

CS FOR SENATE BILL NO. 181(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 3/15/24

Referred: Rules

Sponsor(s): SENATOR BJORKMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to placement of a child in need of aid; relating to adoption; relating to**
2 **variances for foster care licenses; and 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 who requests a hearing to oppose a proposed transfer under this**
13 **subsection does not become a party to the case.** A foster parent or out-of-home
14 caregiver who requests a nonemergency change in placement of the child shall provide

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

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

12 (i) The department shall concurrently identify, recruit, process, and approve a
 13 qualified person or family for an adoption whenever a petition to terminate a parent's
 14 rights to a child is filed. Before identifying a placement of the child in an adoptive
 15 home, the department shall [ATTEMPT TO] locate **any** [ALL] living adult family
 16 members of the child **through a diligent search for adult family members as**
 17 **described in AS 47.10.145** and, if an adult family member expresses an interest in
 18 adopting the child, investigate the adult family member's ability to care for the child.
 19 The department shall provide to all adult family members of the child located by the
 20 department written notice of the adult family members' rights under this chapter and of
 21 the procedures necessary to gain custody of the child, but the department's obligation
 22 to provide written notice under this subsection does not apply to a parent of the child
 23 whose parental rights are being or have been terminated or to an adult family member
 24 who is known by the department to be ineligible for a foster care license under
 25 AS 47.32 and regulations adopted under AS 47.32. If an adult family member of the
 26 child requests that the department approve the adult family member for an adoption,
 27 the department shall approve the request **if it is in the best interests of the child. In**
 28 **determining the best interests of the child under this subsection, the department**
 29 **shall consider the child's physical and psychological well-being. In determining**
 30 **the best interests of a child under six years of age, the department shall consider**
 31 **whether the child has resided for at least 12 consecutive months with a foster**

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

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

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

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

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

28 (1) interview

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

1 (B) the child;

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

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

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

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

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

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

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

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

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

22 (c) The department shall report to the court in writing regarding the actions
23 taken by the department under (a)(1) - (3) of this section at any scheduled disposition,
24 case review, or permanency hearing or as otherwise required by the court.

25 (d) The department shall continue to diligently search for adult family
26 members or family friends suitable for placement of the child until the court orders
27 that the department is excused from conducting a diligent search or the department
28 finalizes the permanent placement of the child. The court may excuse the department
29 from considering an adult family member for placement of a child if the adult family
30 member does not demonstrate an interest in and willingness to be considered for
31 placement of the child within 90 days from the date of receiving the required notice

1 under (b) of this section.

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

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

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

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

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

18 (A) an adult family member, **or, if the child is under six years**
19 **of age and it is in the best interests of the child, a licensed foster home that**
20 **has provided at least 12 consecutive months of care to the child;**

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

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

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

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

28 (m) Prima facie evidence of good cause not to place a child with an adult
29 family member or family friend under AS 47.10.088(i) or under (e) of this section
30 includes the failure to meet the requirements for a foster care license under AS 47.32
31 and regulations adopted under AS 47.32, taking into account a waiver, variance, or

1 exemption allowed under AS 47.32.030(a)(3) and 47.32.032. Prima facie evidence of
2 good cause not to place a child, **or that it is not in the best interests of a child to**
3 **place the child,** with an adult family member or adult family friend does not include
4 poverty or inadequate or crowded housing. If the department denies a request for
5 placement with an adult family member or a family friend, the department shall
6 inform the adult family member or family friend of the basis for the denial and the
7 right to request a hearing to review the decision. A non-party [ADULT FAMILY
8 MEMBER OR FAMILY FRIEND] requesting a review hearing under
9 **AS 47.10.080(s), 47.10.088(i),** [AS 47.10.088(i)] or [UNDER] (e) of this section is not
10 eligible for publicly appointed legal counsel.

11 * **Sec. 7.** AS 47.32.032 is amended by adding new subsections to read:

12 (d) The department shall assist an adult family member or family friend in
13 gathering the information necessary to submit a request for a variance under this
14 section.

15 (e) In this section, "department" means the Department of Family and
16 Community Services.

17 * **Sec. 8.** This Act takes effect January 1, 2025.