

SENATE BILL NO. 181

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY SENATOR BJORKMAN

Introduced: 1/16/24

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to placement of a child in need of aid; relating to adoption; and**
2 **providing for an effective date."**

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

4 *** Section 1.** AS 47.10.080(s) is amended to read:

5 (s) The department may transfer a child, in the child's best interests, from one
6 placement setting to another, and the child, the child's parents or guardian, the child's
7 foster parents or out-of-home caregiver, the child's guardian ad litem, the child's
8 attorney, and the child's tribe are entitled to advance notice of a nonemergency
9 transfer. A party **or child's foster parent who is** opposed to the proposed transfer may
10 request a hearing and must prove by clear and convincing evidence that the transfer
11 would be contrary to the best interests of the child for the court to deny the transfer. A
12 foster parent or out-of-home caregiver who requests a nonemergency change in
13 placement of the child shall provide the department with reasonable advance notice of
14 the requested change. When the department transfers a child from one out-of-home

1 placement to another, the department shall search **as provided under AS 47.10.145**
 2 for an appropriate placement with an adult family member or a family friend who
 3 meets the foster care licensing requirements established by the department. A
 4 supervisor at the department shall certify in writing in the case file whether the
 5 department has searched for an appropriate placement with an adult family member or
 6 family friend. If the department has not complied with the search requirements under
 7 this subsection, the supervisor shall work to ensure that the department completes the
 8 search in the shortest time feasible.

9 * **Sec. 2.** AS 47.10.088(i) is amended to read:

10 (i) The department shall concurrently identify, recruit, process, and approve a
 11 qualified person or family for an adoption whenever a petition to terminate a parent's
 12 rights to a child is filed. Before identifying a placement of the child in an adoptive
 13 home, the department shall [ATTEMPT TO] locate **any** [ALL] living adult family
 14 members of the child and, if an adult family member expresses an interest in adopting
 15 the child, investigate the adult family member's ability to care for the child. The
 16 department shall provide to all adult family members of the child located by the
 17 department written notice of the adult family members' rights under this chapter and of
 18 the procedures necessary to gain custody of the child, but the department's obligation
 19 to provide written notice under this subsection does not apply to a parent of the child
 20 whose parental rights are being or have been terminated or to an adult family member
 21 **if it** [WHO] is known by the department **that placement with the adult family**
 22 **member would be contrary to the best interests of the child** [TO BE INELIGIBLE
 23 FOR A FOSTER CARE LICENSE UNDER AS 47.32 AND REGULATIONS
 24 ADOPTED UNDER AS 47.32]. If an adult family member of the child requests that
 25 the department approve the adult family member for an adoption, the department shall
 26 approve the request **if it is in the best interests of the child. In determining the best**
 27 **interests of the child under this subsection, the court shall consider the child's**
 28 **physical and psychological well-being. In determining the best interests of a child**
 29 **under six years of age, the court shall consider whether the child has resided for**
 30 **at least 12 consecutive months with a foster family seeking adoption and whether**
 31 **an adult family member seeking adoption has previously demonstrated an intent**

1 **or desire to be considered for placement for the child** [UNLESS THERE IS GOOD
 2 CAUSE NOT TO APPROVE THE ADOPTION]. If the court issues an order to
 3 terminate under (j) of this section, the department shall report within 30 days on the
 4 efforts being made to recruit a permanent placement for the child if a permanent
 5 placement was not approved at the time of the trial under (j) of this section. The report
 6 must document recruitment efforts made for the child.

7 * **Sec. 3.** AS 47.10.142(i) is amended to read:

8 (i) When the department takes emergency custody of a child under this section
 9 or a court orders a child committed to the department for temporary placement under
 10 this section, the department shall, to the extent feasible and consistent with the best
 11 interests of the child, place the child according to the criteria specified under
 12 AS 47.14.100(e). A supervisor at the department shall certify in writing in the case file
 13 whether the department has **performed a diligent search as described in**
 14 **AS 47.10.145** [SEARCHED] for an appropriate placement with an adult family
 15 member or family friend. If the department has not complied with the search
 16 requirements under this subsection, the supervisor shall work to ensure that the
 17 department completes the search in the shortest time feasible if it is consistent with the
 18 best interests of the child.

19 * **Sec. 4.** AS 47.10 is amended by adding a new section to read:

20 **Sec. 47.10.145. Diligent search.** (a) Within 30 days after removing a child
 21 from a parent's home under AS 47.14.100(e), taking emergency custody of a child,
 22 receiving a court order committing a child to the department for temporary placement
 23 under AS 47.10.142, or transferring a child from one placement to another under
 24 AS 47.10.080(s), the department shall conduct a diligent search for an adult family
 25 member or family friend of the child suitable for placement. In conducting the diligent
 26 search, the department shall

27 (1) interview

28 (A) the child's parent during the course of an investigation
 29 while department services are provided and the child is in the care of the
 30 department;

31 (B) the child;

1 (C) relatives of the child identified during the case; and

2 (D) any other person who is likely to have information about
3 the identity or location of adult family members or family friends;

4 (2) conduct comprehensive searches of databases and other resources
5 available to the department likely to identify and locate adult family members or
6 family friends; and

7 (3) perform any other reasonable investigation that is likely to identify
8 adult family members or family friends who are appropriate for placement.

9 (b) The department shall provide all adult family members of the child
10 identified in the diligent search, subject to exceptions for family with domestic
11 violence or other safety concerns as determined by the department, a notice

12 (1) stating the child has been or is being removed from parental
13 custody;

14 (2) explaining the options that the family member has to participate in
15 the care and placement of the child and the results of failing to respond to the notice;

16 (3) describing the process for becoming a licensed foster home and the
17 additional services and supports available for children placed in approved foster
18 homes;

19 (4) describing any financial assistance for which a family member may
20 be eligible upon obtaining custody of the child; and

21 (5) that is written in the family member's native language if the family
22 member is not fluent in English.

23 (c) The department shall file with the court information regarding actions
24 taken by the department under (a)(1) - (3) of this section 10 days before any scheduled
25 disposition, case review, or permanency hearing or as otherwise required by the court.
26 Any additional information obtained by the department following the initial filing
27 shall be disclosed to the court during the hearing.

28 (d) The department shall continue to diligently search for adult family
29 members or family friends suitable for placement of the child until the court orders
30 that the department is excused from conducting a diligent search or the department
31 finalizes the permanent placement of the child. The court may excuse the department

1 from considering an adult family member for placement of a child if the adult family
 2 member does not demonstrate an interest in and willingness to be considered for
 3 placement of the child within 90 days from the date of receiving the required notice
 4 under (b) of this section.

5 * **Sec. 5.** AS 47.14.100(e) is amended to read:

6 (e) When a child is removed from a parent's home, the department shall search
 7 for an appropriate placement **as provided under AS 47.10.145** [WITH AN ADULT
 8 FAMILY MEMBER OR FAMILY FRIEND. A SUPERVISOR AT THE
 9 DEPARTMENT SHALL CERTIFY IN WRITING IN THE CASE FILE WHETHER
 10 THE DEPARTMENT HAS SEARCHED FOR AN APPROPRIATE PLACEMENT
 11 WITH AN ADULT FAMILY MEMBER OR FAMILY FRIEND]. If the department
 12 has not complied with the search requirements [UNDER THIS SUBSECTION], the
 13 supervisor shall work to ensure that the department completes the search in the
 14 shortest time feasible. The department shall place the child, in the absence of clear and
 15 convincing evidence of good cause to the contrary,

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

18 (2) within reasonable proximity to the child's home, taking into
 19 account any special needs of the child and the preferences of the child or parent;

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

21 (A) an adult family member, **or, if the child is under six years**
 22 **of age, a licensed foster home that has provided at least 12 consecutive**
 23 **months of care to the child;**

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

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

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

30 * **Sec. 6.** AS 47.14.100(m) is amended to read:

31 (m) [PRIMA FACIE EVIDENCE OF GOOD CAUSE NOT TO PLACE A

1 CHILD WITH AN ADULT FAMILY MEMBER OR FAMILY FRIEND UNDER
2 AS 47.10.088(i) OR UNDER (e) OF THIS SECTION INCLUDES THE FAILURE
3 TO MEET THE REQUIREMENTS FOR A FOSTER CARE LICENSE UNDER
4 AS 47.32 AND REGULATIONS ADOPTED UNDER AS 47.32, TAKING INTO
5 ACCOUNT A WAIVER, VARIANCE, OR EXEMPTION ALLOWED UNDER
6 AS 47.32.030(a)(3) AND 47.32.032.] Prima facie evidence of good cause not to place
7 a child, **or that it is not in the best interests of a child to place the child,** with an
8 adult family member or adult family friend does not include poverty or inadequate or
9 crowded housing. If the department denies a request for placement with an adult
10 family member or a family friend, the department shall inform the adult family
11 member or family friend of the basis for the denial and the right to request a hearing to
12 review the decision. A non-party [ADULT FAMILY MEMBER OR FAMILY
13 FRIEND] requesting a review hearing under AS 47.10.088(i) or under (e) of this
14 section is not eligible for publicly appointed legal counsel.

15 * **Sec. 7.** This Act takes effect January 1, 2025.