

# Sponsor Statement for HB 261

## Termination of Parental Rights

***An Act relating to the standards that must be used for terminating parental rights; and amending Rule 18(c), Alaska Child in Need of Aid Rules of Procedure.***

**Released:** April 30, 2001  
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HB 261 brings parity to the process of terminating parental rights between Child in Need of Aid (CINA) laws and the Indian Child Welfare Act (ICWA).

Regardless of whether the child is Indian or non-Indian, there are three things that must be shown under current laws before a parent's parental rights may be terminated. (1) Whether or not a child is a child in need of aid is based on parental conduct. (2) The conduct of the parent that makes the child a child in need of aid is likely to continue. (3) Remedial efforts have been made to try to keep the family together.

Under existing CINA and ICWA statutes (1) and (2) must be proven with "clear and convincing evidence". A "preponderance of evidence" standard applies to (3).

Under ICWA, a fourth finding is required. It must be proven "beyond a reasonable doubt" in a case involving an Indian child that "continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child." Under AS 47.10.088(a)(1)(B)(ii) CINA proceedings only require "clear and convincing evidence" that there is "substantial risk of physical or mental injury"

HB 261 revises AS 47.10.088(a) to add to CINA the stricter ICWA standards. HB 261 requires the State to find "by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by a parent is likely to result in serious" physical or mental injury before a parent's right could be terminated.