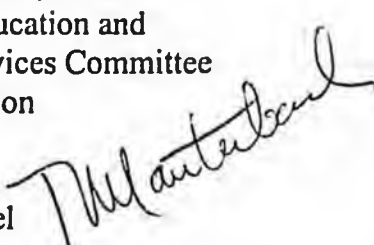
MEMORANDUM

April 28, 1998

SUBJECT: CSSB 272(HES) (Draft version "E")

TO: Senator Gary Wilken, Chair
Senate Health, Education and
Social Services Committee
Attn: Sheila Peterson

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is CSSB 272(HES), which is a duplicate of CSHB 375(JUD). There are some flaws in the bill, as follows:

(1) In sec. 8, the amendments that change the substantive elements of the crime in AS 11.41.460(a) cause the bill to violate the single-subject requirement of the state constitution. The substantive amendments do not relate to children, which appears to be the subject that encompasses the rest of the bill. Only the amendments to AS 11.41.460 that insert "in the second degree" can be retained without violating the single-subject requirement.

(2) In sec. 32, the inclusion of the phrase "as defined in AS 47.17.290" in AS 47.10.011(4) is improper because "mental injury" is already defined for all of AS 47.10 through a definition in AS 47.10.990. It is very important not to add these qualifiers when a defined term is used or the usefulness of definition sections is seriously weakened.

(3) If you want uniformity in the use of "child" and "minor" in AS 47.10, I recommend that the Department of Law be requested to provide a list of sections where "minor" should be changed to "child" in the portions of AS 47.10 (and other statutes outside of AS 47.10?) that are not amended in HB 375. A revisor's instruction like in the original version of SB 252, which used the phrase "where appropriate," would not be sufficient.

(4) I recommend further review of sec. 82, relating to applicability. As sec. 82 currently reads, the Act will apply to all "new cases" filed with the court. That may be appropriate for the parts of the bill that relate to CINA proceedings. However, it does not seem to me to be appropriate for the parts of the bill that relate to criminal offenses, disclosure of information about CINA kids, sentencing enhancements, foster care licensing, etc. Again, the Department of Law may be an appropriate source for dealing with this matter.

Senator Gary Wilken, Chair
April 28, 1998
Page 2

(5) Section 81 should be expanded to refer to specific court rules and specific sections of the bill.

(6) In sec. 32, the reference to AS 47.14.100(i) that is in AS 47.10.011(a) is very unclear since AS 47.14.100(i) places a restriction on DHSS and AS 47.10.011(a) relates to the court.

(7) In the last sentence of AS 47.10.080(s), added by sec. 44, "should" ought to be changed to "shall" if you want to ensure that this is a requirement.

(8) In AS 11.51.110(a)(2), added by sec. 10 it would be clearer if "present to care for the child" was moved to the end of the sentence.

TML:glc
98-254.glc

Enclosure

SB 272

(Non) Sponsor Statement for HB 375

by Representative Fred Dyson

My staff, other legislators, the administration, two committees, and I have worked for three months on this bill. We have made scores of changes to what came out of the Governors Child Protection Review Team. I believe this is a large (and relatively inexpensive) step forward in protecting our kids. We have general agreement from the Administration on the changes.

A. This bill does not...

- ...guarantee that DFYS workers will not make mistakes
- ...guarantee that the court hearings for DFYS to take custody of a child will be fair.
- ...guarantee that each out-of-home child placement will be successful.
- ...force DFYS to shape up (but it does set performance standards).
- ...guarantee that a parent will "get their act together"

B. What will happen if we pass this bill?

- We will have taken a very large step forward in protecting children
- We will be criticized by some for giving more power to an allegedly overbearing, child-grabbing, unaccountable rogue organization. We will be accused of attacking families and ushering in a Gestapo family police state.

C. What will happen if we don't pass this bill in some form?

- Some \$10 million in federal funds will be in jeopardy because new federal law requires the states to come into conformity at the next state legislative session.
- State confidentiality laws will continue to limit the necessary cooperation between state agencies.
- Courts will continue to have problems with our inadequate, confusing, and obsolete definitions in state law.
- We will not have changed the emphasis of our child protection laws to make the safety of the child paramount.
- We will not have set, in law, the standards for DFYS to place children into safe and permanent homes within a year.
- We will not have tightened our criminal law related to child murder and abuse.
- We will not have mandated that foster parents get the information they need to care for the children in their charge.
- We will not have empowered DFYS to intervene before a child is killed or badly abused.

SB 272 / HB 375 ("L" version)

- *Increase penalties for homicides and other crimes with child victims*

Persons who kill children rarely intend to kill and are often charged with less serious charges than those persons who kill adults. The bills allow more serious charges for those who kill children, when their multiple acts of violence resulted in the death of a child.

- 1) The bills increase the penalties for those who kill children. Under existing law, a person convicted in shaken-baby deaths can be sentenced to no more than two years. Under the new law the maximum sentence would increase to 10 years.
- 2) Alaska joins other states in criminally penalizing abandonment, abuse, and neglect of children.

- *Create a Child Fatality Review Team to investigate child deaths*

Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.

- *Allow earlier intervention in cases of abuse and neglect*

Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.

- *Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes*

Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.

- *Multidisciplinary Teams*

The teams are grounded in the idea that a successful response to child abuse requires a high level of teamwork amongst investigative and prosecuting agencies. They coordinate investigations, case management and prosecution in child abuse and neglect cases; allow consultation with doctors, teachers, psychologists and others with special expertise; review whether the cases they have managed were carried out according to the protocols set up by the team.

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

SB 272

(Non) Sponsor Statement for HB 375

by Representative Fred Dyson

My staff, other legislators, the administration, two committees, and I have worked for three months on this bill. We have made scores of changes to what came out of the Governors Child Protection Review Team. I believe this is a large (and relatively inexpensive) step forward in protecting our kids. We have general agreement from the Administration on the changes.

A. This bill does not...

- ...guarantee that DFYS workers will not make mistakes
- ...guarantee that the court hearings for DFYS to take custody of a child will be fair.
- ...guarantee that each out-of-home child placement will be successful.
- ...force DFYS to shape up (but it does set performance standards).
- ...guarantee that a parent will "get their act together"

B. What will happen if we pass this bill?

- We will have taken a very large step forward in protecting children
- We will be criticized by some for giving more power to an allegedly overbearing, child-grabbing, unaccountable rogue organization. We will be accused of attacking families and ushering in a Gestapo family police state.

C. What will happen if we don't pass this bill in some form?

- Some \$10 million in federal funds will be in jeopardy because new federal law requires the states to come into conformity at the next state legislative session.
- State confidentiality laws will continue to limit the necessary cooperation between state agencies.
- Courts will continue to have problems with our inadequate, confusing, and obsolete definitions in state law.
- We will not have changed the emphasis of our child protection laws to make the safety of the child paramount.
- We will not have set, in law, the standards for DFYS to place children into safe and permanent homes within a year.
- We will not have tightened our criminal law related to child murder and abuse.
- We will not have mandated that foster parents get the information they need to care for the children in their charge.
- We will not have empowered DFYS to intervene before a child is killed or badly abused.

D. What this bill does:

- This bill increases penalties and closes loopholes that allow child killers to get light sentences.
- Eliminates confidentiality barriers to inter-agency communications and cooperation and mandates cooperation and communication.
- Allows for earlier intervention in cases of child abuse and neglect when the child is in a dangerous home.
- Makes child protection the highest priority for DFYS, even higher than "family reunification" at the expense of child safety.
- Purports to meet the requirement of new Federal Law and should qualify Alaska to continue to receive approximately \$10 million in funding annually.
- Creates a statewide Child Fatality Review Team and facilitates the formation of local Multidisciplinary Teams to coordinate the dealing with local child abuse cases.
- Provides for foster parents and other care givers to get all relevant information about the child in their care including criminal background, behavioral problems and medical history.
- Sets firm deadlines for proceedings and permanent placement.
- Clarifies definitions of vague terms that have trouble the courts and produced inconsistent protection of children.
- Provides for criminal checks for prospective caregivers.

SB 272 / HB 375 ("L" version)

- *Increase penalties for homicides and other crimes with child victims*

Persons who kill children rarely intend to kill and are often charged with less serious charges than those persons who kill adults. The bills allow more serious charges for those who kill children, when their multiple acts of violence resulted in the death of a child.

- 1) The bills increase the penalties for those who kill children. Under existing law, a person convicted in shaken-baby deaths can be sentenced to no more than two years. Under the new law the maximum sentence would increase to 10 years.
- 2) Alaska joins other states in criminally penalizing abandonment, abuse, and neglect of children.

- *Create a Child Fatality Review Team to investigate child deaths*

Between 1992 and 1996, as many as 10 abuse-or neglect-related child deaths went undetected in Alaska because no systematic process existed to review child deaths. These bills would place in statute a child death review process through the State Medical Examiner to ensure that deaths from abuse and neglect are identified and prosecuted and that action is taken to protect surviving siblings.

- *Allow earlier intervention in cases of abuse and neglect*

Current Alaska law, as interpreted by recent Supreme Court decisions, limits protection for children by allowing intervention primarily *after* harm has occurred or only when *substantial physical harm* is imminent. These bills would clarify the grounds for intervention and allow intervention *before* harm occurs, as soon as a child is found in a dangerous home. Intervention to change the home situation could occur before, rather than after, a child is hurt.

- *Incorporate changes in federal law to better protect children and move them quicker into safe, permanent homes*

Research teaches us that children younger than 6 need to attach and bond to a permanent secure caretaker. The bills allow children younger than 6 who have been abandoned to be quickly placed into permanent safe homes.

- *Multidisciplinary Teams*

The teams are grounded in the idea that a successful response to child abuse requires a high level of teamwork amongst investigative and prosecuting agencies. They coordinate investigations, case management and prosecution in child abuse and neglect cases; allow consultation with doctors, teachers, psychologists and others with special expertise; review whether the cases they have managed were carried out according to the protocols set up by the team.

SB 272 / HB 375 ("L" version)

- *Make child health and safety paramount in all child protection actions*

The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.

- *Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations*

States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:

- 1) when a child has been abandoned, tortured, subjected to chronic abuse or sexual abuse;
- 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
- 3) a parent's rights to a sibling have been involuntarily terminated.

- *Require faster transition to safe, permanent homes for victims of abuse and neglect*

Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:

- 1) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
- 2) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);

These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.

- *Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child*

The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.

- *Allow foster parents and other caregivers to take part in child welfare hearings*

The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.

SUMMARY OF CRIMINAL CHANGES CHILD PROTECTION LEGISLATION

- PEOPLE WHO KILL CHILDREN WILL BE CHARGED WITH MORE SERIOUS CRIMES AND SERVE LONGER JAILTERMS:
 - (A) murder one if a child dies after two acts of violence, conduct knowingly directed toward the child (same child)
 - (B) murder one if a child dies during an act of sexual abuse or while kidnapped
 - murder one sentence is 20 - 99 years
 - under old law, these would probably be murder two
 - (C) murder two if a child dies, negligence, and the person has a prior conviction for a violent crime against a child (different or same child)
 - murder two sentence is 5 - 99 years.
 - (D) minimum 7 years for manslaughter when the victim is a child.
 - under the old law, 5 year minimum
 - maximum is 20 years.
 - (E) "shaken baby" deaths, death due to brain damage from being shaken. Criminally Negligent Homicide
 - under the old law, a C felony.
 - under the old law, 0-5 (0-2 benchmark)
 - under the new law, a B felony
 - under the new law, 0 - 10 and no benchmark)
- ADDITION OF FELONY INDECENT EXPOSURE WHEN THE VICTIM IS A CHILD
- ENDANGERING THE WELFARE OF A CHILD expanded -
 - abandonment of a child
 - leaving a child with a known sex offender
 - leaving a child with someone known to injure children

Penalties:

Death	- B felony, faces up to 10 years
Serious Injury	- C felony, faces up to 5 years
Injury	- A misdemeanor, faces up to 1 year
Poor supervision	- B misdemeanor (drugs/alcohol)
- Failure to pay child support will be treated as criminal neglect of a child
- Sex offenders will register before they leave the jail, rather than be given 7 days after they leave the jail.

SUMMARY OF CHANGES TO THE CIVIL CHILD PROTECTION STATUTES

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

TONY KNOWLES
GOVERNOR



P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 30, 1998

The Honorable Mike Miller
Senate President
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

272

Dear President Miller:

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

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

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

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

- Increasing penalties for people who kill or harm children by abuse or neglect.

The Honorable Mike Miller
January 30, 1998
Page 2

- Establishing a child fatality review team and facilitating the sharing of information to improve our legal tools to investigate child fatalities and more comprehensively address situations that put Alaska children at risk.

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

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

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

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

Sincerely,



Tony Knowles
Governor

SB 272 / HB 375

- ***Make child health and safety paramount in all child protection actions***
The bills follow the direction of federal law in establishing that the health and safety of children are the most important considerations in child protection decisions and actions. Under existing state law, the rights of parents to raise their child may result in a child being returned to a dangerous home.
- ***Continue requirements to make reasonable efforts to preserve and reunify families but limit application in certain aggravated situations***
States continue to be required to make efforts to preserve and reunite families except in situations where it is clearly not in the interests of children such as:
 - 1) when a child has been abandoned, tortured, subjected to chronic abuse or sexual abuse;
 - 2) a parent has killed a child or has assaulted a child and caused serious physical injury to the child;
 - 3) a parent's rights to a sibling have been involuntarily terminated.
- ***Require faster transition to safe, permanent homes for victims of abuse and neglect***
Federal law establishes requirements for faster action to prevent child victims from lingering in temporary care for years while parents make repeated, unsuccessful attempts to remedy behavior that places the child at risk in their home. These bills follow federal law in:
 - 1) requiring earlier hearings to establish a permanent plan (within 12 months of a child's removal from his or her home);
 - 2) establishing strict timelines for action to terminate parental rights when children have been in foster care (action is required when children have been in foster care 15 of 22 months);These bills set strict time limits for action by both parents and state agencies to assure parents make changes that allow children to return home safely or that state agencies act to speed up legal proceedings and place children in safe, permanent families.
- ***Establish procedures for criminal records checks for any prospective foster or adoptive parents before the parents are finally approved for placement of a child***
The bill insures that children are placed in homes that have been thoroughly investigated, prior to placing a child there. Persons over 16 in a licensed home who cares for children will be required to complete a thorough criminal background check using fingerprints. Licensed homes will be regularly rechecked for criminal activity.
- ***Allow foster parents and other caregivers to take part in child welfare hearings***
The bills follow federal law in allowing foster parents and caregivers for children to get notice of hearings and be heard in hearings regarding the child in their care.



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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

AN ACT

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

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

ARTICLE I: FINDINGS

The legislature finds that:

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

ARTICLE II: PURPOSES

The purposes of the Act are to:

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

ARTICLE III: DEFINITIONS

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

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

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

2

3 **ARTICLE IV: COMPACTS AUTHORIZED**

4

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

10

11 **ARTICLE V: CONTENTS OF COMPACTS**

12

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

15

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

17

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

21

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

27

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

34

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

37

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

39

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

42

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

47

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

50

51

1 **ARTICLE VII: MEDICAL ASSISTANCE**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

- (a) A child with the special needs resident in this state who is the subject of an adoption assistance agreement with another state shall be entitled to receive a medical assistance identification from this state upon the filing in the Division of Public Assistance office of a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the the Division of Public Assistance, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.
- (b) The Division of Medical Assistance shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.
- (c) The Division of Medical Assistance shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Division of Family and Youth Services for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefore. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Division of Family and Youth Services shall make regulations implementing this subsection. The additional coverage and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among these things, such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.
- (d) The submission of any claim for payment or reimbursement for services or benefits pursuant to this Section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed [\$10,000] or imprisonment for not to exceed [2] years, or both.
- (e) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provided medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreement entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

1
2
3
4
5
6
7
8
9
10
11
12
13

ARTICLE VIII: FEDERAL PARTICIPATION

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

Child Protection Law Comparison

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

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Emotional Harm	Not in statute	Federal law mandates reporting of mental injury; 42 USC 671 (a) (9) (A)	Requires an observable impairment which creates a serious risk to the child or others
Physical Neglect	Requires that the child has suffered substantial physical neglect	No change	Any child in household neglected as defined
Addiction or Habitual Use of Intoxicants	Not specific in jurisdiction	No change	Ability to parent is impaired by habitual or addictive use; relapse creates risk.
Mental illness	Not specific in jurisdiction	No change	Ability to parent is impaired for extended periods of time due to mental illness of parent
Delinquency	Requires that parents pressure, guide, or approve commission of delinquent acts	No change	No change
Petition	12 hours to file once children are removed	Not in statute	24 hours to file once children are removed
Reasonable Efforts	Reasonable efforts to prevent removal and to return child home required	No longer requires reasonable efforts if: homicide of child; felony assault of child; sexual abuse; chronic abuse or neglect. 42 USC 671 (a) (15)	Same as federal law, with additional provisions. AS 47.10.086(c)
Confidentiality	Files confidential with limited exceptions	Requires procedures to protect confidentiality of files 42 USC 671 (a) (8).	Expands exceptions to include: child fatality review team; multidisciplinary team; CSED; federal law enforcement; mandated reporters.
Adjudication	No time requirement	No provision	Must be completed within 120 days of probable cause finding. AS 47.10.080 (a).

SUBJECT	CURRENT STATE LAW	FEDERAL LAW	GOVERNOR'S PROPOSAL
Permanency Hearing	18 months after child is removed from home	12 months after date of removal as calculated under federal law. 42 USC 675 (5) (C)	12 months from removal as calculated in federal law. AS 47.10.080 (l).
Date of removal	Date of removal from home	Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from removal. 42 USC 675 (5) (F).	Date of removal is whichever occurs first: 1) first judicial finding of abuse or neglect, or 2) 60 days from date of removal. AS 47.10.088 (f).
Termination of Parental Rights	Always permissive; requires clear and convincing evidence that the parental conduct is likely to continue; reasonable efforts by a preponderance. 47.10.080 (c) (3).	Mandatory petitions when: 1) child in foster care 15 of 22 months; 2) homicide; 3) felony assault; 4) abandoned infant. 42 USC 675 (5) (E).	Must prove by clear and convincing evidence that the parents have not changed; by preponderance that reasonable efforts complied with; mandatory petitions. AS 47.10.088.
Timelines for Termination	No specific timelines.	No specific timelines.	Trial 6 months after petition filed. AS 47.10.088 (j); Ruling 90 days after trial. AS 47.10.088 (k); Appellate ruling 90 days after briefing. AS 47.10.080 (i).
Concurrent Planning	No provision.	Required during reasonable efforts and during permanency proceedings. 42 USC 671 (a) (15) (F) and 42 USC 675 (E)	Required during reasonable efforts and during permanency proceedings. AS 47.10.086 (e) and AS 47.10.088 (i).
Documentation of Efforts to Find Permanent Home	No provision.	Required documentation of child-specific recruitment efforts, including other jurisdictions. 42 USC 675 (1) (E)	Required documentation of child-specific recruitment efforts. AS 47.10.088 (i).
Criminal Background Checks	Required in cases of suspected DV - AS 47.17.035; Self-report on licensed placements - AS 47.35.047.	Required criminal background checks on any licensed placement. 42 USC 671 (a) (20).	Required criminal background checks on any licensed placement with rechecks. AS 47.35.017; 47.35.022; 47.35.023; 047.
Healthcare Coverage	Duty to kids in custody and out of home. AS 47.10.084 (a); subsidize special needs and hard to adopt kids.	Required insurance coverage on all special needs and hard to adopt children. 42 USC 671 (a) (21).	Subsidy continues. State joins Interstate Compact on Adoption and Medical Assistance. AS 47.05.090.
Participation in Hearings	Parties to the case, otherwise in the court's discretion. AS 47.10.070.	Foster parents and relative caretakers get notice and an opportunity to be heard. 42 USC 675 (5) (G).	Foster parents and relative caretakers get notice and an opportunity to be heard. AS 47.10.070 (c).

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