

**CS FOR SENATE BILL NO. 122(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 3/21/18**

**Referred: Finance**

**Sponsor(s): SENATOR COGHILL**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act repealing the authority for a child abuse or neglect citizen review panel in the**  
2 **Department of Health and Social Services; establishing the Child Protection Citizen**  
3 **Review Panel in the office of the ombudsman; and providing for an effective date."**

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

5 \* **Section 1.** AS 24.55 is amended by adding new sections to read:

6 **Article 7. Child Protection Citizen Review Panel.**

7 **Sec. 24.55.400. Child Protection Citizen Review Panel.** (a) The Child  
8 Protection Citizen Review Panel is established in the office of the ombudsman. The  
9 office of the ombudsman shall provide reasonable and necessary professional and  
10 technical assistance when requested by the panel.

11 (b) The purpose of the panel is to facilitate public participation in developing  
12 and implementing the state's child protection policies and practices. In performing its  
13 duties under AS 24.55.405, the panel shall make diverse opportunities for voluntary  
14 participation available to the public.

1 (c) The panel shall be composed of volunteer members who are broadly  
 2 representative of the state, including at least one member from each of the  
 3 administrative regions established by the division of the department with  
 4 responsibility over the custody of children.

5 (d) The panel shall meet not less than once every three months. Meetings may  
 6 take place telephonically.

7 (e) The office of the ombudsman shall adopt regulations establishing  
 8 guidelines for the operation of the panel, including

9 (1) the qualifications of members;

10 (2) policies for recruitment and appointment of members;

11 (3) tenure of members; and

12 (4) policy for selection of leadership.

13 **Sec. 24.55.405. Duties of the panel.** (a) Each year, the panel shall examine the  
 14 policies, procedures, and practices of the department and, where appropriate, evaluate  
 15 specific cases of child abuse or neglect to determine whether the department is  
 16 effectively discharging its child protection responsibilities in accordance with the  
 17 following planning documents submitted to the United States Department of Health  
 18 and Human Services:

19 (1) the state plan required under 42 U.S.C. 5106a(b); and

20 (2) the state child welfare and family services plans and reports  
 21 required under 42 U.S.C. 621 - 629m.

22 (b) The panel may recommend and advocate for changes to the department's  
 23 child protection policies, procedures, and practices and for changes in conditions that  
 24 may enable the department to improve its child protection policies, procedures, and  
 25 practices.

26 **Sec. 24.55.410. Duties of the department.** The department shall

27 (1) consult with the panel periodically, through the director or a  
 28 designee of the director and other program managers of the division of the department  
 29 with responsibility over the custody of children, to assist the panel in performing its  
 30 duties under AS 24.55.405;

31 (2) establish procedures for sharing with the panel administrative and

1 case-specific information that is necessary for the panel to perform its duties under  
2 AS 24.55.405(a);

3 (3) coordinate community engagement activities, including outreach  
4 efforts related to the preparation of the state child and family services plan required  
5 under 45 C.F.R. 1357.15 and annual progress and services reports required under 45  
6 C.F.R. 1357.16, with the panel's activities under AS 24.55.420; and

7 (4) assist the panel in coordinating the activities of the panel with the  
8 activities of the state task force established under 42 U.S.C. 5106c.

9 **Sec. 24.55.415. Confidentiality.** (a) A person attending a meeting of the panel,  
10 the ombudsman, an employee of the office of the ombudsman, or a member or staff of  
11 the panel may not make any disclosure related to information obtained during a review  
12 by the panel unless authorized under federal or state law.

13 (b) Meetings of the panel are subject to AS 44.62.310 - 44.62.319 (Open  
14 Meetings Act).

15 **Sec. 24.55.420. Public outreach.** The panel shall conduct public outreach and  
16 gather public comment on current department procedures and practices involving  
17 children and family services.

18 **Sec. 24.55.425. Report.** (a) The panel shall prepare and make available to the  
19 governor, the legislature, and the public an annual report containing a summary of the  
20 activities of the panel conducted under AS 24.55.400 - 24.55.440 and  
21 recommendations for the improvement of child protection services in the state. The  
22 panel shall deliver the report to the senate secretary and the chief clerk of the house of  
23 representatives and notify the legislature that the report is available.

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

28 (c) At the end of the third year after the effective date of this section, and  
29 every three years thereafter, the panel and the division of the department with  
30 responsibility over the custody of children shall complete a joint evaluation report and  
31 make the report available to the governor, the legislature, and the public. The report

1 must include an assessment of the performance of the staff of the panel, the panel's  
 2 activities, and the responsiveness of the division, and an evaluation of any associated  
 3 constraints or opportunities. The panel shall deliver the report to the senate secretary  
 4 and the chief clerk of the house of representatives and notify the legislature that the  
 5 report is available.

6 **Sec. 24.55.430. Civil penalty for violation of confidentiality.** A person who  
 7 violates confidentiality under AS 24.55.415 is subject to a civil penalty of up to \$2,500  
 8 for each violation and may also be subject to criminal prosecution under  
 9 AS 11.76.115.

10 **Sec. 24.55.435. Immunity.** A member of the panel or a person who furnishes  
 11 services to or advises the panel is not liable for damages or other relief in an action  
 12 involving the performance or failure to perform a duty or other activity of the panel.

13 **Sec. 24.55.440. Definitions.** In AS 24.55.400 - 24.55.440,

14 (1) "department" means the Department of Health and Social Services;

15 (2) "panel" means the Child Protection Citizen Review Panel  
 16 established under AS 24.55.400.

17 \* **Sec. 2.** AS 47.10.093(b) is amended to read:

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

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

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

25 (3) an out-of-home care provider as necessary to enable the out-of-  
 26 home care provider to provide appropriate care to the child, to protect the safety of the  
 27 child, and to protect the safety and property of family members and visitors of the out-  
 28 of-home care provider;

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

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

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

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

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

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

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

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

19 (12) a review panel established under AS 24.55.400 [BY THE  
20 DEPARTMENT] for the purpose of reviewing the actions taken by the department in  
21 a specific case;

22 (13) the University of Alaska under the Alaska higher education  
23 savings program for children established under AS 47.14.400, but only to the extent  
24 that the information is necessary to support the program and only if the information  
25 released is maintained as a confidential record by the University of Alaska;

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

28 (15) a state or municipal agency of this state or another jurisdiction  
29 that is responsible for delinquent minors, as may be necessary for the administration of  
30 services, protection, rehabilitation, or supervision of a child or for actions by the  
31 agency to protect the public safety; however, a court may review an objection made to

1 a disclosure under this paragraph; the person objecting to the disclosure bears the  
 2 burden of establishing by a preponderance of the evidence that disclosure is not in the  
 3 child's best interest; **and**

4 **(16) the office of the ombudsman.**

5 \* **Sec. 3.** AS 47.14.205, 47.14.215, 47.14.225, 47.14.235, 47.14.245, 47.14.255, 47.14.265,  
 6 47.14.275, and 47.14.295 are repealed.

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

9 DEPARTMENT OF HEALTH AND SOCIAL SERVICES: REPORT REGARDING  
 10 CHILD PROTECTION OVERSIGHT. The Department of Health and Social Services shall  
 11 complete a report identifying existing processes for reviewing and overseeing the work of the  
 12 division of the department with responsibility over the custody of children and outlining a  
 13 plan to reduce duplication and improve coordination among entities responsible for the  
 14 identified processes. Not later than two years after the effective date of sec. 1 of this Act, the  
 15 Department of Health and Social Services shall deliver the report to the senate secretary and  
 16 the chief clerk of the house of representatives, notify the legislature that the report is  
 17 available, and make the report available to the governor and the public.

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

20 TRANSITION: REGULATIONS. The office of the ombudsman may adopt  
 21 regulations necessary to implement the changes made by this Act. The regulations take effect  
 22 under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law  
 23 implemented by the regulation.

24 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
 25 read:

26 TRANSITION: MEMBERS OF THE CHILD PROTECTION CITIZEN REVIEW  
 27 PANEL. A person who is a member of the Citizen Review Panel under former AS 47.14.205,  
 28 repealed in sec. 3 of this Act, on the effective date of sec. 3 of this Act may continue to serve  
 29 on the Child Protection Citizen Review Panel under AS 24.55.400, established in sec. 1 of  
 30 this Act. A person who is an officer of the Citizen Review Panel under former AS 47.14.205,  
 31 repealed in sec. 3 of this Act, on the effective date of sec. 3 of this Act may serve the

- 1 remainder of the officer's term on the Child Protection Citizen Review Panel under
- 2 AS 24.55.400, established in sec. 1 of this Act.
- 3 \* **Sec. 7.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).