

HOUSE BILL NO. 151

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GARA

Introduced: 3/1/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the duties of the Department of Health and Social Services; relating**
2 **to training and workload standards for employees of the Department of Health and**
3 **Social Services; relating to foster care licensing; relating to placement of a child in need**
4 **of aid; relating to the rights and responsibilities of foster parents; relating to subsidies**
5 **for adoption or guardianship of a child in need of aid; requiring the Department of**
6 **Health and Social Services to provide information to a child or person released from the**
7 **department's custody; and providing for an effective date."**

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 SHORT TITLE. This Act may be known as the Children Deserve a Loving Home Act.

12 * **Sec. 2.** AS 25.23.210(b) is amended to read:

13 (b) A subsidy granted by the department under this section may be

1 (1) paid for a specified length of time not to extend after the child's
2 21st [18TH] birthday; and

3 (2) a deferred subsidy; in this paragraph, "deferred subsidy" means that
4 no monetary reimbursement is paid to a family but other benefits are paid for the
5 child.

6 * **Sec. 3.** AS 47.05.065 is amended to read:

7 **Sec. 47.05.065. Legislative findings related to children.** The legislature finds
8 that

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

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

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

16 (C) the right to determine where and with whom the child shall
17 live;

18 (D) the right and responsibility to make decisions of legal or
19 financial significance concerning the child;

20 (E) the right to obtain representation for the child in legal
21 actions; and

22 (F) the responsibility to provide special safeguards and care,
23 including appropriate prenatal and postnatal protection for the child;

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

27 (A) except in those cases involving serious risk to a child's
28 health or safety, the Department of Health and Social Services should provide
29 time-limited family support services to the child and the child's family in order
30 to offer parents the opportunity to remedy parental conduct or conditions in the
31 home that placed the child at risk of harm so that a child may return home

1 safely and permanently; and

2 (B) the state also recognizes that when a child is removed from
3 the home, visitation between the child and the child's parents or guardian and
4 family members reduces the trauma for the child and enhances the likelihood
5 that the child will be able to return home; therefore, whenever a child is
6 removed from the parental home, the Department of Health and Social
7 Services should encourage frequent, regular, and reasonable visitation of the
8 child with the child's parent or guardian and family members;

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

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

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

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

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

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

26 (E) frequent, regular, and reasonable visitation with the parent
27 or guardian and family members, **and, if it is in the best interests of the**
28 **child, with previous out-of-home caregivers, for a child who has been**
29 **transferred from one out-of-home placement to another,** should be
30 encouraged; and

31 (F) parents and guardians must actively participate in family

1 support services so as to facilitate the child's being able to remain in the home;
 2 when children are removed from the home, the parents and guardians must
 3 actively participate in family support services to make return of their children
 4 to the home possible;

5 (5) numerous studies establish that

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

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

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

16 * **Sec. 4.** AS 47.10.080(s) is amended to read:

17 (s) The department may transfer a child, in the child's best interests, from one
 18 placement setting to another, and the child, the child's parents or guardian, the child's
 19 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
 20 attorney, and the child's tribe are entitled to advance notice of a nonemergency
 21 transfer. A party opposed to the proposed transfer may request a hearing and must
 22 prove by clear and convincing evidence that the transfer would be contrary to the best
 23 interests of the child for the court to deny the transfer. A foster parent or out-of-home
 24 caregiver who requests a nonemergency change in placement of the child shall provide
 25 the department with reasonable advance notice of the requested change. When the
 26 department transfers a child from one out-of-home placement to another, the
 27 department shall search for an appropriate placement with an adult family member or
 28 a family friend who meets the foster care licensing requirements established by the
 29 department **or is eligible for a waiver, variance, or exemption from the licensing**
 30 **requirements under AS 47.32.030(a)(3) or 47.32.032. A supervisor at the**
 31 **department shall certify in writing in the case file whether the department has**

1 **searched for an appropriate placement with an adult family member or family**
 2 **friend. If the department has not completed the search, the supervisor shall work**
 3 **to ensure that the department completes the search in the shortest time feasible.**

4 * **Sec. 5.** AS 47.10.080 is amended by adding a new subsection to read:

5 (z) When the department transfers a child from one placement setting to
 6 another, the department shall require the out-of-home caregiver to encourage and
 7 provide opportunities for the child to maintain contact with a previous out-of-home
 8 caregiver if maintaining contact is in the best interests of the child.

9 * **Sec. 6.** AS 47.10.084 is amended by adding a new subsection to read:

10 (d) When the child is placed in foster care, the foster parent has the right and
 11 responsibility to use a reasonable and prudent parent standard to make decisions
 12 relating to the child. In addition to other decisions delegated to the foster parent under
 13 (a) or (b) of this section, the foster parent may make decisions relating to the
 14 participation of the child in age-appropriate or developmentally appropriate activities,
 15 including travel, sports, field trips, overnight activities, and extracurricular,
 16 enrichment, cultural, and social activities. The department shall provide foster parents
 17 with training regarding the reasonable and prudent parent standard. In this subsection,
 18 "reasonable and prudent parent standard" means a standard characterized by careful
 19 and sensible decisions to maintain the health, safety, and best interests of the child
 20 while encouraging the emotional and developmental growth of the child.

21 * **Sec. 7.** AS 47.10.086 is amended by adding a new subsection to read:

22 (h) In developing or revising a case plan, permanency plan, or alternative
 23 permanency plan for a child who is 14 years of age or older, the department shall
 24 consult with the child. The department shall also allow the child to select not more
 25 than two adults to participate in the development or revision of the plan. The adults
 26 may not be the child's foster parents or department employees who are supervising the
 27 care of the child. The department may reject an adult selected by the child if the
 28 department has good cause to believe that the adult will not act in the best interests of
 29 the child. If the department rejects an adult, the child may select another adult. The
 30 child may designate one of the adults to be the child's advisor, and the advisor may
 31 advocate for the child.

1 * **Sec. 8.** AS 47.10.088(i) is amended to read:

2 (i) The department shall concurrently identify, recruit, process, and approve a
 3 qualified person or family for an adoption whenever a petition to terminate a parent's
 4 rights to a child is filed. Before identifying a placement of the child in an adoptive
 5 home, the department shall attempt to locate all living adult family members of the
 6 child and, if an adult family member expresses an interest in adopting the child,
 7 investigate the adult family member's ability to care for the child. The department
 8 shall provide to all adult family members of the child located by the department
 9 written notice of the adult family members' rights under this chapter and of the
 10 procedures necessary to gain custody of the child, but the department's obligation to
 11 provide written notice under this subsection does not apply to a parent of the child
 12 whose parental rights are being or have been terminated or to an adult family member
 13 who is known by the department to be ineligible for a foster care license under
 14 AS 47.32 and regulations adopted under AS 47.32, **unless the placement is in the**
 15 **best interests of the child and the adult family member is eligible for a waiver,**
 16 **variance, or exemption under AS 47.32.032.** If an adult family member of the child
 17 requests that the department approve the adult family member for an adoption, the
 18 department shall approve the request unless there is good cause not to approve the
 19 adoption. **The department shall make a decision on the adult family member's**
 20 **request not more than 45 days after the date the department receives the request.**
 21 If the court issues an order to terminate under (j) of this section, the department shall
 22 report within 30 days on the efforts being made to recruit a permanent placement for
 23 the child if a permanent placement was not approved at the time of the trial under (j)
 24 of this section. The report must document recruitment efforts made for the child.

25 * **Sec. 9.** AS 47.10.093(b) is amended to read:

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

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

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

1 the consultation or services;

2 (3) an out-of-home care provider as necessary to enable the out-of-
3 home care provider to provide appropriate care to the child, to protect the safety of the
4 child, and to protect the safety and property of family members and visitors of the out-
5 of-home care provider;

6 (4) a school official as necessary to enable the school to provide
7 appropriate counseling and support services to a child who is the subject of the case, to
8 protect the safety of the child, and to protect the safety of school students and staff;

9 (5) a governmental agency as necessary to obtain that agency's
10 assistance for the department in its investigation or to obtain physical custody of a
11 child;

12 (6) a law enforcement agency of this state or another jurisdiction as
13 necessary for the protection of any child or for actions by that agency to protect the
14 public safety;

15 (7) a member of a multidisciplinary child protection team created
16 under AS 47.14.300 as necessary for the performance of the member's duties;

17 (8) the state medical examiner under AS 12.65 as necessary for the
18 performance of the duties of the state medical examiner;

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

22 (10) the child support services agency established in AS 25.27.010 as
23 necessary to establish and collect child support for a child who is a child in need of aid
24 under this chapter;

25 (11) a parent, guardian, or caregiver of a child or an entity responsible
26 for ensuring the safety of children as necessary to protect the safety of a child;

27 (12) a review panel established by the department for the purpose of
28 reviewing the actions taken by the department in a specific case;

29 (13) the University of Alaska under the Alaska higher education
30 savings program for children established under AS 47.14.400, but only to the extent
31 that the information is necessary to support the program and only if the information

1 released is maintained as a confidential record by the University of Alaska;

2 (14) a child placement agency licensed under AS 47.32 as necessary to
3 provide services for a child who is the subject of the case; [AND]

4 (15) a state or municipal agency of this state or another jurisdiction
5 that is responsible for delinquent minors, as may be necessary for the administration of
6 services, protection, rehabilitation, or supervision of a child or for actions by the
7 agency to protect the public safety; however, a court may review an objection made to
8 a disclosure under this paragraph; the person objecting to the disclosure bears the
9 burden of establishing by a preponderance of the evidence that disclosure is not in the
10 child's best interest; **and**

11 **(16) a sibling of a child who is the subject of the case to allow the**
12 **siblings to contact each other if it is in the best interests of the child to maintain**
13 **contact; in this paragraph, "sibling" means an adult or minor who is related to**
14 **the child who is the subject of the case by blood, adoption, or marriage as a child**
15 **of one or both of the parents of the child who is the subject of the case; a sibling**
16 **who is adopted by a person other than the parent of the child who is the subject**
17 **of the case remains a sibling of the child.**

18 * **Sec. 10.** AS 47.10.142(i) is amended to read:

19 (i) When the department takes emergency custody of a child under this section
20 or a court orders a child committed to the department for temporary placement under
21 this section, the department shall, to the extent feasible and consistent with the best
22 interests of the child, place the child according to the criteria specified under
23 AS 47.14.100(e). **A supervisor at the department shall certify in writing in the**
24 **case file whether the department has searched for an appropriate placement with**
25 **an adult family member or family friend. If the department has not completed**
26 **the search, the supervisor shall work to ensure that the department completes the**
27 **search in the shortest time feasible if it is consistent with the best interests of the**
28 **child.**

29 * **Sec. 11.** AS 47.14.100(b) is amended to read:

30 (b) The department may pay the costs of maintenance that are necessary to
31 **ensure** [ASSURE] adequate care of the child, **if the child is under 21 years of age,**

1 and may accept funds from the federal government that are granted to assist in
 2 carrying out the purposes of this chapter, or that are paid under contract entered into
 3 with a federal department or agency. A child under the care of the department may not
 4 be placed in a family home or institution that does not maintain adequate standards of
 5 care.

6 * **Sec. 12.** AS 47.14.100(d) is amended to read:

7 (d) In addition to money paid for the maintenance of foster children under (b)
 8 of this section, **for a child who is under 21 years of age,** the department

9 (1) shall pay the costs of caring for **a** foster **child** [CHILDREN] with **a**
 10 physical or mental **disability** [DISABILITIES], including the additional costs of
 11 medical care, habilitative and rehabilitative treatment, services and equipment, and
 12 special clothing, and the indirect costs of medical care, including child care and
 13 transportation expenses;

14 (2) may pay for respite care; in this paragraph, "respite care" means
 15 child care for the purpose of providing temporary relief from the stresses of caring for
 16 a foster child; and

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

20 * **Sec. 13.** AS 47.14.100(e) is amended to read:

21 (e) When a child is removed from a parent's home, the department shall
 22 **search for an appropriate placement with an adult family member or family**
 23 **friend. A supervisor at the department shall certify in writing in the case file**
 24 **whether the department has searched for an appropriate placement with an**
 25 **adult family member or family friend. If the department has not completed the**
 26 **search, the supervisor shall work to ensure that the department completes the**
 27 **search in the shortest time feasible. The department shall** place the child, in the
 28 absence of clear and convincing evidence of good cause to the contrary,

29 (1) in the least restrictive setting that most closely approximates a
 30 family and that meets the child's special needs, if any;

31 (2) within reasonable proximity to the child's home, taking into

1 account any special needs of the child and the preferences of the child or parent;

2 (3) with, in the following order of preference,

3 (A) an adult family member;

4 (B) a family friend who meets the foster care licensing
5 requirements established by the department;

6 (C) a licensed foster home that is not an adult family member
7 or family friend;

8 (D) an institution for children that has a program suitable to
9 meet the child's needs.

10 * **Sec. 14.** AS 47.14.100(i) is amended to read:

11 (i) A child may not be placed with an out-of-home care provider if the
12 department determines that the child can remain safely at home with **an adult family**
13 **member** [ONE PARENT] or guardian **who lives with the child**. In this subsection,
14 "out-of-home care provider" means an agency or person, other than the child's legal
15 parents, with whom a child who is in the custody of the state under
16 AS 47.10.080(c)(1) or (3), 47.10.142, or (c) of this section is currently placed; "agency
17 or person" includes a foster parent, a relative other than a parent, a person who has
18 petitioned for adoption of the child, and a residential child care facility.

19 * **Sec. 15.** AS 47.14.100(m) is amended to read:

20 (m) **If it is in a child's best interests** [PRIMA FACIE EVIDENCE OF
21 GOOD CAUSE NOT] to place **the** [A] child with an adult family member or family
22 friend under AS 47.10.088(i) or under (e) of this section, **but the adult family**
23 **member or family friend fails** [INCLUDES THE FAILURE] to meet the
24 requirements for a foster care license under AS 47.32 and regulations adopted under
25 AS 47.32, **the department shall grant** [TAKING INTO ACCOUNT] a waiver,
26 variance, or exemption allowed under AS 47.32.030(a)(3) and 47.32.032. Prima facie
27 evidence of good cause not to place a child with an adult family member or adult
28 family friend does not include poverty or inadequate or crowded housing. **The**
29 **department shall make a decision on an adult family member's or family friend's**
30 **request for placement not more than 45 days after the date the department**
31 **receives the request for placement.** If the department denies a request for placement

1 with an adult family member or a family friend, the department shall inform the adult
 2 family member or family friend of the basis for the denial and the right to request a
 3 hearing to review the decision. A non-party adult family member or family friend
 4 requesting a review hearing under AS 47.10.088(i) or under (e) of this section is not
 5 eligible for publicly appointed legal counsel.

6 * **Sec. 16.** AS 47.14.100(r) is amended to read:

7 (r) The department shall make reasonable efforts to place siblings in the same
 8 placement if the siblings are residing in the same home when taken into the custody of
 9 the department. If siblings are not placed together after reasonable efforts have been
 10 made, the case supervisor for the division with responsibility over the custody of
 11 children shall document in the file the efforts that were made and the reason separating
 12 the siblings for placement purposes is in the best interest of the children. **The**
 13 **department shall provide each sibling with contact information for the other**
 14 **sibling and require the children's caregivers to encourage and provide**
 15 **opportunities for contact between the siblings if it is in the best interests of the**
 16 **children to maintain contact.** In this subsection, "sibling" means two or more
 17 persons who are related by blood, adoption, or marriage as a child of one or both
 18 parents.

19 * **Sec. 17.** AS 47.14 is amended by adding a new section to read:

20 **Sec. 47.14.112. Training and workload standards; report to legislature.** (a)

21 The department shall implement workload standards and a training program for
 22 employees who supervise the care of children committed to the supervision or custody
 23 of the department under AS 47.10. Except as provided under (b) of this section, the
 24 department shall prepare a staffing report if the department is unable

25 (1) to employ the number of qualified employees necessary to ensure
 26 that

27 (A) the department reasonably and safely minimizes the time a
 28 child is not in a permanent living arrangement or under a permanent
 29 guardianship;

30 (B) a child is not removed from the child's home when it is
 31 possible and in the child's best interest for the department to work with the

1 child's family to prevent the removal of the child from the child's home;

2 (C) each child is placed in a permanent home not more than 24
3 months after the date the child is first removed from the child's home;

4 (2) to meet best practices standards set by the department requiring the
5 employment of mentors for employees who supervise the care of children committed
6 to the supervision or custody of the department under AS 47.10;

7 (3) for a new employee who supervises the care of a child committed
8 to the supervision or custody of the department under AS 47.10, to

9 (A) provide a minimum of six weeks of training unless the
10 department finds that the new employee has sufficient experience to justify a
11 shorter training period;

12 (B) limit the employee's workload as follows:

13 (i) before the beginning of an employee's fourth month
14 of work with the department, the employee may supervise not more
15 than six families;

16 (ii) after the beginning of the employee's fourth month
17 of work but before the end of the employee's twelfth month of work
18 with the department, the employee may supervise not more than 12
19 families;

20 (iii) when an employee supervises families in a region
21 where travel distances negatively affect the employee's ability to
22 supervise families and the employee has worked for the department for
23 less than 12 months, the employee may not supervise the maximum
24 number of families provided under (i) and (ii) of this subparagraph.

25 (b) If a staffing report is required under this section, the department shall
26 explain in the staffing report why the department is not able to meet the standards, the
27 amount of funding that would be necessary to meet the standards, and the effects on a
28 child and the child's family of not meeting the standards. The department shall include
29 the staffing report in the annual report to the legislature required under AS 18.05.020.

30 (c) The department is not required to submit a staffing report under this
31 section if the department is unable to maintain adequate staffing levels because

1 qualified applicants are not available and the department is actively recruiting
2 qualified applicants.

3 * **Sec. 18.** AS 47.14.115 is amended by adding a new subsection to read:

4 (b) If the department determines that it is in the best interests of a child in the
5 department's custody to place the child with an adult family member who does not
6 have a foster care home license under AS 47.32, the department shall assist the adult
7 family member in obtaining a license, including assisting the adult family member
8 with obtaining any waivers, variances, or exemptions necessary to obtain the license,
9 so that the family member is eligible for payments under AS 47.14.100(b) and (d).

10 * **Sec. 19.** AS 47.18.320 is amended by adding a new subsection to read:

11 (d) When an individual who has been in state custody under AS 47.10 for at
12 least six months is released from state custody, the department shall, in addition to any
13 training, services, and assistance provided under (a) - (c) of this section, provide the
14 individual with the individual's

15 (1) birth certificate; the birth certificate may be an official or certified
16 copy;

17 (2) social security card;

18 (3) health insurance information;

19 (4) medical records;

20 (5) driver's license or identification card; if the individual has not
21 obtained a driver's license or identification card, the department shall assist the
22 individual in obtaining one.

23 * **Sec. 20.** AS 47.32.032(a) is amended to read:

24 (a) The department shall streamline the application and licensing paperwork
25 necessary for a person to be approved as a foster parent or relative placement to the
26 extent consistent with federal law. **In addition, if the department determines that**
27 **placing the child with an adult family member is in the best interests of the child,**
28 **the department shall grant, as necessary to allow the placement, a waiver,**
29 **variance, or exemption from the requirements of this chapter under**
30 **AS 47.32.030(a)(3)(D) or a variance from building code requirements under (b)**
31 **of this section.**

1 * **Sec. 21.** AS 47.32.032 is amended by adding a new subsection to read:

2 (c) To the extent feasible, the department shall approve or deny a foster care
3 home license, including a request for a waiver, variance, or exemption, not more than
4 45 days after the date the department receives the application for a foster care home
5 license. If it is not feasible to approve or deny a foster care home license not more than
6 45 days after receiving the application, a supervisory-level employee may authorize a
7 longer period of time for the decision, but the period must be the shortest period
8 feasible.

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

11 **APPLICABILITY.** (a) Sections 3 - 10 and 13 - 21 of this Act apply to a child in the
12 custody or under the supervision of the Department of Health and Social Services under
13 AS 47.10 on or after the effective date of secs. 3 - 10 and 13 - 21 of this Act.

14 (b) Sections 2, 11, and 12 of this Act apply to a person who is eligible for a subsidy or
15 payment for the care of a child under AS 25.23.190 - 25.23.240 or AS 47.14.100 on or after
16 the effective date of secs. 2, 11, and 12 of this Act, including a person who was ineligible for
17 a payment under AS 25.23.190 - 25.23.240 or AS 47.14.100 before the effective date of secs.
18 2, 11, and 12 of this Act solely because the child turned 18.

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

21 **TRANSITION: REGULATIONS.** The Department of Health and Social Services may
22 adopt regulations necessary to implement the changes made by this Act. The regulations take
23 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
24 law implemented by the regulation.

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

27 **TRANSITION: IMPLEMENTATION OF DEPARTMENT OF HEALTH AND**
28 **SOCIAL SERVICES STAFFING AND TRAINING STANDARDS.** The Department of
29 Health and Social Services shall implement all of the provisions of this Act as expeditiously
30 as possible, and, not later than

31 (1) one year after the effective date of sec. 17 of this Act, shall adopt training

1 regulations and hire staff necessary to meet the standards in AS 47.14.112, added by sec. 17
2 of this Act;

3 (2) three years after the effective date of secs. 1 - 16 and 18 - 21 of this Act,
4 shall implement the changes made by secs. 1 - 16 and 18 - 21 of this Act.

5 * **Sec. 25.** Section 23 of this Act takes effect immediately under AS 01.10.070(c).