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REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: April ¹⁵~~14~~, 2005
To: Jean Mischel, Legal Counsel
From: Rynnieva Moss, Legislative Aide *R. Moss*
Re: Amendments to Judiciary CS

Could we have a CS for Finance with the following amendments?

Page 1, line 3, after "court hearings,"

Insert: court records,

Page 2, line 12:

Delete:

"(a) The court may appoint as guardian any person whose appointment would be in the best interests of the minor. Except as provided in (b) of this section, the [THE]"

Insert:

The court may appoint as guardian any adult person whose appointment would be in the best interests of the minor, with priority given to an adult family member, as defined in AS 47.10.990(29).

Page 2, Line 17:¹

Delete: Sec. 2

~~Page 11, line 28, after the word “and”:~~

~~Insert:~~

~~**, if an adult family member expresses an interest in caring for the child,**~~

Page 11, line 26, after the word “filed.”:

Delete all wording through the word “law.” on page 12, line 6.

Insert:

Before identifying a placement as an adoptive home, the department shall attempt to locate all living adult family members of the child and, if an adult family member expresses an interest in caring for the child, to investigate the adult family member’s ability to care for the child. The department shall provide to all adult family members of the child located by the department written notice of the adult family members’ rights under this chapter and of the procedures necessary to gain custody of the child. If an adult family member of the child requests that the department approve the adult family member as a adoptive placement, the department shall approve the request unless there is good cause to the contrary.

Page 12, line 10 through page 13, line 23:

Delete section 18.

Renumber remaining subsections.

¹ The amendment to subsection (a) eliminates the need for subsection (b) and is less confusing.

Page 16, line 16:

Delete: “an adult family member”

Insert: **a parent**

Page 16, line 24:

Delete: “department”

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

Page 16, line 24, after the word “information”:

Insert:

, excluding privileged attorney-client information and the name and other identifying information of a mandatory reporter under AS 47.17,

Page 16, line 30, after the word “information”:

, including attorney-client information if the person has an attorney-client relationship with the child or the child’s family,

Page 17, line 24:²

Delete line 24 and renumber remaining subsections.

² Department of Law said that when the court appoints a guardian ad litem the order also stipulates that the GAL has a right to obtain confidential information.

Page 18, line 28:

Delete “, the legislature, or the governor”

Page 21, line 26:

Delete section 35.

Page 21, line 26:

Insert:

***Sec. 35. AS 47.14.100(e) is repealed and reenacted to read:**

(e) When a child is removed from a parent’s home, the department shall place the child, in the absence of good cause to the contrary,

(i) in the least restrictive setting which most approximates a family and in which the child’s special needs, if any, may be met;

(ii) within reasonable proximity to the child’s home, taking into account any special needs of the child and the preferences of the child or parent; and

(iii) with , in the following order of preference,

- (A) an adult family member;**
- (B) a family friend that meets the foster care licensing requirement of the department;**
- (C) a licensed foster home that is not an adult family or family friend or**
- (D) an institution for children that has a program suitable to meet the child’s needs.**

Page 23, line 18, Insert new section:

Sec. 37. AS 47.14.100(j) is amended to read:

(j) For the purpose of determining whether the home of a relative meets the requirements for placement for a child under AS 47.10.088(i) or subsection (e) of this section, the department shall conduct a criminal background check from state and national criminal justice information available under AS 12.62. The department may conduct a fingerprint background check on any member of the relative's household who is 16 years of age or older when the relative requests placement of the child. For the purposes of obtaining criminal justice information under this subsection, the department is a criminal justice agency conducting a criminal justice activity under AS 12.62.

Sec. 38. As 47.14.100 is amended by adding a new subsection to read:

(m) In making a placement decision under AS 47.10.088(i) or subsection (e) of this section, prima facie evidence of good cause not to place with a family member may include one of the bases for denying a foster care license under AA 47.35.019 or AS 47.35.021, but shall not include poverty, including inadequate or crowded housing, on the part of the adult family member. If the department denies a request for placement with an adult family member or a family friend, the department shall inform the adult family member or family friend of the basis for the placement decision and the right to request a hearing to review the placement decision. A non-party adult family member or family friend requesting a review hearing under AS 47.10.088(i) or subsection (e) of this section is not eligible for publicly appointed legal counsel.

Renumber remaining sections.

Page 26, lines 16 through 21:

Delete subsection (d)

Insert:

(d) An interview of a child conducted as a result of a report of harm alleging severe physical abuse by a parent or caretaker shall be videotaped or audio taped. If an interview of a child concerns a report of sexual abuse by a parent or caretaker, the interview shall be videotaped, except that an interview of a child may not be videotaped if videotaping the interview is impracticable or will, in the opinion of the investigating agency, result in trauma to the child.