

Training Aide pursuant to AS 47.17.033(i)

47.17.033 (i) states that an OCS employee investigating a report of child abuse or neglect must be trained to conduct such investigations and that such training must address the *constitutional and statutory rights of children and families that apply throughout the investigation and department intervention and the employee's duty to protect the rights and safety of a child and a child's family*. Below is a restatement of all the rights of children and families that might apply in an investigation and department intervention.

Constitutional rights of children and families:

The rights declared in the Constitution of the State of Alaska that apply to OCS investigations and interventions are as follows:

Article 1 - Declaration of Rights

§ 1. Inherent Rights

This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

§ 3. Civil Rights

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section.

§ 4. Freedom of Religion

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof.

§ 5. Freedom of Speech

Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

§ 7. Due Process

No person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.

§ 14. Searches and Seizures

The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

§ 22. Right of Privacy

The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

Statutory rights of children and families:

The rights set out in Title 47 of the Alaska Statutes that apply to OCS investigations and interventions are as follows:

Legislative findings related to children (AS 47.05.065):

Parents who have full custody of their children have the following rights and responsibilities relating to the care and control of their child while the child is a minor (AS 47.05.065(1)):

- (A) the responsibility to provide the child with food, clothing, shelter, education, and medical care;
- (B) the right and responsibility to protect, nurture, train, and discipline the child, including the right to direct the child's medical care and the right to exercise reasonable corporal discipline;
- (C) the right to determine where and with whom the child shall live;
- (D) the right and responsibility to make decisions of legal or financial significance concerning the child;
- (E) the right to obtain representation for the child in legal actions; and
- (F) the responsibility to provide special safeguards and care, including appropriate prenatal and postnatal protection for the child.

Attempts to work with the family after removal (AS 47.05.065(2)(A)):

Except in those cases involving serious risk to a child's health or safety, the Department of Health and Social Services should provide time-limited family support services to the child and the child's family in order to offer parents the opportunity to remedy parental conduct or conditions in the home that placed the child at risk of harm so that a child may return home safely and permanently.

Visitation policy while the child is in state custody(AS 47.05.065(2)(B)):

The state also recognizes that when a child is removed from the home, visitation between the child and the child's parents or guardian and family members reduces the trauma for the child and enhances the likelihood that the child will be able to return home; therefore, whenever a child is removed from the parental home, the Department of Health and Social Services should encourage frequent, regular, and reasonable visitation of the child with the child's parent or guardian and family members.

State responsibility to child in state custody (AS 47.05.065(3)):

It is the policy of the state to recognize that, when a child is a ward of the state, the child is entitled to reasonable safety, adequate care, and adequate treatment and that the Department of Health and Social Services as legal custodian and the child's guardian ad litem as guardian of the child's best interests and their agents and assignees, each should make reasonable efforts to ensure that the child is provided with reasonable safety, adequate care, and adequate treatment for the duration of time that the child is a ward of the state.

Regarding a child who has been removed from the child's own home, it is the state's responsibility to apply the following principles in resolving the situation (AS 47.05.065(3)):

- (A) the child should be placed in a safe, secure, and stable environment;
- (B) the child should not be moved unnecessarily;
- (C) a planning process should be followed to lead to permanent placement of the child;
- (D) every effort should be made to encourage psychological attachment between the adult caregiver and the child; and
- (E) frequent, regular, and reasonable visitation with the parent or guardian and family members should be encouraged.

Residual rights of parents of children in state custody (47.10.084(c)):

The residual rights of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, and consent to major medical treatment except in cases of emergency or when the minor gives consent as allowed by AS 25.20.025.

Rights of adult family members (47.10.088(i)):

The department shall concurrently identify, recruit, process, and approve a qualified person or family for an adoption whenever a petition to terminate a parent's rights to a child is filed. Before identifying a placement of the child in 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 adopting the child, 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, unless the parent has already had parental rights terminated on another child or unless an adult family member is known by the department to be ineligible for a foster care license. The rights of an adult family member's include a right to request visitation with or placement for the child, and if either request is denied, a right be informed of the basis for the denial and of the right to request a hearing to review that decision.

(AS 47.10.990 defines "**adult family member**" as a person who is 18 years of age or older and who is 1) related to the child as the child's grandparent, aunt, uncle, or sibling; or 2) the child's sibling's legal guardian or parent.)

Rights of domestic violence victims (47.17.035(b)(2)):

If the department determines in an investigation of abuse or neglect of a child that a person is the victim of domestic violence, the department shall provide the victim with a written notice of the rights of and services available to victims of domestic violence that is substantially similar to the notice provided to victims of domestic violence under AS 18.65.520.