



1 Sec. 47.10.960. Duty and standard of care [NOT] created. The
2 department shall adopt regulations establishing [NOTHING IN THIS TITLE
3 CREATES] a duty and [OR] standard of care for services to children and their
4 families being served under this chapter [AS 47.10]. The regulations must be
5 consistent in all relevant respects with the code of professional ethics and the
6 standards of practice for social workers adopted by the Board of Social Work
7 Examiners under AS 08.95. Failure to comply with a timeline established under
8 this chapter may not result in a claim for civil liability for damages.

9 * Sec. 30. AS 47.10.990(16) is amended to read:

10 (16) "mental health professional" has the meaning given in
11 AS 47.30.915, except that, if the child is placed in another state by the
12 department, "mental health professional" also includes a professional listed in
13 the definition of "mental health professional" in AS 47.30.915 who is not licensed
14 to practice by a board of this state but is licensed by a corresponding licensing
15 authority to practice in the state in which the child is placed;

16 * Sec. 31. AS 47.10.990 is amended by adding new paragraphs to read:

17 (28) "adult family member" means a person who is 18 years of age or
18 older and who is related to the child as the child's biological or adoptive parent,
19 grandparent, aunt, uncle, or sibling;

20 (29) "near fatality" means physical injury or other harm, as certified by
21 a physician, caused by an act or omission that created a substantial risk of death.

22 * Sec. 32. AS 47.12.990(10) is amended to read:

23 (10) "mental health professional" has the meaning given in
24 AS 47.30.915, except that, if the minor is placed in another state by the
25 department, "mental health professional" also includes a professional listed in
26 the definition of "mental health professional" in AS 47.30.915 who is not licensed
27 to practice by a board of this state but is licensed by a corresponding licensing
28 authority to practice in the state in which the minor is placed;

29 * Sec. 33. AS 47.14.100(e) is amended to read:

30 (e) A child may not be placed in a foster home or in the care of an agency or
31 institution providing care for children if a relative by blood or marriage or a family

1 friend requests placement of the child in the [RELATIVE'S] home of the relative, or
2 family friend, and the parent or guardian of the child agrees to the placement.

3 However, the department may retain custody of the child and provide for its placement
4 in the same manner as for other children if the department

5 (1) makes a determination, supported by clear and convincing
6 evidence, that placement of the child with the relative or family friend will result in
7 physical or mental injury; in making that determination, poverty, including inadequate
8 or crowded housing, on the part of the [BLOOD] relative or family friend, is not
9 considered prima facie evidence that physical or emotional damage to the child will
10 occur; this determination may be appealed to the superior court to hear the matter de
11 novo;

12 (2) determines that a member of the relative's or family friend's
13 household who is 12 years of age or older was the perpetrator in a substantiated report
14 of abuse under AS 47.17; or

15 (3) determines that a member of the relative's or family friend's
16 household who is 12 years of age or older is under arrest for, charged with, has been
17 convicted of, or has been found not guilty by reason of insanity of, a serious offense;
18 notwithstanding this paragraph, the department may place or continue the placement
19 of a child at the relative's or family friend's home if the relative or family friend
20 demonstrates to the satisfaction of the department that conduct described in this
21 paragraph occurred at least five years before the intended placement and the conduct

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

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

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

28 * Sec. 34. AS 47.14.100(f) is amended to read:

29 (f) If a blood relative of the child specified under (e) of this section exists and
30 agrees that the child should be placed elsewhere, before placement elsewhere, the
31 department shall fully communicate the nature of the placement proceedings to the

1 relative. Communication under this subsection shall be made in the relative's native
2 language, if necessary. [NOTHING IN THIS SUBSECTION OR IN (e) OF THIS
3 SECTION APPLIES TO CHILD PLACEMENT FOR ADOPTIVE PURPOSES.]

4 * **Sec. 35.** AS 47.14 is amended by adding a new section to article 3 to read:

5 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within
6 the department a Citizen Review Panel. The panel shall be composed of volunteer
7 members who are broadly representative of the state, including members who have
8 expertise in the prevention and treatment of child abuse and neglect.

9 (b) The panel shall meet not less than once every three months. Meetings may
10 take place telephonically and shall be closed to the public.

11 * **Sec. 36.** AS 47.14 is amended by adding a new section to article 3 to read:

12 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate
13 the extent to which the department is effectively discharging its child protection
14 responsibilities under

15 (1) the state plan submitted to the United States Department of Health
16 and Human Services under 42 U.S.C. 5106a(b);

17 (2) child protection standards under federal and state laws; and

18 (3) any other criteria that the panel considers important to ensuring the
19 protection of children, including the level and efficiency of coordination of foster care
20 and adoption programs in the state and a review of child fatalities and near fatalities.

21 (b) In carrying out the responsibilities under (a) of this section, the state panel
22 shall examine the policies, procedures, and practices of the department, and, where
23 appropriate, evaluate specific cases of child abuse or neglect.

24 (c) The commissioner shall, by regulation, establish policies and procedures
25 necessary to carrying out the duties of the state panel under this section.

26 * **Sec. 37.** AS 47.14 is amended by adding a new section to article 3 read:

27 **Sec. 47.14.225. Cooperation with state panel.** (a) The department shall
28 provide the panel access to information on child abuse or neglect cases that is
29 necessary for the panel to carry out its duties under AS 47.14.215.

30 (b) The department shall serve as staff to the state panel as requested by the
31 panel members.

1 * **Sec. 38.** AS 47.14 is amended by adding a new section to article 3 to read:

2 **Sec. 47.14.235. Confidentiality.** The members and staff of the state panel
3 may not disclose to any person, including a government agency or official, records or
4 other information containing personally identifying or other information made
5 confidential under state or federal law about a child or a witnesses involved in a case
6 under review by the panel.

7 * **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 to read:

8 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public
9 outreach and gather public comment on current department procedures and practices
10 involving children and family services.

11 * **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 to read:

12 **Sec. 47.14.255. Report.** (a) The state panel shall prepare and make available
13 to the governor and to the public an annual report containing a summary of the
14 activities of the panel conducted under AS 47.14.205 - 47.14.295 and
15 recommendations for the improvement of child protection services in the state.

16 (b) Not later than six months after the date on which the report under (a) of
17 this section is submitted to the governor, the department shall submit a written
18 response to the report to the governor. The department's response must include a
19 description of whether and how the department will incorporate the recommendations
20 of the panel, where appropriate.

21 * **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

22 **Sec. 47.14.265. Civil penalty for violation of AS 47.14.235.** A violation
23 under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

24 * **Sec. 42.** AS 47.14 is amended by adding a new section to article 3 to read:

25 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who
26 furnishes services to or advises the state panel is not liable for damages or other relief
27 in an action involving the performance or failure to perform a duty or other activity of
28 the state panel.

29 * **Sec. 43.** AS 47.14 is amended by adding a new section to article 3 to read:

30 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

31 (1) "state panel" means the Citizen Review Panel established under

1 AS 47.14.205;

2 (2) "near fatality" has the meaning given in AS 47.10.990.

3 * Sec. 44. AS 47.17.025 is amended by adding a new subsection to read:

4 (c) Within 20 days after receiving a report of harm, whether or not the matter
5 is referred to a local government agency, the department shall notify the person who
6 made the report and who made a request to be notified, about the status of the
7 investigation, without disclosing any confidential information.

8 * Sec. 45. AS 47.17.027(a) is amended to read:

9 (a) If the department or a law enforcement agency provides written
10 certification to the child's school officials that (1) there is reasonable cause to suspect
11 that the child has been abused or neglected by a person responsible for the child's
12 welfare or as a result of conditions created by a person responsible for the child's
13 welfare; (2) an interview at school is a necessary part of an investigation to determine
14 whether the child has been abused or neglected; and (3) the interview at school is in
15 the best interests of the child, school officials shall permit the child to be interviewed
16 at school by the department or a law enforcement agency before notification of, or
17 receiving permission from, the child's parent, guardian, or custodian. A school official
18 shall be present during an interview at the school unless the child objects or the
19 department or law enforcement agency determines that the presence of the school
20 official will interfere with the investigation. **The interview shall be conducted as**
21 **required under AS 47.17.033.** Immediately after conducting an interview authorized
22 under this section, and after informing the child of the intention to notify the child's
23 parent, guardian, or custodian, the department or agency shall make every reasonable
24 effort to notify the child's parent, guardian, or custodian that the interview occurred
25 unless it appears to the department or agency that notifying the child's parent,
26 guardian, or custodian would endanger the child.

27 * Sec. 46. AS 47.17.033 is amended by adding new subsections to read:

28 (c) An investigation by the department of child abuse or neglect reported
29 under this chapter shall be conducted by a person trained to conduct a child abuse and
30 neglect investigation and without subjecting a child to more than one interview about
31 the abuse or neglect except when new information is obtained that requires further

1 information from the child.

2 (d) An interview of a child conducted as a result of a report of harm may be
3 audiotaped or videotaped. However, if an interview of a child is to be electronically
4 recorded and the interview concerns a report of sexual abuse of the child, the interview
5 shall be videotaped, except that an interview of a child may not be videotaped if
6 videotaping the interview is impracticable or will, in the opinion of the investigating
7 agency, result in trauma to the child.

8 (e) An interview of a child that is audiotaped or videotaped under (d) of this
9 section shall be conducted

10 (1) by a person trained and competent to conduct the interview;

11 (2) if available, at a child advocacy center; and

12 (3) by a person who is a party to a memorandum of understanding with
13 the department to conduct the interview or who is employed by an agency that is
14 authorized to conduct investigations.

15 (f) An interview of a child may not be videotaped more than one time unless
16 the interviewer or the investigating agency determines that one or more additional
17 interviews are necessary to complete an investigation. If additional interviews are
18 necessary, the additional interviews shall be conducted, to the extent possible, by the
19 same interviewer who conducted the initial interview of the child.

20 (g) A recorded interview of a child shall be preserved in the manner and for a
21 period provided by law for maintaining evidence and records of a public agency.

22 (h) A recorded interview of a child is subject to disclosure under the
23 applicable court rules for discovery in a civil or criminal case.

24 * **Sec. 47.** AS 47.35.015 is amended by adding a new subsection to read:

25 (j) If a person operates a foster home to provide care only for a relative and the
26 department requires licensure under an agreement for services, the department shall
27 issue a temporary license to an eligible person while an application for a license under
28 this section is pending. The department shall issue the temporary license to the
29 applicant within five days after receiving a complete application for a foster care
30 license under AS 47.35.017. A temporary license is valid for 90 days or until a license
31 is either issued under AS 47.35.017 or denied under AS 47.35.019, whichever is

1 sooner.

2 * **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of
5 Aid Rules of Procedure, is amended to read:

6 (c) **Presence of Grandparent or Foster Parent.** A grandparent of a child
7 and the foster parent or other out-of-home care provider are [IS] entitled to be heard
8 at any hearing at which the person is present. However, the court may limit the
9 presence of these persons in a hearing that has been closed to the public under
10 (f)(2) of this rule [THE FOSTER PARENT OR CARE PROVIDER] to the time
11 during which the person's testimony is being given if the court determines that such
12 a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule [IT
13 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO
14 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE
15 DETRIMENTAL TO THE CHILD].

16 * **Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of
19 Aid Rules of Procedure, is repealed and reenacted to read:

20 (f) **General Public Access to Hearings.**

21 (1) Except as provided in (2) of this paragraph, and unless prohibited
22 by federal or state statute or regulation, court order, or other court rule, hearings are
23 open to the public.

24 (2) The following hearings are closed to the public:

25 (A) the initial court hearing after the filing of a petition that
26 begins the child-in-need-of-aid case;

27 (B) a hearing following the initial hearing in which a parent,
28 child, or other party to the case is present but has not had an opportunity to
29 obtain legal representation;

30 (C) a hearing, or a part of a hearing, for which the court issues
31 a written order finding that allowing the hearing, or part of the hearing, to be

1 open to the public would reasonably be expected to stigmatize or be
2 emotionally damaging to a child; inhibit a child's testimony in the hearing;
3 disclose matters otherwise required to be kept confidential by state or federal
4 statute or regulation, court order, or court rule; or interfere with a criminal
5 investigation or proceeding or a criminal defendant's right to a fair trial in a
6 criminal proceeding.

7 (3) Before ruling on a request under (2)(C) of this paragraph
8 concerning potential interference with a criminal investigation or proceeding, the court
9 shall give notice and an opportunity to be heard to the state or a municipal agency that
10 is assigned to the criminal investigation or to the prosecuting attorney.

11 (4) If the court closes a hearing to the public under (2)(C) of this
12 paragraph, the court shall close only the portions of the hearing necessary to prevent
13 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
14 is open to the public, the court shall hear in camera any information offered regarding
15 the location, or readily leading to the location, of a parent, child, or other party to the
16 case who is a victim of domestic violence. Access to testimony heard in camera under
17 this subparagraph is limited to the court and authorized court personnel.

18 (5) Notwithstanding any other provision of this rule, the court shall
19 issue an order to prohibit all persons in a hearing open to the public from disclosing to
20 any person a name, picture, or other information that would readily lead to the
21 identification of a child who is the subject of the proceeding. If a person violates the
22 order, the court may impose any appropriate sanction, including contempt and closure
23 of any further hearings in the proceeding to the person.

24 (6) A party to the proceeding may move the court to close to the public
25 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this
26 paragraph. A member of the public may request in writing to be served with a motion
27 filed under this subparagraph. If such a request has been filed in advance of the filing
28 of the motion, the party filing the motion must also serve the member of the public
29 who requested notice under this subparagraph. The court may waive the service
30 required under this subparagraph to a member of the public if a motion to close the
31 hearing, or part of the hearing, is made under this subparagraph immediately before or

1 during the hearing and the court finds that

2 (A) the need for closure was not reasonably foreseeable
3 sufficiently in advance of the hearing to allow for notice;

4 (B) there is good cause not to delay the hearing in order to
5 achieve notice, taking into consideration the age of the child and the potential
6 adverse effect that a delay could have on the child; and

7 (C) whatever notice is practicable under the circumstances has
8 occurred.

9 * **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 DIRECT COURT RULE AMENDMENT. Rule 3, Alaska Child in Need of
12 Aid Rules of Procedure, is amended by adding a new subsection to read:

13 (j) **Use of Child's Name and Identifying Information Prohibited.**
14 References to a child shall be made using the child's first name only. All identifying
15 information of the child, including the child's last name, address, and the names of the
16 child's immediate family members, shall be protected during the hearing so that only
17 the confidential record contains that information. If a child appears at the hearing, the
18 child shall be located away from view of the public.

19 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 DIRECT COURT RULE AMENDMENT. Rule 18(e), Alaska Child in Need
22 of Aid Rules of Procedure, is amended to read:

23 (e) **Trial.** A trial on the petition to terminate parental rights

24 (1) shall be held within six months after the date on which the petition
25 to terminate parental rights is filed, unless the court finds that good cause is shown for
26 a continuance; when [. WHEN] determining whether to grant a continuance for good
27 cause, the court shall take into consideration the age of the child and the potential
28 adverse effect that the delay may have on the child; the [. THE] court shall make
29 written findings when granting a continuance;

30 (2) shall be by jury when a jury trial has been demanded and not
31 waived by a party as provided in Rules 38 and 39, Alaska Rules of Civil

1 **Procedure.**

2 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DIRECT COURT RULE AMENDMENT. Rule 18(g), Alaska Child in Need
5 of Aid Rules of Procedure, is amended to read:

6 (g) **Judgment.** The court shall make findings of fact **for matters tried to the**
7 **court** and **shall** enter an order within 90 days after the last day of trial on the petition
8 to terminate parental rights. The court shall commit the child to the custody of the
9 Department if parental rights are terminated.

10 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need
13 of Aid Rules of Procedure, is amended to read:

14 (c) **Child's Name or Picture.** The name or picture of a child who is the
15 subject of a CINA proceeding may not be made available to the public unless
16 authorized by court order accompanied by a written statement reciting the
17 circumstances which support such authorization, **or unless to implement the**
18 **permanency plan for the child after all parental rights of custody have been**
19 **terminated.**

20 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,
23 is amended to read:

24 (a) **Form.** A consent or relinquishment must be in writing and must include:

25 (1) notice of the person's right to withdraw the consent or
26 relinquishment as provided by paragraphs (g) and (h) of this rule;

27 (2) the address and telephone number of the court in which the
28 adoption or relinquishment proceeding has or is expected to be filed;

29 (3) a statement of the right to counsel as stated in Rule 8;

30 (4) a statement concerning whether or not any visitation rights **or**
31 **other parental privileges** are sought to be retained after the adoption;

1 (5) if a consent, the information required in AS 25.23.060; and

2 (6) if signed by a parent, a statement of whether the parent is a minor.

3 * Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption
6 Rules, is amended to read:

7 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be
8 entered after a voluntary relinquishment pursuant to AS 25.23.180. The court shall
9 enter findings of fact which must include a statement concerning whether visitation
10 rights are being allowed under AS 25.23.130(c) or AS 25.23.180, whether other
11 privileges are being retained under AS 25.23.180, and whether the time limit for
12 withdrawal of the relinquishment has elapsed. If the relinquishment was signed in the
13 presence of the court, findings also must be entered as to whether the parent
14 understood the consequences of the relinquishment, and whether the relinquishment
15 was voluntarily signed.

16 In the case of a voluntary relinquishment of parental rights to an Indian child,
17 the court shall make additional findings concerning whether any notice required by
18 Rule 10(e) was timely given; whether the relinquishment was voluntary and in
19 compliance with the requirements of 25 U.S.C. Section 1913; and whether the child's
20 placement complies with the preferences set out in 25 U.S.C. Section 1915 or good
21 cause exists for deviation from the placement preference.

22 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 INDIRECT COURT RULE AMENDMENT. AS 25.23.180(j), added by sec. 2 of this
25 Act, amends Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges to be set
26 out in the relinquishment form and order.

27 * Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 INDIRECT COURT RULE AMENDMENT. (a) Sections 9 and 10 of this Act
30 AS 47.10.080(v), enacted by sec. 13 of this Act, and AS 47.10.088(o), enacted by sec. 15 of
31 this Act, have the effect of changing Rule 3, Alaska Child in Need of Aid Rules of Procedure.

1 by allowing members of the public to attend court hearings except in certain circumstances.

2 (b) AS 47.10.065, enacted by sec. 8 of this Act, and AS 47.10.080(c), as amended by
3 sec. 11 of this Act, have the effect of changing Rule 18, Alaska Child in Need of Aid Rules of
4 Procedure, by providing for a right to a jury trial on a petition to terminate parental rights.

5 (c) Sections 18 and 21 - 26 of this Act have the effect of changing Rule 22, Alaska
6 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential
7 information pertaining to a child, including a child's name or picture to be made public in
8 certain circumstances.

9 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **TWO-THIRDS VOTE NOT REQUIRED FOR CERTAIN AMENDMENTS.**

12 Because the enactment of AS 47.10.065 and the amendments to AS 47.10.080(c) and Rules
13 18(e) and 18(g), Alaska Child in Need of Aid Rules of Procedure, to the extent that the
14 enactment and amendments provide a right to a jury trial on a petition to terminate parental
15 rights affect a substantive right, secs. 8, 11, 51, 52, and 57 of this Act do not require a two-
16 thirds vote of the legislature to confer the right to a jury trial on a petition to terminate
17 parental rights.

18 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **APPLICABILITY.** (a) AS 47.10.065, enacted by sec. 8 of this Act, 47.10.080(c), as
21 amended by sec. 11 of this Act, and Rules 18(e) and 18(g), Alaska Child in Need of Aid Rules
22 of Procedure, as amended by secs. 51 and 52 of this Act, apply to petitions to terminate
23 parental rights that are filed on or after the effective date of secs. 8, 11, 51, and 52 of this Act.

24 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
25 made by secs. 48 - 50 of this Act, apply to hearings that are conducted on or after the effective
26 date of secs. 48 - 50 of this Act.

27 (c) Sections 9 - 11, 13, 15, 17, 18, 21 - 27, 31, 48 - 50, and 53 of this Act apply to all
28 proceedings and hearings conducted on or after the effective date of those sections.

29 (d) Sections 9, 10, 13, 15, and 18 - 27 of this Act apply to all information, records,
30 and files created on or after the effective date of those sections; however, if a file contains
31 information and records that were created before the effective date of secs. 9, 10, 13, 15, and

1 18 - 27 of this Act, that information and those records retain the confidentiality that they had
2 under the law on the day before the effective date of secs. 9, 10, 13, 15, and 18 - 27 of this
3 Act.

4 * **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 **TRANSITION: REGULATIONS.** The Department of Health and Social Services
7 may proceed to adopt regulations necessary to implement the changes made by this Act. The
8 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
9 effective date of the relevant statutory change.

10 * **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **REPORT.** By December 1, 2006, the governor shall issue a report, including any
13 recommendations for statutory changes, to the public and the legislature on the
14 implementation of this Act.

15 * **Sec. 62.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **CONDITIONAL EFFECT.** (a) That portion of Rule 18(e)(2), Alaska Child in Need
18 of Aid Rules of Procedure, added by sec. 51 of this Act, that reads "and not waived by a party
19 as provided in Rules 38 and 39, Alaska Rules of Civil Procedure," takes effect only if sec. 51
20 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
21 Constitution of the State of Alaska.

22 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
23 made by secs. 48 - 50 of this Act, take effect only if secs. 48 - 50 of this Act receive the two-
24 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
25 Alaska.

26 (c) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,
27 made by sec. 53 of this Act take effect only if sec. 53 of this Act receives the two-thirds
28 majority vote of each house required by Art. IV, sec. 15, Constitution of the State of Alaska.

29 (d) Sections 9 and 10 of this Act, AS 47.10.080(v), enacted by sec. 13 of this Act,
30 AS 47.10.088(o), enacted by sec. 15 of this Act, and secs. 18 and 21 - 26 of this Act, take
31 effect only if secs. 48 - 50, 53, and 57(a) and (c) of this Act receive the two-thirds majority

1 vote of each house as required by art. IV, sec. 15, Constitution of the State of Alaska.

2 (e) Rule 9(a), Alaska Adoption Rules, as amended by sec. 54 of this Act, takes effect
3 only if sec. 54 of this Act receives the two-thirds majority vote of each house required by art.
4 IV, sec. 15, Constitution of the State of Alaska.

5 (f) Rule 13(a), Alaska Adoption Rules, as amended by sec. 55 of this Act, takes effect
6 only if sec. 55 of this Act receives the two-thirds majority vote of each house required by art.
7 IV, sec. 15, Constitution of the State of Alaska.

8 (g) AS 25.23.180(j), added by sec. 2 of this Act, takes effect only if sec. 56 of this Act
9 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
10 of the State of Alaska.

11 * **Sec. 63.** AS 47.10.960, as amended by sec. 29 of this Act, takes effect 180 days after the
12 effective date of sec. 1 of this Act.

13 * **Sec. 64.** If, under sec. 62 of this Act, secs. 9 and 10 of this Act, AS 47.10.080(v), enacted
14 by sec. 13 of this Act, AS 47.10.088(o), enacted by sec. 15 of this Act, and secs. 18 and 21 -
15 26 of this Act take effect, they take effect July 1, 2005.

16 * **Sec. 65.** Except as provided in secs. 63 and 64 of this Act, this Act takes effect
17 immediately under AS 01.10.070(c).

LEGAL SERVICES

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MEMORANDUM

March 22, 2005

SUBJECT: Children's Services - CSHB 53()
(Work Order No. 24-GH 0251\5)

TO: Representative John Coghill
Attn: Rynniva Moss

FROM: Jean M. Mischel
Legislative Counsel

Attached is the most recent version of HB 53. One of the changes included in this draft appears to affect a Rule of Professional Conduct for Attorneys, that may go beyond the legislature's authority. At page 17, section 20, the addition of the Department of Administration for the disclosure of confidential or privileged information, including attorney-client information, has at least an indirect effect on Rule 1.6, Rules of Professional Conduct, that otherwise prohibits such a disclosure except in certain very limited circumstances. That effect has been noted in the bill and in the bill's title but the provision may be invalidated if challenged.

If I may be of further assistance, please advise.

JMM:med
05-202.med

Enclosure

24-LS0251AS
Mischel
3/22/05

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO 53()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES COGHILL, Ramras, Rokeberg, Kelly, McGuire, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to child-in-need-of-aid proceedings; amending the construction of
2 statutes pertaining to children in need of aid; relating to a duty and standard of care for
3 services to children and families, to the confidentiality of investigations, court hearings,
4 and public agency records and information in child-in-need-of-aid matters and certain
5 child protection matters, to immunity regarding disclosure of information in child-in-
6 need-of-aid matters and certain child protection matters, to proceedings regarding
7 voluntary relinquishment and termination of a parent and child relationship, to
8 eligibility for permanent fund dividends for certain children in the custody of the state,
9 and to juvenile delinquency proceedings and placements; establishing a right to a trial
10 by jury in termination of parental rights proceedings; reestablishing and relating to a
11 state citizens' review panel; amending the duty to disclose information pertaining to a
12 child in need of aid; authorizing additional family members to consent to disclosure of

1 confidential or privileged information about children and families involved with
2 children's services within the Department of Health and Social Services to officials for
3 review or use in official capacities; relating to reports of harm and to adoptions and
4 foster care; mandating consent for the medication of children in state custody;
5 prescribing the rights of family members related to child-in-need-of-aid cases and
6 establishing a familial priority for adoption in certain child-in-need-of-aid cases;
7 modifying adoption and placement procedures in certain child-in-need-of-aid cases;
8 amending treatment service requirements for parents involved in child-in-need-of-aid
9 proceedings; amending Rules 9 and 13, Alaska Adoption Rules; amending Rules 3, 17.2,
10 18, and 22, Alaska Child in Need of Aid Rules of Procedure; amending Rule 1.6, Alaska
11 Rules of Professional Conduct; and providing for an effective date."

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

13 * **Section 1.** AS 25.23 is amended by adding a new section to read:

14 **Sec. 25.23.127. Adult family member preference to adopt.**
15 Notwithstanding a child's stated preference under AS 25.23.125 and 25.23.040(a)(5),
16 an adult family member, including a grandparent, who has had physical custody of a
17 child for at least two consecutive years when the parental rights to the child have been
18 terminated under AS 47.10.080(c)(3) shall be permitted to adopt the child before any
19 other person upon the filing of a petition by the adult family member under
20 AS 25.23.080 unless the court finds that the adult family member is not fit to raise the
21 child. In this section, "adult family member" has the meaning given in AS 47.10.990.

22 * **Sec. 2.** AS 43.23.005(f) is amended to read:

23 (f) The [IN A TIME OF NATIONAL MILITARY EMERGENCY, THE]
24 commissioner may waive the requirement of (a)(4) of this section for an individual
25 absent from the state

26 (1) in a time of national military emergency under military orders
27 while serving in the armed forces of the United States, or for the spouse and

1 dependents of that individual; or

2 (2) while in the custody of the Department of Health and Social
3 Services in accordance with a court order under AS 47.10 or AS 47.12 and placed
4 outside of the state by the Department of Health and Social Services for purposes
5 of medical or behavioral treatment.

6 * Sec. 3. AS 47.10.005 is amended to read:

7 Sec. 47.10.005. Construction. The provisions of this chapter shall be
8 liberally construed to

9 (1) achieve the end that a child coming within the jurisdiction of the
10 court under this chapter may receive the care, guidance, treatment, and control that
11 will promote the child's welfare and the parents' participation in the upbringing of
12 the child;

13 (2) recognize that a parent possesses inherent individual rights to
14 direct and control the education and upbringing of the parent's child;

15 (3) promote and protect the safety, welfare, health, and good of
16 children, grandparents, and family members living in the state;

17 (4) benefit future generations; and

18 (5) bring fairness and equality to biological family members and
19 children in the state.

20 * Sec. 4. AS 47.10.020(a) is amended to read:

21 (a) Whenever circumstances subject a child to the jurisdiction of the court
22 under AS 47.10.005 - 47.10.142, the court shall appoint a competent person or agency
23 to make a preliminary inquiry and report for the information of the court to determine
24 whether the best interests of the child require that further action be taken. The court
25 shall make the appointment on its own motion or at the request of a person or
26 agency having knowledge of the child's circumstances. If, under this subsection,
27 the court appoints a person or agency to make a preliminary inquiry and to report to it,
28 or if the department is conducting an investigation of a report of child abuse or
29 neglect, the court may issue any orders necessary to aid the person, the agency,
30 or the department in its investigation or in making the preliminary inquiry and
31 report. Upon [THEN, UPON THE] receipt of the report under this subsection, the

1 court may

2 (1) close the matter without a court hearing;

3 (2) determine whether the best interests of the child require that further
4 action be taken; or

5 (3) authorize the person or agency having knowledge of the facts of the
6 case to file with the court a petition setting out the facts.

7 * Sec. 5. AS 47.10.020 is amended by adding a new subsection to read:

8 (e) Nothing in this section requires the department to obtain authorization
9 from the court before

10 (1) conducting an investigation of a report of child abuse or neglect; or

11 (2) filing a petition.

12 * Sec. 6. AS 47.10 is amended by adding a new section to read:

13 **Sec. 47.10.025. Adult family member's rights.** (a) An adult family member,
14 including a grandparent, of a child who has been adjudicated a child in need of aid
15 under this chapter may initiate special proceedings by filing a petition under
16 AS 47.10.110 to obtain custody of the child if

17 (1) both of the child's parents are dead; or

18 (2) one of the child's parents is dead and the child has been abandoned
19 by a remaining parent.

20 (b) In a proceeding initiated under (a) of this section, the court shall presume
21 that awarding custody to an adult family member, including a grandparent, is in the
22 best interest of the child. A presumption under this subsection may be overcome by
23 evidence of abuse, neglect, or other harm to the child attributable to the adult family
24 member.

25 (c) The department shall attempt to locate all living adult family members of a
26 child and to investigate the adult family member's ability to care for the child before
27 placing the child or approving an adoption of the child under this chapter. The
28 department shall provide written notice to all identified adult family members of their
29 rights under this chapter and of the procedures necessary to gain custody of the child.
30 The adult family members shall sign a receipt of the notice and, if the adult family
31 member is competent, state that the adult family member understands the adult family

1 member's right to initiate proceedings to gain custody of the child and either intends or
2 declines to proceed.

3 * Sec. 7. AS 47.10 is amended by adding a new section to read:

4 **Sec. 47.10.065. Right to demand jury trial in certain cases.** A party has the
5 right to demand a jury trial for a hearing under this chapter on a petition to terminate
6 parental rights. If a hearing to adjudicate whether a child is a child in need of aid
7 under AS 47.10.011 is consolidated with a hearing on a petition to terminate parental
8 rights, the right to a jury trial under this section applies only to the issue of whether
9 parental rights should be terminated after the court enters a finding under
10 AS 47.10.080(a). In this section, "party" has the meaning given in Rule 2, Alaska
11 Child in Need of Aid Rules of Procedure.

12 * Sec. 8. AS 47.10.070(a) is amended to read:

13 (a) The court may conduct the hearing on the petition in an informal manner.
14 The court shall give notice of the hearing to the department, and it may send a
15 representative to the hearing. The court shall also transmit a copy of the petition to the
16 department. The department shall send notice of the hearing to the persons for whom
17 notice is required under AS 47.10.030(b) and to each grandparent of the child entitled
18 to notice under AS 47.10.030(d). The department and the persons to whom the
19 department must send notice of the hearing are entitled to be heard at the hearing.
20 Except as provided in (c) of this section, and unless prohibited by federal or state
21 law, court order, or court rule, a hearing is open to the public [HOWEVER, THE
22 COURT MAY LIMIT THE PRESENCE OF THE FOSTER PARENT OR OTHER
23 OUT-OF-HOME CARE PROVIDER AND OF ANY GRANDPARENT OF THE
24 CHILD TO THE TIME DURING WHICH THE PERSON'S TESTIMONY IS BEING
25 GIVEN IF IT IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2)
26 NECESSARY TO PROTECT THE PRIVACY INTERESTS OF THE PARTIES
27 AND WILL NOT BE DETRIMENTAL TO THE CHILD. THE PUBLIC SHALL BE
28 EXCLUDED FROM THE HEARING, BUT THE COURT, IN ITS DISCRETION,
29 MAY PERMIT INDIVIDUALS TO ATTEND A HEARING IF THEIR
30 ATTENDANCE IS COMPATIBLE WITH THE BEST INTERESTS OF THE
31 CHILD].

1 * Sec. 9. AS 47 10.070 is amended by adding new subsections to read:

2 (c) Except as provided in (e) of this section, the following hearings in child-in-
3 need-of-aid cases are closed to the public:

4 (1) the initial court hearing after the filing of a petition to commence
5 the child-in-need-of-aid case;

6 (2) a hearing following the initial hearing in which a parent, child, or
7 other party to the case is present but has not had an opportunity to obtain legal
8 representation;

9 (3) a hearing, or a part of a hearing, for which the court issues a written
10 order finding that allowing the hearing, or part of the hearing, to be open to the public
11 would reasonably be expected to

12 (A) stigmatize or be emotionally damaging to a child;

13 (B) inhibit a child's testimony in that hearing;

14 (C) disclose matters otherwise required to be kept confidential
15 by state or federal statute or regulation, court order, or court rule; or

16 (D) interfere with a criminal investigation or proceeding or a
17 criminal defendant's right to a fair trial in a criminal proceeding; before ruling
18 on a request under this subparagraph, the court shall give notice and an
19 opportunity to be heard to the state or a municipal agency that is assigned to
20 the criminal investigation or to the prosecuting attorney.

21 (d) If a hearing, or part of a hearing, in a child-in-need-of-aid case is not
22 closed under (c) of this section, the court shall hear in camera any information offered
23 regarding the location, or readily leading to the location, of a parent, child, or other
24 party to the case who is a victim of domestic violence. Access to testimony heard in
25 camera under this subsection is limited to the court and authorized court personnel.

26 (e) The grandparents of the child and the foster parents or other out-of-home
27 care provider may attend hearings that are otherwise closed to the public under (c) of
28 this section. However, the court shall limit the presence of these persons in a hearing
29 closed to the public to the time during which the person's testimony is being given if
30 the court determines that the limitation is necessary under (c)(3) of this section. In this
31 subsection, "out-of-home care provider" means an agency or person, other than the

1 child's legal parents, with whom a child who is in the custody of the state under
2 AS 47.10.080(c)(1) or (3), 47.10.142, or AS 47.14.100(c) is currently placed; "agency
3 or person" includes a foster parent, an adult family member other than a parent, a
4 person who has petitioned for adoption of the child, and a residential child care
5 facility.

6 (f) Notwithstanding any other provision of this chapter, a person attending a
7 hearing open to the public may not disclose a name, picture, or other information that
8 would readily lead to the identification of a child who is the subject of the child-in-
9 need-of-aid case. At the beginning of the hearing, the court shall issue an order
10 specifying the restrictions necessary to comply with this subsection. If a person
11 violates the order, the court may impose any appropriate sanction, including contempt
12 and closure of any further hearings in the case to the person.

13 (g) Nothing contained in this section limits the rights of adult family members,
14 including grandparents, under this title.

15 * Sec. 10. AS 47.10.080(c) is amended to read:

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

17 (1) order the child committed to the department for placement in an
18 appropriate setting for a period of time not to exceed two years or in any event not to
19 extend past the date the child becomes 19 years of age, except that the department or
20 the child's guardian ad litem may petition for and the court may grant in a hearing

21 (A) one-year extensions of commitment that do not extend
22 beyond the child's 19th birthday if the extension is in the best interests of the
23 child; and

24 (B) an additional one-year period of state custody past [AGE]
25 19 years of age if the continued state custody is in the best interests of the
26 person and the person consents to it;

27 (2) order the child released to a parent, adult family member
28 [RELATIVE], or guardian of the child or to another suitable person, and, in
29 appropriate cases, order the parent, adult family member [RELATIVE], guardian, or
30 other person to provide medical or other care and treatment; if the court releases the
31 child, it shall direct the department to supervise the care and treatment given to the

1 child, but the court may dispense with the department's supervision if the court finds
 2 that the adult to whom the child is released will adequately care for the child without
 3 supervision; the department's supervision may not exceed two years or in any event
 4 extend past the date the child reaches [AGE] i9 years of age, except that the
 5 department or the child's guardian ad litem may petition for and the court may grant in
 6 a hearing

7 (A) one-year extensions of supervision that do not extend
 8 beyond the child's 19th birthday if the extensions are in the best interests of the
 9 child; and

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

13 (3) unless a jury trial has been requested by a party, order, under
 14 the grounds specified in (c) of this section or AS 47.10.088, the termination of
 15 parental rights and responsibilities of one or both parents and commit the child to the
 16 custody of the department, and the department shall report quarterly to the court on
 17 efforts being made to find a permanent placement for the child; if a jury trial has
 18 been requested by a party, the court shall conduct a jury trial on the termination
 19 of parental rights under this section.

20 * Sec. 11. AS 47.10.080(i) is amended to read:

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

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

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

28 (A) and when the child should be returned to the parent or
 29 guardian;

30 (B) the child should be placed for adoption or legal
 31 guardianship and whether a petition for termination of parental rights should be

1 filed by the department; and

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

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

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

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

13 (B) whether the parent or guardian has made substantial
14 progress to remedy the parent's or guardian's conduct or conditions in the home
15 that made the child a child in need of aid under this chapter; [AND]

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

19 (D) whether the department has made reasonable efforts to
20 finalize the permanent plan for the child;

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

26 * Sec. 12. AS 47.10.080(p) is amended to read:

27 (p) If a child is removed from the parental home, the department shall provide
28 reasonable visitation between the child and the child's parents, guardian, and family.
29 When determining what constitutes reasonable visitation with a family member, the
30 department shall consider the nature and quality of the relationship that existed
31 between the child and the family member before the child was committed to the

1 custody of the department. The court may require the department to file a visitation
2 plan with the court. The department may deny visitation to the parents, guardian, or
3 family members if there is clear and convincing evidence that visits are not in the
4 child's best interests. If the department denies visitation to a parent or family
5 member of a child, the department shall inform the parent or family member of a
6 reason for the denial and of the parent's or family member's right to request a
7 review hearing as an interested person. A parent, family member, or guardian who
8 is denied visitation may request a review hearing as an interested person. An
9 interested person is not entitled to a court-appointed attorney. In this subsection,
10 "interested person" means a person who has the right to request a hearing on a
11 departmental decision involving visitation by a family member.

12 * Sec. 13. AS 47.10.080 is amended by adding new subsections to read:

13 (t) The court or a jury, if a jury trial is requested, may not terminate parental
14 rights solely on the basis that the parent did not complete treatment required of the
15 parent by the department for reunification with the child if the treatment required was
16 unavailable to the parent and the department did not provide the treatment.

17 (u) For a child who is placed in foster care, when the department finds that it
18 is in the best interest of a child and that the foster family will not be placed in undue
19 risk of harm, the department shall require foster parents to provide regular
20 opportunities for visitation with the child by the parents of the child and encourage
21 foster parents to serve as mentors for facilitating family reunification.

22 (v) A hearing conducted under this section is open to the public unless an
23 exception provided in AS 47.10.070(c) applies to make the hearing closed to the
24 public or unless prohibited by federal or state statute or regulation.

25 * Sec. 14. AS 47.10.084 is amended by adding a new subsection to read:

26 (d) When a child who is in the custody of the department is prescribed a
27 psychotropic or other mental health medication, the department shall obtain the
28 consent of a parent who has residual parental rights under (c) of this section, or, if no
29 residual parental rights exist, of a legal guardian, before administering the medication.

30 * Sec. 15. AS 47.10.088(i) is amended to read:

31 (i) The department shall concurrently identify, recruit, process, and approve a

1 qualified person or family for an adoption whenever a petition to terminate a parent's
2 rights to a child is filed. The department may not approve an adoption by a
3 person or family who is not related to the child by blood if an adult family
4 member of the child requests that the department approve the adult family
5 member for the adoption unless the adoption by the child's adult family member
6 is not in the child's best interest, is prohibited under (l) of this section, or is
7 otherwise contrary to federal or state law. If the court issues an order to terminate
8 under (j) of this section, the department shall report within 30 days on the efforts being
9 made to recruit a permanent placement for the child if a permanent placement was not
10 approved at the time of the trial under (j) of this section. The report must document
11 recruitment efforts made for the child.

12 * Sec. 16. AS 47.10.088 is amended by adding new subsections to read:

13 (l) The department may not approve an adoption by a person related to the
14 child by blood if the department

15 (1) makes a determination, supported by clear and convincing
16 evidence, that adoption of the child by the adult family member will result in physical
17 or mental injury to the child; in making that determination, poverty, including
18 inadequate or crowded housing, on the part of the person related to the child by blood
19 is not considered prima facie evidence that physical or mental injury to the child will
20 occur;

21 (2) determines that a member of the adult family member's household
22 who is 12 years of age or older was the perpetrator in a substantiated report of abuse
23 under AS 47.17; or

24 (3) determines that a member of the adult family member's household
25 who is 12 years of age or older is under arrest for, is charged with, has been convicted
26 of, or has been found not guilty by reason of insanity of, a serious offense;
27 notwithstanding this paragraph, the department may approve an adoption by the adult
28 family member if the adult family member demonstrates to the satisfaction of the
29 department that conduct described in this paragraph occurred at least five years before
30 the intended adoption and the conduct

31 (A) did not involve a victim who was under 18 years of age at

1 the time of the conduct;

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

4 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or
5 a law or ordinance of another jurisdiction having similar elements.

6 (m) For the purpose of determining whether the home of an adult family
7 member meets the requirements for adoption of the child, the department shall conduct
8 a criminal background check from state and national criminal justice information
9 available under AS 12.62. The department may conduct a fingerprint background
10 check on any member of the adult family member's household who is 12 years of age
11 or older when the adult family member requests adoption of the child. For the
12 purposes of obtaining criminal justice information under this subsection, the
13 department is a criminal justice agency conducting a criminal justice activity under
14 AS 12.62.

15 (n) An interested person related to a child by blood who is denied a request for
16 an adoption under (i) of this section may request a review hearing by the court. If the
17 department denies a request by a person related to a child by blood to adopt a child
18 under (i) of this section, the department shall inform the adult family member of the
19 reason for the denial and of the adult family member's right to request a review
20 hearing. An interested person is not entitled to a court-appointed attorney. In this
21 subsection, "interested person" means an individual who has requested approval of the
22 department to adopt a child under the custody of the department.

23 (o) A trial or hearing conducted under this section is open to the public unless
24 an exception provided in AS 47.10.070(c) applies to make the trial or hearing closed
25 to the public. The court shall uphold the department's decision under this section if the
26 court finds, by clear and convincing evidence, that the decision is in the best interest of
27 the child and otherwise complies with the requirements of this section.

28 * Sec. 17. AS 47.10 is amended by adding a new section to read:

29 **Sec. 47.10.089. Voluntary relinquishment of parental rights and**
30 **responsibilities.** (a) When a child is committed to the custody of the department
31 under AS 47.10.080(c)(1) or (3) or released under AS 47.10.080(c)(2), the rights of a

1 parent with respect to the child, including parental rights to control the child, to
2 withhold consent to an adoption, or to receive notice of a hearing on a petition for
3 adoption, may be voluntarily relinquished to the department and the relationship of
4 parent and child terminated in a proceeding as provided under this section.

5 (b) A voluntary relinquishment must be in writing and signed by a parent,
6 regardless of the age of the parent, in the presence of a representative of the
7 department or in the presence of a court of competent jurisdiction with the knowledge
8 and approval of the department. A copy of the signed relinquishment shall be given to
9 the parent.

10 (c) A voluntary relinquishment may be withdrawn within 10 days after it is
11 signed. The relinquishment is invalid unless the relinquishment contains the right of
12 withdrawal as specified under this subsection.

13 (d) A parent may retain privileges with respect to the child, including the
14 ability to have future contact, communication, and visitation with the child in a
15 voluntary relinquishment executed under this section. A retained privilege must be in
16 writing and stated with specificity.

17 (e) Not less than 10 days after a voluntary relinquishment is signed, the court
18 shall enter an order terminating parental rights if the court finds that termination of
19 parental rights under the terms of the relinquishment is in the child's best interest. If a
20 parent has retained one or more privileges under (d) of this section, the court shall
21 incorporate the retained privileges in the termination order with a recommendation
22 that the retained privileges be incorporated in an adoption or legal guardianship
23 decree.

24 (f) A voluntary relinquishment may not be withdrawn and a termination order
25 may not be vacated on the ground that a retained privilege has been withheld from the
26 relinquishing parent or that the relinquishing parent has been unable, for any reason, to
27 act on a retained privilege, except as provided in Rule 60(b), Alaska Rules of Civil
28 Procedure.

29 (g) After a termination order is entered and before the entry of an adoption or
30 legal guardianship decree, a person who has voluntarily relinquished parental rights
31 under this section may request a review hearing, upon a showing of good cause, to

1 seek enforcement or modification of a privilege retained in the termination order. The
2 court may modify or enforce the retained privilege if it is in the best interest of the
3 child to do so.

4 (h) After a termination order is entered and before the entry of an adoption or
5 legal guardianship decree, a person who voluntarily relinquished parental rights to a
6 child under this section may request a review hearing, upon a showing of good cause,
7 to vacate the termination order and reinstate parental rights relating to that child. A
8 court shall vacate a termination order if the person shows, by clear and convincing
9 evidence, that reinstatement of parental rights is in the best interest of the child and
10 that the person is rehabilitated and capable of providing the care and guidance that will
11 serve the moral, emotional, mental, and physical welfare of the child.

12 (i) A person seeking a review hearing under (g) or (h) of this section is entitled
13 to the appointment of an attorney to the same extent as if the parent's rights had not
14 been terminated in a child-in-need-of-aid proceeding.

15 * Sec. 18. AS 47.10.090(c) is amended to read:

16 (c) Within 30 days after [OF] the date of a child's [MINOR'S] 18th birthday
17 or, if the court retains jurisdiction of a child [MINOR] past the child's [MINOR'S]
18 18th birthday, within 30 days after [OF] the date on which the court releases
19 jurisdiction over the child [MINOR], the court shall order all the court's official
20 records pertaining to that child [MINOR] in a proceeding under this chapter sealed. A
21 person may not use these sealed records unless authorized by order of [FOR ANY
22 PURPOSE EXCEPT THAT] the court upon a finding of [MAY ORDER THEIR
23 USE FOR] good cause [SHOWN].

24 * Sec. 19. AS 47.10.090(d) is amended to read:

25 (d) Except as provided in AS 47.10.070, 47.10.080(v), and 47.10.093, the
26 [THE] name or picture of a child [MINOR] under the jurisdiction of the court may not
27 be made public in connection with the child's [MINOR'S] status as a child in need of
28 aid unless authorized by order of the court or unless to implement the permanency
29 plan for a child after all parental rights of custody have been terminated. This
30 subsection does not prohibit the release of aggregate information for statistical or
31 other informational purposes if the identity of any particular person is not

1 revealed by the release.

2 * Sec. 20. AS 47.10.092(a) is amended to read:

3 (a) Notwithstanding AS 47.10.090 and 47.10.093, an adult family member
4 [A PARENT] or legal guardian of a child subject to a proceeding under AS 47.10.005
5 - 47.10.142 may disclose confidential or privileged information about the child or the
6 child's family, including information that has been lawfully obtained from agency or
7 court files, to the governor, the lieutenant governor, a legislator, the ombudsman
8 appointed under AS 24.55, the attorney general, and the commissioner
9 [COMMISSIONERS] of health and social services, administration, or public safety, or
10 an employee of these persons, for review or use in their official capacities. The
11 Department of Health and Social Services and the Department of Administration
12 [DEPARTMENT] shall disclose additional confidential or privileged information and
13 make copies of documents available for inspection about the child or the child's family
14 to these state officials or employees for review or use in their official capacities upon
15 request of the official or employee and submission of satisfactory evidence that a
16 parent or legal guardian of the child has requested the state official's assistance in the
17 case as part of the official's duties. A person to whom disclosure is made under this
18 section may not disclose confidential or privileged information about the child or the
19 child's family to a person not authorized to receive it. In this subsection, "privileged
20 information" includes an attorney-client privilege if the person has an attorney-
21 client relationship with the child or the child's family.

22 * Sec. 21. AS 47.10.092 is amended by adding new subsections to read:

23 (d) The duty imposed on the departments under (a) of this section to disclose
24 information to and make copies of documents available for inspection by state
25 officials and employees upon proof that a parent has requested the assistance of the
26 state official or employee with respect to a child's case does not lapse when the
27 parent's parental rights have been terminated with respect to the child. However, the
28 duty does lapse after termination of the parent's parental rights if another parent or
29 legal guardian of the child subsequently files a notice with the Department of Health
30 and Social Services that the assistance of the state official or employee is no longer
31 requested.

1 (e) The Department of Health and Social Services shall notify an official
2 identified under (a) of this section of the opportunity to file a grievance under
3 AS 47.10.098 - 47.10.099 when the official is denied access to all or part of a
4 requested record.

5 * Sec. 22. AS 47.10.093(a) is amended to read:

6 (a) Except as specified in AS 47.10.092 and in (b) - (g) and (k) - (n) [(b) -
7 (g)] of this section, all information and social records pertaining to a child [MINOR]
8 who is subject to this chapter or AS 47.17 prepared by or in the possession of a
9 federal, state, or municipal agency or employee in the discharge of the agency's or
10 employee's official duty are privileged and may not be disclosed directly or indirectly
11 to anyone without a court order.

12 * Sec. 23. AS 47.10.093(b) is amended to read:

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

15 (1) a guardian ad litem appointed by the court;

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

20 (3) a foster parent [PARENTS] or adult family member
21 [RELATIVES] with whom the child is placed by the department as [MAY BE]
22 necessary to enable the foster parent [PARENTS] or adult family member
23 [RELATIVES] to provide appropriate care to [FOR] the child [WHO IS THE
24 SUBJECT OF THE CASE], to protect the safety of the child [WHO IS THE
25 SUBJECT OF THE CASE], and to protect the safety and property of family members
26 and visitors of the foster parent [PARENTS] or adult family member
27 [RELATIVES];

28 (4) a school official [OFFICIALS] as [MAY BE] necessary to enable
29 the school to provide appropriate counseling and support services to a [THE] child
30 who is the subject of the case, to protect the safety of the child [WHO IS THE
31 SUBJECT OF THE CASE], and to protect the safety of school students and staff;

1 (5) a governmental agency as [MAY BE] necessary to obtain that
2 agency's assistance for the department in its investigation or to obtain physical custody
3 of a child;

4 (6) a law enforcement agency of this state or another jurisdiction as
5 [MAY BE] necessary for the protection of any child or for actions by that agency to
6 protect the public safety;

7 (7) a member [MEMBERS] of a multidisciplinary child protection
8 team created under AS 47.14.300 as [MAY BE] necessary for the performance of the
9 member's [THEIR] duties;

10 (8) the state medical examiner under AS 12.65 as [MAY BE]
11 necessary for the performance of the duties of the state medical examiner;

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

15 (10) the child support services agency established in AS 25.27.010 as
16 [MAY BE] necessary to establish and collect child support for a child who is a child in
17 need of aid under this chapter;

18 (11) a caregiver of a child or an entity responsible for ensuring the
19 safety of children as necessary to protect the safety of a child; and

20 (12) a review panel established by the department for the purpose
21 of reviewing the actions taken by the department in a specific case.

22 * Sec. 24. AS 47.10.093(c) is repealed and reenacted to read:

23 (c) A state or municipal law enforcement agency shall disclose information
24 regarding a case that is needed by the person or agency charged with making a
25 preliminary investigation for the information of the court under AS 47.10.020.

26 * Sec. 25. AS 47.10.093(f) is amended to read:

27 (f) The department may release to a person with a legitimate interest
28 confidential information relating to children [MINORS] not subject to the
29 jurisdiction of the court under AS 47.10.010. [THE DEPARTMENT SHALL ADOPT
30 REGULATIONS GOVERNING THE RELEASE OF INFORMATION AND
31 IDENTIFYING A SUFFICIENT LEGITIMATE INTEREST.]

1 * Sec. 26. AS 47.10.093(g) is amended to read:

2 (g) The department and affected law enforcement agencies shall work with
3 school districts and private schools to develop procedures for the disclosure of
4 confidential information to a school official [OFFICIALS] under (b)(4) of this
5 section. The procedures must provide a method for informing the principal or the
6 principal's designee of the school that the student attends as soon as it is reasonably
7 practicable.

8 * Sec. 27. AS 47.10.093 is amended by adding new subsections to read:

9 (k) The department may disclose to the public, upon request, confidential
10 information, as set out in (l) of this section, when

11 (1) the parent or guardian of a child who is the subject of a report of
12 harm under AS 47.17 has made a public disclosure concerning the department's
13 involvement with the family;

14 (2) the alleged perpetrator named in a report of harm under AS 47.17
15 has been charged with a crime concerning the alleged abuse or neglect; or

16 (3) a report of harm under AS 47.17 has resulted in the fatality or near
17 fatality of that child.

18 (l) The type of information that may be publicly disclosed under (k) of this
19 section is information related to the determination, if any, made by the department
20 regarding the validity of a report of harm under AS 47.17 or the department's
21 activities arising from the department's investigation of the report. The department

22 (1) may withhold disclosure of the child's name, picture, or other
23 information that would readily lead to the identification of the child if the department
24 determines that the disclosure would be contrary to the best interests of the child, the
25 child's siblings, or other children in the child's household; or

26 (2) after consultation with a prosecuting attorney, may withhold
27 disclosure of information that would reasonably be expected to interfere with a
28 criminal investigation or proceeding or a criminal defendant's right to a fair trial in a
29 criminal proceeding.

30 (m) Except for a disclosure made under (k) of this section, a person to whom
31 disclosure is made under this section may not disclose confidential information about

1 the child or the child's family to a person not authorized to receive it.

2 (n) The department may adopt regulations to implement and interpret its
3 duties under this section, including regulations governing the release of confidential
4 information and identifying a sufficient legitimate interest under (f) of this section.

5 (o) A person may not bring an action for damages against the state, the
6 commissioner, or the commissioner's designee based on the disclosure or
7 nondisclosure of information under (k) of this section except for civil damages
8 resulting from gross negligence or reckless or intentional misconduct.

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

10 **Sec. 47.10.098. Grievance procedure.** (a) An individual may file a
11 grievance with the department for a complaint involving the disclosure of records
12 under this chapter if the complaint is based on

13 (1) the application of a department policy or procedure;

14 (2) compliance with this chapter or a regulation adopted under this
15 chapter; or

16 (3) an act or failure to act by the department.

17 (b) An aggrieved individual shall submit a written complaint on a form
18 provided by the department, to the supervisor of the person whose action is being
19 grieved stating the specific concern, the name of the department staff member
20 involved, and the desired relief sought. The supervisor shall provide a copy of the
21 grievance procedure to the aggrieved individual. The grievance procedure must
22 include

23 (1) review of the grievance by the supervisor within three working
24 days after receipt of the grievance to determine

25 (A) the nature of the complaint; and

26 (B) whether the action or inaction of the department falls
27 within the grounds established under (a) of this section:

28 (2) if the supervisor determines that the grievance falls within the
29 grounds established under (a) of this section, contacting the aggrieved individual to
30 schedule an informal meeting, within 10 days after the supervisor's decision, with the
31 supervisor, the aggrieved individual, and the department staff member identified in the

1 grievance in order to attempt to informally resolve the grievance;

2 (3) if the supervisor determines that the grievance does not fall within
3 the grounds established under (a) of this section, notifying the aggrieved individual of
4 the inapplicability of the grievance procedure and closing the file;

5 (4) the availability of more than one informal meeting if it is in the best
6 interest of the parties to the grievance;

7 (5) written recommendations of the supervisor and filing of a summary
8 of the informal meetings within five working days after the conclusion of the informal
9 meetings; a copy of the recommendations and summary must be sent to the aggrieved
10 individual; and

11 (6) opportunity for review under AS 47.10.099.

12 **Sec. 47.10.099. Review of grievances.** (a) An aggrieved individual may file
13 a request with the state panel to review the recommendations of the supervisor of the
14 person whose action is being grieved under AS 47.10.098.

15 (b) For purposes of conducting a review under this section, the state panel
16 shall meet at least one time, either in person or telephonically, to conduct a fact-
17 finding meeting at which the aggrieved party and the department staff member
18 involved in the grievance may appear. The state panel may rely on outside
19 information gathered to resolve the grievance as well as information received at the
20 meeting. If the department staff member involved in the grievance is unable to attend
21 the meeting, a written explanation of the staff member's absence shall be provided to
22 the state panel before the meeting.

23 (c) Following the fact-finding meeting held under (b) of this section, the state
24 panel shall convene telephonically or in person to deliberate and resolve the grievance.

25 (d) Within 10 working days after the meeting held under (c) of this section,
26 the state panel shall issue written findings and a resolution. The state panel shall send
27 a copy of the findings and resolution to the aggrieved party and to the department staff
28 member named in the grievance.

29 (e) The information reviewed by the state panel shall be made part of a
30 confidential record, and information containing identifying information of recipients
31 of department services, along with all other information made confidential by state or

1 federal law, may not be discussed publicly by any person involved in the grievance.

2 (f) The state panel shall prepare a report of each grievance reviewed that
3 contains a summary of the complaint, the review or evaluation process used, and the
4 outcome of the review or evaluation, including any recommendations made as a result
5 of the review. Before the report is disclosed, the state panel shall modify a report
6 prepared or produced under this subsection to exclude all personal identifying
7 information of a child, the child's family, and witnesses.

8 (g) In this section, "state panel" has the meaning given in AS 47.14.295.

9 * Sec. 29. AS 47.10.960 is repealed and reenacted to read:

10 Sec. 47.10.960. Civil liability. Failure to comply with a provision of this title
11 does not constitute a basis for civil liability for damages except for civil damages
12 resulting from gross negligence or reckless or intentional misconduct.

13 * Sec. 30. AS 47.10.990(16) is amended to read:

14 (16) "mental health professional" has the meaning given in
15 AS 47.30.915, except that, if the child is placed in another state by the
16 department, "mental health professional" also includes a professional listed in
17 the definition of "mental health professional" in AS 47.30.915 who is not licensed
18 to practice by a board of this state but is licensed by a corresponding licensing
19 authority to practice in the state in which the child is placed:

20 * Sec. 31. AS 47.10.990 is amended by adding new paragraphs to read:

21 (28) "adult family member" means a person who is 18 years of age or
22 older and who is related to the child as the child's legal parent, grandparent, aunt,
23 uncle, or sibling;

24 (29) "family member" means a person of any age who is related to the
25 child as the child's legal parent, grandparent, aunt, uncle, or sibling;

26 (30) "near fatality" means physical injury or other harm, as certified by
27 a physician, caused by an act or omission that created a substantial risk of death.

28 * Sec. 32. AS 47.12.990(10) is amended to read:

29 (10) "mental health professional" has the meaning given in
30 AS 47.30.915, except that, if the minor is placed in another state by the
31 department, "mental health professional" also includes a professional listed in

1 the definition of "mental health professional" in AS 47.30.915 who is not licensed
2 to practice by a board of this state but is licensed by a corresponding licensing
3 authority to practice in the state in which the minor is placed;

4 * Sec. 33. AS 47.14.100(e) is amended to read:

5 (e) If [A CHILD MAY NOT BE PLACED IN A FOSTER HOME OR IN
6 THE CARE OF AN AGENCY OR INSTITUTION PROVIDING CARE FOR
7 CHILDREN IF] a relative by blood or marriage or a family friend requests placement
8 of the child in the [RELATIVE'S] home of the relative or family friend, and the
9 parent or guardian of the child agrees to the placement, a child may not be
10 placed in a foster home that is not operated by the relative or may not be placed
11 in the care of an agency or institution providing care for children. However, the
12 department may retain custody of the child and provide for its placement in the same
13 manner as for other children if the department

14 (1) makes a determination, supported by clear and convincing
15 evidence, that placement of the child with the relative or family friend will result in
16 physical or mental injury; in making that determination, poverty, including inadequate
17 or crowded housing, on the part of the [BLOOD] relative or family friend, is not
18 considered prima facie evidence that physical or emotional damage to the child will
19 occur; this determination may be appealed to the superior court to hear the matter de
20 novo;

21 (2) determines that a member of the relative's or family friend's
22 household who is 12 years of age or older was the perpetrator in a substantiated report
23 of abuse under AS 47.17; or

24 (3) determines that a member of the relative's or family friend's
25 household who is 12 years of age or older is under arrest for, charged with, has been
26 convicted of, or has been found not guilty by reason of insanity of, a serious offense;
27 notwithstanding this paragraph, the department may place or continue the placement
28 of a child at the relative's or family friend's home if the relative or family friend
29 demonstrates to the satisfaction of the department that conduct described in this
30 paragraph occurred at least five years before the intended placement and the conduct

31 (A) did not involve a victim who was under 18 years of age at

1 the time of the conduct;

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

4 (C) was not a violent crime under AS 11.41.100 - 11.41.455 or
5 a law or ordinance of another jurisdiction having similar elements.

6 * Sec. 34. AS 47.14.100(f) is amended to read:

7 (f) If a blood relative of the child specified under (e) of this section exists and
8 agrees that the child should be placed elsewhere, before placement elsewhere, the
9 department shall fully communicate the nature of the placement proceedings to the
10 relative. Communication under this subsection shall be made in the relative's native
11 language, if necessary. [NOTHING IN THIS SUBSECTION OR IN (e) OF THIS
12 SECTION APPLIES TO CHILD PLACEMENT FOR ADOPTIVE PURPOSES.]

13 * Sec. 35. AS 47.14 is amended by adding a new section to article 3 to read:

14 **Sec. 47.14.205. State Citizen Review Panel.** (a) There is established within
15 the department a Citizen Review Panel. The panel shall be composed of volunteer
16 members who are broadly representative of the state, including members who have
17 expertise in the prevention and treatment of child abuse and neglect.

18 (b) The panel shall meet not less than once every three months. Meetings may
19 take place telephonically and shall be closed to the public.

20 * Sec. 36. AS 47.14 is amended by adding a new section to article 3 to read:

21 **Sec. 47.14.215. Duties of the state panel.** (a) The state panel shall evaluate
22 the extent to which the department is effectively discharging its child protection
23 responsibilities under

24 (1) the state plan submitted to the United States Department of Health
25 and Human Services under 42 U.S.C. 5106a(b);

26 (2) child protection standards under federal and state laws; and

27 (3) any other criteria that the panel considers important to ensuring the
28 protection of children, including the level and efficiency of coordination of foster care
29 and adoption programs in the state and a review of child fatalities and near fatalities.

30 (b) In carrying out the responsibilities under (a) of this section, the state panel
31 shall examine the policies, procedures, and practices of the department, and, where

1 appropriate, evaluate specific cases of child abuse or neglect.

2 (c) The commissioner shall, by regulation, establish policies and procedures
3 necessary to carrying out the duties of the state panel under this section.

4 * **Sec. 37.** AS 47.14 is amended by adding a new section to article 3 to read:

5 **Sec. 47.14.225. Cooperation with state panel.** (a) The department shall
6 provide the panel access to information on child abuse or neglect cases that is
7 necessary for the panel to carry out its duties under AS 47.14.215.

8 (b) The department shall serve as staff to the state panel as requested by the
9 panel members.

10 * **Sec. 38.** AS 47.14 is amended by adding a new section to article 3 to read:

11 **Sec. 47.14.235. Confidentiality.** The members and staff of the state panel
12 may not disclose to any person, including a government agency or official, records or
13 other information containing personally identifying or other information made
14 confidential under state or federal law about a child or a witnesses involved in a case
15 under review by the panel.

16 * **Sec. 39.** AS 47.14 is amended by adding a new section to article 3 to read:

17 **Sec. 47.14.245. Public outreach.** The state panel shall conduct public
18 outreach and gather public comment on current department procedures and practices
19 involving children and family services.

20 * **Sec. 40.** AS 47.14 is amended by adding a new section to article 3 to read:

21 **Sec. 47.14.255. Report.** (a) The state panel shall prepare and make available
22 to the governor, the legislature, and to the public an annual report containing a
23 summary of the activities of the panel conducted under AS 47.14.205 - 47.14.295 and
24 recommendations for the improvement of child protection services in the state.

25 (b) Not later than six months after the date on which the report under (a) of
26 this section is submitted to the governor, the department shall submit a written
27 response to the report to the governor. The department's response must include a
28 description of whether and how the department will incorporate the recommendations
29 of the panel, where appropriate.

30 * **Sec. 41.** AS 47.14 is amended by adding a new section to article 3 to read:

31 **Sec. 47.14.265. Civil penalty for violation of AS 47.14.235.** A violation

1 under 47.14.235 is subject to a civil penalty of up to \$2,500 for each violation.

2 * Sec. 42. AS 47.14 is amended by adding a new section to article 3 to read:

3 **Sec. 47.14.275. Immunity.** A member of the state panel and a person who
4 furnishes services to or advises the state panel is not liable for damages or other relief
5 in an action involving the performance or failure to perform a duty or other activity of
6 the state panel.

7 * Sec. 43. AS 47.14 is amended by adding a new section to article 3 to read:

8 **Sec. 47.14.295. Definitions.** In AS 47.14.205 - 47.14.295,

9 (1) "state panel" means the Citizen Review Panel established under
10 AS 47.14.205;

11 (2) "near fatality" has the meaning given in AS 47.10.990.

12 * Sec. 44. AS 47.17.025 is amended by adding a new subsection to read:

13 (c) Within 20 days after receiving a report of harm, whether or not the matter
14 is referred to a local government agency, the department shall notify the person who
15 made the report and who made a request to be notified, about the status of the
16 investigation, without disclosing any confidential information.

17 * Sec. 45. AS 47.17.027(a) is amended to read:

18 (a) If the department or a law enforcement agency provides written
19 certification to the child's school officials that (1) there is reasonable cause to suspect
20 that the child has been abused or neglected by a person responsible for the child's
21 welfare or as a result of conditions created by a person responsible for the child's
22 welfare; (2) an interview at school is a necessary part of an investigation to determine
23 whether the child has been abused or neglected; and (3) the interview at school is in
24 the best interests of the child, school officials shall permit the child to be interviewed
25 at school by the department or a law enforcement agency before notification of, or
26 receiving permission from, the child's parent, guardian, or custodian. A school official
27 shall be present during an interview at the school unless the child objects or the
28 department or law enforcement agency determines that the presence of the school
29 official will interfere with the investigation. The interview shall be conducted as
30 required under AS 47.17.033. Immediately after conducting an interview authorized
31 under this section, and after informing the child of the intention to notify the child's

1 parent, guardian, or custodian, the department or agency shall make every reasonable
2 effort to notify the child's parent, guardian, or custodian that the interview occurred
3 unless it appears to the department or agency that notifying the child's parent,
4 guardian, or custodian would endanger the child.

5 * Sec. 46. AS 47.17.033 is amended by adding new subsections to read:

6 (c) An investigation by the department of child abuse or neglect reported
7 under this chapter shall be conducted by a person trained to conduct a child abuse and
8 neglect investigation and without subjecting a child to more than one interview about
9 the abuse or neglect except when new information is obtained that requires further
10 information from the child.

11 (d) An interview of a child conducted as a result of a report of harm may be
12 audiotaped or videotaped. However, if an interview of a child is to be electronically
13 recorded and the interview concerns a report of sexual abuse of the child, the interview
14 shall be videotaped, except that an interview of a child may not be videotaped if
15 videotaping the interview is impracticable or will, in the opinion of the investigating
16 agency, result in trauma to the child.

17 (e) An interview of a child that is audiotaped or videotaped under (d) of this
18 section shall be conducted

19 (1) by a person trained and competent to conduct the interview;

20 (2) if available, at a child advocacy center; and

21 (3) by a person who is a party to a memorandum of understanding with
22 the department to conduct the interview or who is employed by an agency that is
23 authorized to conduct investigations.

24 (f) An interview of a child may not be videotaped more than one time unless
25 the interviewer or the investigating agency determines that one or more additional
26 interviews are necessary to complete an investigation. If additional interviews are
27 necessary, the additional interviews shall be conducted, to the extent possible, by the
28 same interviewer who conducted the initial interview of the child.

29 (g) A recorded interview of a child shall be preserved in the manner and for a
30 period provided by law for maintaining evidence and records of a public agency.

31 (h) A recorded interview of a child is subject to disclosure under the

1 applicable court rules for discovery in a civil or criminal case.

2 * Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DIRECT COURT RULE AMENDMENT. Rule 3(c), Alaska Child in Need of
5 Aid Rules of Procedure, is amended to read:

6 (c) **Presence of Grandparent or Foster Parent**. A grandparent of a child
7 and the foster parent or other out-of-home care provider are [IS] entitled to be heard
8 at any hearing at which the person is present. However, the court may limit the
9 presence of these persons in a hearing that has been closed to the public under
10 (f)(2) of this rule [THE FOSTER PARENT OR CARE PROVIDER] to the time
11 during which the person's testimony is being given if the court determines that such
12 a limitation is necessary under the circumstances listed in (f)(2)(C) of this rule [IT
13 IS (1) IN THE BEST INTEREST OF THE CHILD; OR (2) NECESSARY TO
14 PROTECT THE PRIVACY INTERESTS OF THE PARTIES AND WILL NOT BE
15 DETRIMENTAL TO THE CHILD].

16 * Sec. 48. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 DIRECT COURT RULE AMENDMENT. Rule 3(f), Alaska Child in Need of
19 Aid Rules of Procedure, is repealed and reenacted to read:

20 (f) **General Public Access to Hearings.**

21 (1) Except as provided in (2) of this paragraph, and unless prohibited
22 by federal or state statute or regulation, court order, or other court rule, hearings are
23 open to the public.

24 (2) The following hearings are closed to the public:

25 (A) the initial court hearing after the filing of a petition that
26 begins the child-in-need-of-aid case;

27 (B) a hearing following the initial hearing in which a parent,
28 child, or other party to the case is present but has not had an opportunity to
29 obtain legal representation;

30 (C) a hearing, or a part of a hearing, for which the court issues
31 a written order finding that allowing the hearing, or part of the hearing, to be

1 open to the public would reasonably be expected to stigmatize or be
2 emotionally damaging to a child; inhibit a child's testimony in the hearing;
3 disclose matters otherwise required to be kept confidential by state or federal
4 statute or regulation, court order, or court rule; or interfere with a criminal
5 investigation or proceeding or a criminal defendant's right to a fair trial in a
6 criminal proceeding.

7 (3) Before ruling on a request under (2)(C) of this paragraph
8 concerning potential interference with a criminal investigation or proceeding, the court
9 shall give notice and an opportunity to be heard to the state or a municipal agency that
10 is assigned to the criminal investigation or to the prosecuting attorney.

11 (4) If the court closes a hearing to the public under (2)(C) of this
12 paragraph, the court shall close only the portions of the hearing necessary to prevent
13 the potential harm listed in (2)(C) of this paragraph. If a hearing, or part of a hearing,
14 is open to the public, the court shall hear in camera any information offered regarding
15 the location, or readily leading to the location, of a parent, child, or other party to the
16 case who is a victim of domestic violence. Access to testimony heard in camera under
17 this subparagraph is limited to the court and authorized court personnel.

18 (5) Notwithstanding any other provision of this rule, the court shall
19 issue an order to prohibit all persons in a hearing open to the public from disclosing to
20 any person a name, picture, or other information that would readily lead to the
21 identification of a child who is the subject of the proceeding. If a person violates the
22 order, the court may impose any appropriate sanction, including contempt and closure
23 of any further hearings in the proceeding to the person.

24 (6) A party to the proceeding may move the court to close to the public
25 a hearing, or part of the hearing, to avoid the harm specified in (2)(C) of this
26 paragraph. A member of the public may request in writing to be served with a motion
27 filed under this subparagraph. If such a request has been filed in advance of the filing
28 of the motion, the party filing the motion must also serve the member of the public
29 who requested notice under this subparagraph. The court may waive the service
30 required under this subparagraph to a member of the public if a motion to close the
31 hearing, or part of the hearing, is made under this subparagraph immediately before or

1 during the hearing and the court finds that

2 (A) the need for closure was not reasonably foreseeable
3 sufficiently in advance of the hearing to allow for notice;

4 (B) there is good cause not to delay the hearing in order to
5 achieve notice, taking into consideration the age of the child and the potential
6 adverse effect that a delay could have on the child; and

7 (C) whatever notice is practicable under the circumstances has
8 occurred.

9 * **Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 DIRECT COURT RULE AMENDMENT. Rule 3, Alaska Child in Need of
12 Aid Rules of Procedure, is amended by adding a new subsection to read:

13 (j) **Use of Child's Name and Identifying Information Prohibited.**
14 References to a child shall be made using the child's first name only. All identifying
15 information of the child, including the child's last name, address, and the names of the
16 child's immediate family members, shall be protected during the hearing so that only
17 the confidential record contains that information. If a child appears at the hearing, the
18 child shall be located away from view of the public.

19 * **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 DIRECT COURT RULE AMENDMENT. Rule 18(e), Alaska Child in Need
22 of Aid Rules of Procedure, is amended to read:

23 (e) **Trial.** A trial on the petition to terminate parental rights

24 (1) shall be held within six months after the date on which the petition
25 to terminate parental rights is filed, unless the court finds that good cause is shown for
26 a continuance; when [. WHEN] determining whether to grant a continuance for good
27 cause, the court shall take into consideration the age of the child and the potential
28 adverse effect that the delay may have on the child; the [. THE] court shall make
29 written findings when granting a continuance;

30 (2) shall be by jury when a jury trial has been demanded and not
31 waived by a party as provided in Rules 38 and 39, Alaska Rules of Civil

1 **Procedure.**

2 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DIRECT COURT RULE AMENDMENT. Rule 18(g), Alaska Child in Need
5 of Aid Rules of Procedure, is amended to read:

6 (g) **Judgment.** The court shall make findings of fact for matters tried to the
7 court and shall enter an order within 90 days after the last day of trial on the petition
8 to terminate parental rights. The court shall commit the child to the custody of the
9 Department if parental rights are terminated.

10 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 22(c), Alaska Child in Need
13 of Aid Rules of Procedure, is amended to read:

14 (c) **Child's Name or Picture.** The name or picture of a child who is the
15 subject of a CINA proceeding may not be made available to the public unless
16 authorized by court order accompanied by a written statement reciting the
17 circumstances which support such authorization, or unless to implement the
18 permanency plan for the child after all parental rights of custody have been
19 terminated.

20 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 DIRECT COURT RULE AMENDMENT. Rule 9(a), Alaska Adoption Rules,
23 is amended to read:

24 (a) **Form.** A consent or relinquishment must be in writing and must include:

25 (1) notice of the person's right to withdraw the consent or
26 relinquishment as provided by paragraphs (g) and (h) of this rule;

27 (2) the address and telephone number of the court in which the
28 adoption or relinquishment proceeding has or is expected to be filed;

29 (3) a statement of the right to counsel as stated in Rule 8;

30 (4) a statement concerning whether or not any visitation rights or
31 other parental privileges are sought to be retained after the adoption;

- 1 (5) if a consent, the information required in AS 25.23.060; and
2 (6) if signed by a parent, a statement of whether the parent is a minor.

3 * Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 DIRECT COURT RULE AMENDMENT. Rule 9(g), Alaska Adoption Rules,
6 is amended to read:

7 (g) **Withdrawal of Consent or Relinquishment of a Non-Indian Child.**

8 The parent of a non-Indian child may withdraw a consent or relinquishment by
9 notifying in writing the court, or the person or agency obtaining the consent or
10 relinquishment, within 10 days of the birth or signing of the consent or
11 relinquishment, whichever is later. Notification is timely if received or postmarked on
12 or before the last day of this time period. The parent may move the court to permit
13 withdrawal of the consent or relinquishment after the 10 day period pursuant to
14 AS 25.23.070 for a consent or AS 25.23.180(g) or AS 47.10.089(h) for a
15 relinquishment.

16 * Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 DIRECT COURT RULE AMENDMENT. Rule 13(a), Alaska Adoption
19 Rules, is amended to read:

20 (a) **Voluntary Relinquishment.** A decree terminating parental rights may be
21 entered after a voluntary relinquishment pursuant to AS 25.23.180 or AS 47.10.089.
22 The court shall enter findings of fact which must include a statement concerning
23 whether visitation rights are being allowed under AS 25.23.130(c) or other privileges
24 are being retained under AS 47.10.089, and whether the time limit for withdrawal of
25 the relinquishment has elapsed. If the relinquishment was signed in the presence of
26 the court, findings also must be entered as to whether the parent understood the
27 consequences of the relinquishment, and whether the relinquishment was voluntarily
28 signed.

29 In the case of a voluntary relinquishment of parental rights to an Indian child,
30 the court shall make additional findings concerning whether any notice required by
31 Rule 10(e) was timely given; whether the relinquishment was voluntary and in

1 compliance with the requirements of 25 U.S.C. Section 1913; and whether the child's
2 placement complies with the preferences set out in 25 U.S.C. Section 1915 or good
3 cause exists for deviation from the placement preference.

4 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 DIRECT COURT RULE AMENDMENT. Rule 17.2(f), Alaska Child in Need
7 of Aid Rules, is amended to read:

8 (f) **Additional Findings.** In addition to the findings required under paragraph
9 (e), the court shall also make written findings related to

10 (1) whether the Department has made reasonable efforts required
11 under AS 47.10.086 or, in the case of an Indian child, whether the Department has
12 made active efforts to provide remedial services and rehabilitative programs as
13 required by 25 U.S.C. Sec. 1912(d);

14 (2) whether the parent or guardian has made substantial progress to
15 remedy the parent's or guardian's conduct or conditions in the home that made the
16 child a child in need of aid; [AND]

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

20 (4) whether the Department has made reasonable efforts to finalize
21 the permanent plan for the child.

22 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 18(d)(1), Alaska Child in
25 Need of Aid Rules, is amended to read:

26 (d) **Relinquishment.**

27 (1) Notwithstanding other provisions of this rule, the court may
28 terminate parental rights after a voluntary relinquishment pursuant to AS 47.10.089
29 [AS 25.23.180]. In the case of an Indian child, the relinquishment must meet the
30 requirements set forth in 25 U.S.C. § 1913(c).

31 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 INDIRECT COURT RULE AMENDMENT. (a) AS 47.10.089(e), added by sec. 17
3 of this Act, amends Rules 9 and 13, Alaska Adoption Rules, by requiring retained privileges
4 to be set out in the relinquishment form and order.

5 (b) AS 47.10.089(g) and (h), added by sec. 17 of this Act, amend Rule 13, Alaska
6 Adoption Rules, by authorizing a review hearing for a voluntary relinquishment before the
7 entry of an adoption decree.

8 (c) AS 47.10.089, added by sec. 17 of this Act, amends Rule 18, Alaska Child in
9 Need of Aid Rules, by providing that a relinquishment be in writing, allowing for the
10 withdrawal of the relinquishment, allowing for the retention of certain privileges, and
11 authorizing a review hearing before the entry of an adoption or legal guardianship decree.

12 * Sec. 59. The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 INDIRECT COURT RULE AMENDMENT. (a) Sections 8 and 9 of this Act,
15 AS 47.10.080(v), enacted by sec. 13 of this Act, and AS 47.10.088(o), enacted by sec. 16 of
16 this Act, have the effect of changing Rule 3, Alaska Child in Need of Aid Rules of Procedure,
17 by allowing members of the public to attend court hearings except in certain circumstances.

18 (b) AS 47.10.065, enacted by sec. 7 of this Act, and AS 47.10.080(c), as amended by
19 sec. 10 of this Act, have the effect of changing Rule 18, Alaska Child in Need of Aid Rules of
20 Procedure, by providing for a right to a jury trial on a petition to terminate parental rights.

21 (c) Sections 19 and 22 - 27 of this Act have the effect of changing Rule 22, Alaska
22 Child in Need of Aid Rules of Procedure, by allowing the disclosure of confidential
23 information pertaining to a child, including a child's name or picture to be made public in
24 certain circumstances.

25 (d) Section 20 of this Act has the effect of amending Rule 1.6, Alaska Rules of
26 Professional Responsibility by requiring attorneys employed by the Department of Health and
27 Social Services or the Department of Administration to disclose information otherwise
28 protected by the attorney-client privilege.

29 * Sec. 60. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TWO-THIRDS VOTE NOT REQUIRED FOR CERTAIN AMENDMENTS.

1 Because the enactment of AS 47.10.065 and the amendments to AS 47.10.080(c) and Rules
2 18(e) and 18(g), Alaska Child in Need of Aid Rules of Procedure, to the extent that the
3 enactment and amendments provide a right to a jury trial on a petition to terminate parental
4 rights, affect a substantive right, secs. 7, 10, 50, 51, and 59 of this Act do not require a two-
5 thirds vote of the legislature to confer the right to a jury trial on a petition to terminate
6 parental rights.

7 * Sec. 61. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 APPLICABILITY. (a) AS 47.10.065, enacted by sec. 7 of this Act, 47.10.080(c), as
10 amended by sec. 10 of this Act, and Rules 18(e) and 18(g), Alaska Child in Need of Aid Rules
11 of Procedure, as amended by secs. 50 and 51 of this Act, apply to petitions to terminate
12 parental rights that are filed on or after the effective date of secs. 7, 10, 50, and 51 of this Act.

13 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
14 made by secs. 47 - 49 of this Act, apply to hearings that are conducted on or after the effective
15 date of secs. 47 - 49 of this Act.

16 (c) Sections 8 - 10, 13, 16, 18, 19, 22 - 27, 31, 47 - 49, and 52 of this Act apply to all
17 proceedings and hearings conducted on or after the effective date of those sections.

18 (d) Sections 8, 9, 13, 16, and 19 - 27 of this Act apply to all information, records, and
19 files created on or after the effective date of those sections; however, if a file contains
20 information and records that were created before the effective date of secs. 8, 9, 13, 16, and
21 19 - 27 of this Act, that information and those records retain the confidentiality that they had
22 under the law on the day before the effective date of secs. 8, 9, 13, 16, and 19 - 27 of this Act.

23 * Sec. 62. The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: REGULATIONS. The Department of Health and Social Services
26 may proceed to adopt regulations necessary to implement the changes made by this Act. The
27 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
28 effective date of the relevant statutory change.

29 * Sec. 63. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the

1 heading of AS 47.10.088 from "Termination of parental rights and responsibilities" to
2 "Involuntary termination of parental rights and responsibilities."

3 * Sec. 64. The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 CONDITIONAL EFFECT. (a) That portion of Rule 18(e)(2), Alaska Child in Need
6 of Aid Rules of Procedure, added by sec. 50 of this Act, that reads "and not waived by a party
7 as provided in Rules 37 and 38, Alaska Rules of Civil Procedure," takes effect only if sec. 50
8 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
9 Constitution of the State of Alaska.

10 (b) The amendments to Rule 3, Alaska Child in Need of Aid Rules of Procedure,
11 made by secs. 47 - 49 of this Act, take effect only if secs. 47 - 49 of this Act receive the two-
12 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
13 Alaska.

14 (c) Section 11 of this Act and Rule 17.2(f), Alaska Child in Need of Aid Rules, as
15 amended by sec. 56 of this Act, take effect only if sec. 56 of this Act receives the two-thirds
16 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

17 (d) Rule 18(d)(1), Alaska Child in Need of Aid Rules, as amended by sec. 57 of this
18 Act, takes effect only if sec. 57 of this Act receives the two-thirds majority vote of each house
19 required by art. IV, sec. 15, Constitution of the State of Alaska.

20 (e) The amendments to Rule 22(c), Alaska Child in Need of Aid Rules of Procedure,
21 made by sec. 52 of this Act take effect only if sec. 52 of this Act receives the two-thirds
22 majority vote of each house required by Art. IV, sec. 15, Constitution of the State of Alaska.

23 (f) Sections 8 and 9 of this Act, AS 47.10.080(v), enacted by sec. 13 of this Act,
24 AS 47.10.088(o), enacted by sec. 16 of this Act, and secs. 19 and 22 - 27 of this Act, take
25 effect only if secs. 47 - 49, 52, and 59(a) and (c) of this Act receive the two-thirds majority
26 vote of each house as required by art. IV, sec. 15, Constitution of the State of Alaska.

27 (g) Rule 9(a), Alaska Adoption Rules, as amended by sec. 53 of this Act, takes effect
28 only if sec. 53 of this Act receives the two-thirds majority vote of each house required by art.
29 IV, sec. 15, Constitution of the State of Alaska.

30 (h) Rule 9(g), Alaska Adoption Rules, as amended by sec. 54 of this Act, takes effect
31 only if sec. 54 of this Act receives the two-thirds majority vote of each house required by art.

1 IV, sec. 15, Constitution of the State of Alaska.

2 (i) Rule 13(a), Alaska Adoption Rules, as amended by sec. 56 of this Act, takes effect
3 only if sec. 56 of this Act receives the two-thirds majority vote of each house required by art.
4 IV, sec. 15, Constitution of the State of Alaska.

5 (j) AS 47.10.089, added by sec. 17 of this Act, takes effect only if sec. 58 of this Act
6 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
7 of the State of Alaska.

8 (k) That portion of sec. 20 of this Act that adds to AS 47.10.092(a) the words "In this
9 subsection, "privileged information" includes an attorney-client privilege if the person has an
10 attorney-client relationship with the child or the child's family." takes effect only if sec. 59(d)
11 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15,
12 Constitution of the State of Alaska.

13 * Sec. 65. If, under sec. 64 of this Act, secs. 8 and 9 of this Act, AS 47.10.080(v), enacted
14 by sec. 13 of this Act, AS 47.10.088(o), enacted by sec. 16 of this Act, and secs. 19 and 22 -
15 27 of this Act take effect, they take effect July 1, 2005.

16 * Sec. 66. Except as provided in sec. 65 of this Act, this Act takes effect immediately under
17 AS 01.10.070(c).

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Session

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REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 23, 2005
To: Jean Mischel, Legal Counsel
From: Rynniva Moss, Legislative Aide
Re: Additional amendments to Version S

I forgot to add two amendments the Office of Public Advocacy requested to my memo amending Version S of SSHB 53.

Page 18, line 9:

Delete: "department"

Insert: "Department of Health and Social Services and the Department of Administration"

Page 19, line 2:

Delete: "department"

Insert: "Department of Health and Social Services and the Department of Administration"

In 2002 (in conjunction with HB 252) the House Rules Committee addressed the disconnect between how a lay person would read AS 47.10.960 (that the Division had no standards or obligations that they had to follow), and the statute's intended legal interpretation. House Rules agreed to a concept that articulated the intent behind AS 47.10.960 when it was passed in 1998 while avoiding the confusion raised by use of the words "standard of care" and "duty". The concept is embodied in the proposed language. This language avoids the apparent misunderstandings and "mixed message" caused by the language in AS 47.10.960 but preserves the intent of the original statute (that the statutory provisions in title 47 are not independent causes of action to bring as tort lawsuits for damages).

Sec. 47.10.960. Civil liability. Failure to comply with a provision of this title does not constitute a basis for civil liability for damages.

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REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 23, 2005
To: Jean Mischel, Legal Counsel
From: Rynniva Moss, Legislative Aide
Re: Amendments to Version S CSSH B 53(STA)

Page 2, line 13:

Insert:

*Section 1. AS 13.26.055 is amended to read:

Sec. 13.26.055. Court appointment of guardian of minor; qualifications; priority of minor's nominee and an adult family member. The court may appoint as guardian any person whose appointment would be in the best interests of the minor, subject to the following requirements. The court shall appoint

- (a) a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interests of the minor; or
- (b) , unless in conflict with subsection (a), an adult family member, unless the court finds the appointment contrary to the best interests of the minor.

Renumber the following bill sections accordingly.

Page 2, line 16:

Delete: “, including a grandparent,”¹

Page 2, line 17:

Delete: “two consecutive years”

Insert: “twelve consecutive months”

Page 2, line 18:

After “AS 47.10.080(c)(3)”

Insert: “,”

Page 2, line 20:

After the word “person”

Insert: “,”

Delete: “that the adult family member is not fit to raise”

Insert: “good cause not to grant the petition”²

Page 2, line 22:

Fold in any changes made in State Affairs CS for HB 114.

¹ since the definition of “adult family member” in sec. 31 of the bill (AS 47.10.990(28)) includes grandparents

² good cause is an accepted legal term

Page 4, line 12 through page 5, line 2:

Delete all material³

Page 5, line 5:

Delete: "under this chapter"

Page 5, line 6:

After the word "rights"

Insert: "under 47.10.080(o) or AS 47.10.088"

Page 7, lines 13-14:

After "members"

Delete: ", including grandparents,"

Page 8, line 10:

After "past"

Delete: "age"

After "19"

Insert: "years of age,"

³ (a) moved to page 2, line 13 (amending AS 13.26.055), (b) is unnecessary and part of (c) moved to Page 9, line 31 (amending AS 47.10.088(i))

Page 8, line 13:

After "(3)"

Delete: "unless a jury trial has been requested by a party,"⁴

Page 8, lines 17-19:

After "child"

Delete all material except the period

Page 10, line 8-11:

After "hearing"

Delete all material

Insert: "A non-party adult family member requesting a hearing under this subsection is not eligible for publicly appointed legal counsel."

Page 10, line 25-29:

Delete all materials and insert new section

AS 47.10.084(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 25.20.025, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section.

⁴ unnecessary due to suggested changes on page 5, line 6

"Major medical treatment" includes medication used to treat a diagnosed mental health disorder.

Page 11, line 2:

After "filed."

Insert: The department shall attempt to locate all living adult family members of a child and to investigate the adult family member's ability to care for the child before placing the child for adoption or approving an adoption of the child under this chapter. The department shall provide written notice to all located adult family members of their rights under this chapter and of the procedures necessary to gain custody of the child.

Page 11, line 3:

After "child"

Delete: "by blood"

Page 11, line 5:

After "adoption"

Insert: ";

Page 11, lines 13-14:

After "by"

Delete: "a person related to the child by blood"

Insert: "an adult family member"

Page 11, line 18:

After second "the"

Delete: "person related to the child by blood"

Insert: "adult family member"

Page 12, line 15:

After "(n)"

Delete: "A person related to a child by blood"

Insert: "An adult family member"

Page 12, line 17:

After first "by"

Delete: "a person related to a child by blood"

Insert: "an adult family member"

Page 12, line 20-22:

After the word "hearing."

Delete: all materials

Insert: **"A non-party adult family member requesting a hearing under this subsection is not eligible for publicly appointed legal counsel."**

Page 12, Line 28 through page 14, line 14:

Make sure all revisions from CSHB 114(STA) are folded into HB 53 Version S.

Page 11, lines 24-28:

Delete all material.

Page 15, line 12:

After "information"

Insert: "excluding privileged attorney/client communications and the names and other identifying information of mandatory reporters under AS 47.17."

Page 15, line 23:

After "The"

Delete: "duty imposed on"

Insert: "requirements of"

Page 15, lines 23-26:

After "section"

Delete all material

Insert: "remain in effect throughout the time the child is in the custody of the department, including after the"

Page 15, lines 27:

After "child"

Delete: ". However, the duty does lapse after termination of the parent's parent rights if"

Insert: "unless"

Page 16, line 7:

After "section,"

Insert: **"and as provided to all parties in a child-in-need-of-aid proceeding under court rules,"**

Page 13, line 25:

After "(1)"

Delete: A guardian ad litem appointed by the court;⁵

Renumber subsections accordingly.

Page 16, line 20:

After "or"

Delete: "adult family member:

Re-insert: "relatives"

Page 17, line 20:

After "department"

Insert: ", the governor, or the legislature"

⁵ a guardian ad litem already has access to confidential information

Page 19, line 9, through Page 21, line 8:

Delete all material.

Insert:

Sec. 47.10.098. **Grievance Procedure.** (a) The department shall develop, through regulation, a grievance procedure that provides parents a process to file complaints with respect to the

1. Application of a departmental policy or procedure;
2. Compliance with this chapter or a regulation adopted under this chapter; or
3. An act or failure to act by the department.

(b) the department shall develop a handout that explains this procedure, which shall be offered to each parent involved with the department.⁶

Page 21, lines 11-12:

After the word "damages"

Delete all material except "."

Page 22, line 7:

Delete: "a relative by blood or marriage"

Insert: "an adult family member"

Page 22, line 8:

After third "the"

Delete: "relative"

Insert: "adult family member"

⁶ the Department prefers that statute established a grievance process but to leave the ability to change the process at the regulatory level

Page 22, line 9:

After "placement"

Insert: "Nothing in this section waives the requirement that a non-relative be licensed as a foster home prior to any child being placed in their care."

Page 22, lines 15, 17, 21, 24, & 28:

Substitute "adult family member" in place of "relative"

Page 22 line 23:

After "AS 47.17;

Delete: "or"

Page 23, line 5:

After "elements."

Insert:

(4) determines that placement under this section, with a family friend or relative is the best interest of the child over the objection of the parent of guardian; or

(5) determines that the parent or guardians preference is not appropriate because placement of the child would not be in the child's best interest because the child would not be located near parents for purposes of visitation or reunification.

Page 23, line 7:

After "If"

Delete: "a blood relative"

Insert: "adult family member"

Page 23 line 10:

Delete: "relative's"

Insert: "adult family member's"

Page 24, line 25:

After "report"

Insert: "is released"

Page 24, line 26:

After "section"

Delete: "is submitted to the governor"

After "submit"

Insert: "to the governor"

Page 24, line 27:

After "report"

Delete: "to the governor"

Page 27, line 1: OCS proposes that the following provision be included in this bill:

Insert: AS 47.18.300(a) is amended to read:

(a) The department, in coordination with local public and private agencies, shall design, develop, and implement a foster care transition program to provide support and services to individuals who

(1) reach or have reached the age of 16 or older while in state foster care and have not yet reached the age of 23[21] and

(2) meet other eligibility criteria established by the department under (b) of this section.

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REPRESENTATIVE JOHN COGHILL

THE FAMILY RIGHTS ACT (SSHB 53)

Sectional

Section 1. Gives preference to a grandparent who has cared for a grandchild for two years or more to adopt the child(ren) unless the court finds that the grandparent is not fit to raise the child.

Sec. 2. Provides for relinquishment of parental rights with retained privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

Sec. 3. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

Sec. 4. Language intent for the Family Rights Act.

Sec. 5. This section allows the court to on its own motion appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

Sec. 6. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

Sec. 7. Provides for grandparents to petition special proceedings to obtain custody of a grandchild when the grandchild is found to be a child in need of aid and one or both parents are dead and the child has been abandoned by the other parent; creates a presumption that the awarding custody to biological grandparent(s) is in the best interest of the child unless the presumption can be overcome by evidence of abuse, neglect, or other harm attributed to the grandparents; and puts in statute provisions that grandparents will be contacted by written notice of the procedures to obtain custody and the grandparents will sign a receipt of the notice.

Sec. 8. Right to a jury trial for the termination of parental rights.

Sec. 9. Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

Sec. 10. Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing.

Finally, this section clarifies that the right of a grandparent to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of a grandparent under Title 47.

Sec. 11. Legal has added some cleanup language to this section. They also amended the process to include provisions for a jury trial.

Sec. 12. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial.

Sec. 13. Amends AS 47.10.80 (Judgments and Orders) to add five provisions:

The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

A child cannot be placed in a foster home known as a home requesting adoption before certain three things occur, including the decision to terminate parental rights and a court hearing approving the placement.

The court shall notify the local citizen out-of-home care review panel within 60 days of a child being removed from his or her home.

The court shall notify all parties about the citizens review panel within 60 days after it orders custody of a child to the State.

It opens adjudication hearings to the public unless an exception in Section 10 applies.

Sec. 14. Provides that OCS cannot approve an adoption by a non-related party if a relative requests a relative requests approval for adoption unless that relative is disqualified for some reason set out in statute that is not in the best interest of the child.

Sec. 15. This section sets out three reasons the department could deny the adoption of a child by a blood relative. The department is required to conduct a criminal background check on the relative's in the household of the adoptive parents.

If a relative is denied adoption they are entitled to a review hearing and that hearing is open to the public.

Sec. 16. Requires the Department to maintain information about the use of psychotropic or other mental health medication on children in state custody and supply a report to the Legislature annually.

Sec. 17. Language cleanup by the legislative legal.

Sec. 18. Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

Sec. 19. Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. This is an expansion from parental disclosure.

Sec. 20. This section amends the disclosure requirements for state officials when a parent's rights have been terminated, unless another parent or legal guardian files a notice with OCS that the assistance is no longer requested.

Subsection (e) provides that if the department conducts an internal; audit, a official truncated report will be prepared and will be made available to the person requesting the review.

An "adult family member" is defined as a person who is 18 years of age or older and who is related to the child as the child's biological or adoptive parent, grandparent, aunt, uncle, or sibling.

Sec. 21. The purposes for which confidential agency records can be disclosed to the public have been expanded to include public official. Exceptions to confidentiality have been expanded to apply additionally when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child.

The department can withhold any information that would readily identify the child or would interfere with a criminal investigation.

Except for a disclosure because a family member has gone public with the case, all information received under a disclosure request will remain confidential.

This subsection gives OCS the ability to promulgate regulations for disclosure of confidential information.

- Sec. 22.** Disclosure of confidential agency records is expanded to include a caregiver, an entity responsible for ensuring the safety of children, and the citizen's review panel.
- Sec. 23.** Language cleanup by legislative legal where four former subsections were repealed in 1996 and only one provision remained, which is disclosing to a person charged with making a preliminary investigation.
- Sec. 24.** The regulatory language is deleted because it has been added to Section 21.
- Sec. 25.** Cleanup language by legislative legal.
- Sec. 26.** The purposes for which confidential agency records can be disclosed to the public have been expanded to include public officials but additionally when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child.
- Sec. 28.** Provides that within 60 days after an emergency custody and temporary placement hearing the court will inform parties about the local citizen out-of-home care review panel.
- Sec. 29.** This allows for an expert witness to determine that there is clear and convincing evidence that a parent, guardian, or custodian cannot be located. There is some discussion about this meeting the standard of proof in ICWA cases, but legal points out that there must be proof beyond a reasonable doubt.
- Sec. 30.** Creates a duty and standard of care.
- Sec. 31.** Defines "mental health professional" in CINA statutes.
- Sec. 32.** Defines "near fatality" in CINA statutes.
- Sec. 33.** Defines "mental health professional" in Delinquent minor statutes.
- Sec. 34.** Provides that a child cannot be placed in a foster home if there is a family member, friend, or neighbor unless that family member, friend, or neighbor has an issue that is not in the best interest of the child.
- Sec. 35.** Eliminates a provision that is currently used by OCS to refuse placement with a relative because the child was placed in a home for adoptive purposes. Compliments due process.
- Sec. 36.** Creates a Citizens' Review Panel for Permanency Planning consisting of five members appointed by the governor to serve staggered terms of three years. There will be one panel member from each judicial district and the panel will have broad representation of people with expertise in the prevention and treatment of child abuse and neglect.

The panel may employ a program manager and two assistants. Panel members are sworn to confidentiality.

Sec. 37. Provides for duties of the panel which include adopting policies and procedures; examine policies, procedures, and practices of state and local agencies in making or investigating a ROH; evaluate specific cases; and report annually to the governor all of their activities.

Sec. 38. Directs certain departments to cooperate with and provide records to the state panel to facilitate timely review of plans for children under the jurisdiction of the panel.

Sec. 39. Directs the court, the department, and the child's guardian cooperate with the state panel by furnishing relevant records to the panel. The state panel is required to return all documents when the panel has concluded the investigation or has completed the report. All information is confidential.

The state panel is not subject to the Open Meetings Act of AS 44.62.310.

Sec. 40. Provides that when admissible, the court will review a state panel report and take it into consideration when rendering judgments and orders.

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Sec. 46. Provides that when a relative takes placement as a foster home, OCS will issue a temporary license to the relative within five days of placement until a permit license application is processed.

Sec. 47. Amends CINA Court Rule 3(c), **Presence of Foster Parent**, to include grandparents as being entitled to be heard at any hearings.

Sec. 48. Repeals CINA Rule 3(f), **General Public Excluded**, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 49. Creates a new rule, Rule 3(j), prohibiting any reference to more than the child's first name. All other identifying information is to be kept confidential.

Sec. 50. Amends Rule 18(e) to provide for a jury trial for termination of parental rights when demanded by the parent.

Sec. 51. Language cleanup by legal services.

Sec. 52. Adds a new subsection to Rule 22 that allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed. This implements Section 18 of the HB 53.

Sec. 53. Accommodates Section 2 language in Alaska Adoption Rule 9(a) recognizing there may be other privileges retained besides visitation.

Sec. 54. Amends Alaska Adoption Rule 13(a) to accommodate Section 2 of HB 53. It provides for a decree of termination after relinquishment of parental rights with retained privileges for future contact, communication, and visitation.

Sec. 55. An indirect amendment to Alaska Adoption Rules 9 and 13 requires retained privileges to be set out in a relinquishment form and order.

Sec. 56. An indirect court rule¹ amendment to open custody petition hearings, adjudication hearings, and termination hearings to the public except in certain circumstances.

There is also an indirect court rule amendment in Section 8 and Section 11 providing for a jury trial in a termination hearing.

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Sec. 59. Applicability language.

Sec. 60. Gives authority to Health & Social Services to adopt regulations to implement the changes to law made by HB 53.

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Sec. 61. Requires the governor to review the changes made in HB 53 that deal with opening meetings to the public and being able to disclose some information and submit a report to the public and the legislature concerning the success or failure of the change and making suggestions for changes.

Sec. 62. The transitional effect section outlines what sections of the bill will take place only if a two-thirds vote is obtained on those sections.

Sec. 63. Gives the department 180 days after the enactment of the bill to adopt a duty and standard of care.

Sec. 64. The open hearing provisions of this act become effective July 1, 2005.

Sec. 65. All other sections of the bill have an immediate effective date clause.

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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: February 28, 2005
To: Members of the House
From: Representative John Coghill 
Re: HB 53 The Family Rights Act

Attached is Sponsor Substitute for House Bill 53. In an attempt to bring the issue of family rights to the table as a policy discussion, I met with several members of the House and staff from the governor's office who identified family rights as an issue for them. SSHB 53 is the result of merging HB 17, HB ~~133~~ ¹¹³, HB 114, and HB 53 into a family rights omnibus bill. Because this piece of legislation is so much different than the original bill I introduced, I reintroduced the bill as a sponsor statement.

Also attached is a sponsor statement, a sectional for the bill, and a subject summary. If you have any questions or comments, feel free to contact me or my staff for this legislation, Rynnieva Moss.

I am requesting that the Health & Social Services Committee hold a hearing on Sponsor Substitute for House Bill 53 during the week of March 14th.

I have attached the sponsor statement and the sectional.

Thank you for your consideration.

ALASKA STATE HOUSE OF REPRESENTATIVES



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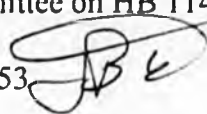
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REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: March 4, 2005
To: Representative Gatto, Chairman, HSS Subcommittee on HB 114
From: Representative John Coghill, Sponsor of SSHB 53 
Re: HB 114

The following is an index to the portions of SSHB 53 that are the language incorporated from HB 114. I would appreciate being kept in the loop during your discussions of the bill.

Sec. 2. Provides for relinquishment of parental rights with retained privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges. (HB 114, Sec. 1)

Sec. 3. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment. (HB 114, Sec. 2)

Sec. 5. This section allows the court to on its own motion appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation. (HB 114, Sec. 3)

Sec. 6. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody. (HB 114, Sec. 4)

Sec. 29. This allows for an expert witness to determine that there is clear and convincing evidence that a parent, guardian, or custodian cannot be located. There is some discussion about this meeting the standard of proof in ICWA cases, but legal points out that there must be proof beyond a reasonable doubt. **(HB 114, Sec. 5)**

Sec. 31. Defines "mental health professional" in CINA statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

(HB 114, Sec. 6)

Sec. 33. Defines "mental health professional" in Delinquent minor statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment. **(HB 114, Sec. 7)**

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REPRESENTATIVE JOHN COGHILL

FAMILY RIGHTS ACT

HB 53

Sponsor Statement

My belief that children belong to their parents and that families should be preserved was why I ran for office the first time in 1998. To protect vulnerable children the government requires parents to raise their children by certain standards, and I believe government should be held to those high standards when they take children into their custody. Dealing with the Office of Children's Services should have good due process and should be transparent so that everyone involved knows what the rules are and what is required of them.

HB 53 is an omnibus bill that does many things. It creates a duty and standard of care for social workers who are making decisions for children in state custody. It makes the process transparent by making confidential information currently unavailable accessible to certain people, making court proceedings open to the public, and giving parents the right to a jury trial in proceedings to terminate their parental rights.

This legislation also strengthens the rights of grandparents, especially those who have already been instrumental in raising the child. Many times when parents run awry of OCS, grandparents get placement of the child. If parental rights are terminated, the grandparents should have preference for adoption. Other relatives or family friends should also be considered for placement before a child is placed with complete strangers. Grandparents also gain accessibility to information and hearings in CINA cases through this legislation.

An additional safeguard to transparency and due process is the re-establishment of state and local citizens review panels that will adopt policies and procedures by regulation, compile reports, report to the governor annually, and conduct hearings on complaints filed against OCS.

The bill encourages the use of Child Advocacy Centers (CAC) in areas they are available and requires audio recordings for all other interviews of children believed to have been sexually abused. This creates accountability in interviewing and protects the child from multiple interrogations.

This legislation goes a long way in protecting and preserving families in Alaska and making government accountable for its actions when children are in State custody.

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REPRESENTATIVE JOHN COGHILL

THE FAMILY RIGHTS ACT (SSHB 53)

Sectional

Section 1. Gives preference to a grandparent who has cared for a grandchild for two years or more to adopt the child(ren) unless the court finds that the grandparent is not fit to raise the child.

Sec. 2. Provides for relinquishment of parental rights with retained privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

Sec. 3. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

Sec. 4. Language intent for the Family Rights Act.

Sec. 5. This section allows the court to on its own motion appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

Sec. 6. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

Sec. 7. Provides for grandparents to petition special proceedings to obtain custody of a grandchild when the grandchild is found to be a child in need of aid and one or both parents are dead and the child has been abandoned by the other parent; creates a presumption that the awarding custody to biological grandparent(s) is in the best interest of the child unless the presumption can be overcome by evidence of abuse, neglect, or other harm attributed to the grandparents; and puts in statute provisions that grandparents will be contacted by written notice of the procedures to obtain custody and the grandparents will sign a receipt of the notice.

Sec. 8. Right to a jury trial for the termination of parental rights.

Sec. 9. Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

Sec. 10. Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing.

Finally, this section clarifies that the right of a grandparent to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of a grandparent under Title 47.

Sec. 11. Legal has added some cleanup language to this section. They also amended the process to include provisions for a jury trial.

Sec. 12. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial.

Sec. 13. Amends AS 47.10.80 (Judgments and Orders) to add five provisions:

(t) The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

(u) A child cannot be placed in a foster home known as a home requesting adoption before certain three things occur, including the decision to terminate parental rights and a court hearing approving the placement.

(v) The court shall notify the local citizen out-of-home care review panel within 60 days of a child being removed from his or her home.

(w) The court shall notify all parties about the citizens review panel within 60 days after it orders custody of a child to the State.

(x) It opens adjudication hearings to the public unless an exception in Section 10 applies.

Sec. 14. Provides that OCS cannot approve an adoption by a non-related party if a relative requests a relative requests approval for adoption unless that relative is disqualified for some reason set out in statute that is not in the best interest of the child.

Sec. 15. This section sets out three reasons the department could deny the adoption of a child by a blood relative. The department is required to conduct a criminal background check on the relative's in the household of the adoptive parents.

If a relative is denied adoption they are entitled to a review hearing and that hearing is open to the public.

Sec. 16. Requires the Department to maintain information about the use of psychotropic or other mental health medication on children in state custody and supply a report to the Legislature annually.

Sec. 17. Language cleanup by the legislative legal.

Sec. 18. Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

Sec. 19. Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. This is an expansion from parental disclosure.

Sec. 20. This section amends the disclosure requirements for state officials when a parent's rights have been terminated, unless another parent or legal guardian files a notice with OCS that the assistance is no longer requested.

Subsection (e) provides that if the department conducts an internal; audit, a official truncated report will be prepared and will be made available to the person requesting the review.

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Gives department authority to promulgate regulations.

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Sec. 63. Gives the department 180 days after the enactment of the bill to adopt a duty and standard of care.

Sec. 64. The open hearing provisions of this act become effective July 1, 2005.

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REPRESENTATIVE JOHN COGHILL

SSHB 55

THE FAMILY RIGHTS ACT

SUBJECT SECTIONAL

Childrens' Rights

Sec. 3. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

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Family Preservation

Sec. 12. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial.

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Sec. 55. An indirect amendment to Alaska Adoption Rules 9 and 13 requires retained privileges to be set out in a relinquishment form and order.

Grandparents' Rights

Section 1. Gives preference to a grandparent who has cared for a grandchild for two years or more to adopt the child(ren) unless the court finds that the grandparent is not fit to raise the child.

Sec. 7. Provides for grandparents to petition special proceedings to obtain custody of a grandchild when the grandchild is found to be a child in need of aid and one or both parents are dead and the child has been abandoned by the other parent; creates a presumption that the awarding custody to biological grandparent(s) is in the best interest of the child unless the presumption can be overcome by evidence of abuse, neglect, or other harm attributed to the grandparents; and puts in statute provisions that grandparents will be contacted by written notice of the procedures to obtain custody and the grandparents will sign a receipt of the notice.

Sec. 10(g). Finally, this section clarifies that the right of a grandparent to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of a grandparent under Title 47.

Sec. 47. Amends CINA Court Rule 3(c), **Presence of Foster Parent**, to include grandparents as being entitled to be heard at any hearings.

Improving the Judicial Process

Sec. 5. This section allows the court to on its own motion appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.