

CS FOR HOUSE BILL NO. 172(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/26/01

Referred: Finance

Sponsor(s): REPRESENTATIVES PORTER, Murkowski, Rokeberg, Foster

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to therapeutic courts for offenders and to the authorized number of**
2 **superior court judges."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE PURPOSE; THERAPEUTIC COURTS FOR ALCOHOL- AND
7 DRUG-ADDICTED OFFENDERS. (a) The purposes of therapeutic courts are lasting
8 sobriety of offenders, protection of society from alcohol-related and drug-related crime,
9 prompt payment of restitution to victims of crimes, effective interaction and use of resources
10 among criminal justice and community agencies, and long-term reduction of costs relating to
11 arrest, trial, and incarceration. The pilot therapeutic courts established in (b) of this section
12 will focus on defendants charged with multiple driving while intoxicated offenses and shall
13 serve as working models for the development of other similar courts in other areas of the
14 state. It is the intent of the legislature that the additional superior court judge authorized for

1 the Fourth Judicial District by sec. 2 of this Act be assigned to Bethel and that the additional
 2 superior court judge authorized for the Third Judicial District be assigned to Anchorage. In
 3 addition, the legislature recognizes that district courts are currently experimenting with and
 4 using therapeutic concepts such as those contained in this Act. The legislature acknowledges
 5 these efforts, encourages their continuation in the district courts, and does not intend by this
 6 Act the extinguishment of these efforts.

7 (b) The Alaska Court System shall establish two pilot sites for therapeutic courts for
 8 alcohol- and drug-addicted offenders in Anchorage and Bethel; the Anchorage therapeutic
 9 court shall commence on the effective date of this Act; the Bethel therapeutic court shall
 10 commence on January 2, 2002; the pilot programs shall end three years after the date each
 11 court commences. The Alaska Court System will designate one superior court judge in
 12 Anchorage and one superior court judge in Bethel to preside over the therapeutic courts.
 13 Under the leadership of these judges, all parties involved in the implementation of the
 14 therapeutic court process shall regularly meet to consult about the conduct and improvement
 15 of the process. The pilot programs shall be implemented by the joint efforts of the Alaska
 16 Court System, the Department of Law, the Public Defender Agency, the Department of
 17 Corrections, the Department of Health and Social Services, and other agencies in accordance
 18 with a mutually agreed-upon plan. To the extent feasible, the therapeutic courts shall use
 19 existing public agencies, medical and treatment services, housing, and other public, private,
 20 and nonprofit community services; the pilot program in Bethel shall also consult and
 21 coordinate services with municipal and other local entities to facilitate the successful
 22 reintegration of offenders into municipalities and other locales outside of Bethel. Each
 23 therapeutic court shall be adapted to fit the available local resources and cultural traditions.

24 (c) Nothing in this Act is intended to place additional requirements on or make
 25 changes to other existing specialized or general state courts.

26 (d) In addition to any authorized sentence under AS 12.55, a therapeutic court shall,
 27 to the extent feasible, consider or require

- 28 (1) early intervention to plan and begin treatment for recovery from alcohol or
 29 drug addiction;
 30 (2) emphasis on personal responsibility;
 31 (3) frequent appearances before the same judge to provide in-court recognition

1 of progress and quick sanctions for relapses;

2 (4) in-court recognition of progress and quick sanctions for relapses;

3 (5) if the offender is living in a municipality or an area of the state without a
4 judge, frequent appearances before a person or persons designated by the judge who will
5 report progress and relapses to the judge;

6 (6) prompt payment of restitution for victims;

7 (7) completion of community work service as appropriate for restoration of
8 the community;

9 (8) pharmaceutical treatment of the physical addiction to alcohol or drugs, as
10 approved and prescribed by a physician;

11 (9) treatment addressing the psychosocial bases of the addiction;

12 (10) a strong monitoring program to enforce long-term abstinence;

13 (11) appropriate physical placement or housing;

14 (12) assistance in obtaining a constructive alcohol- and drug-free occupation
15 and lifestyle;

16 (13) assistance from supportive friends and relatives;

17 (14) payment for all or a portion of treatment costs;

18 (15) adherence to all probation conditions;

19 (16) collection of data about and evaluation of the effectiveness of the
20 program;

21 (17) the defendant to execute releases to provide information and reports to
22 the court, the prosecutor, and all agencies involved in the defendant's therapeutic court plan;
23 and

24 (18) case coordination in planning for and assisting offenders in
25 accomplishing the conditions set out in (1) - (17) of this subsection.

26 (e) The state, publicly appointed counsel, and court shall develop a list of sanctions to
27 be imposed in the event that a defendant violates conditions imposed by a therapeutic court.
28 This list shall be provided to all defendants who request referral to a therapeutic court.

29 (f) With the consent of the state or municipal prosecutor and the defendant, a criminal
30 case may be referred to a therapeutic court upon the request of the prosecutor, the defendant,
31 or the court if the defendant's request is made within 45 days of arraignment. The court may

1 accept a defendant into the therapeutic court if the defendant is not charged with an
2 unclassified felony, a class A felony, or an offense under AS 11.41.410 - 11.41.470.

3 (g) A defendant referred to a therapeutic court shall enter a plea of guilty or no contest
4 within 45 days after the defendant's first appearance before the therapeutic court.

5 (h) The state and the defendant may enter into a plea agreement. If the court accepts
6 the agreement, the court shall enforce the terms of the agreement.

7 (i) Within 30 days after entry of the plea, the court shall enter a judgment of
8 conviction. The judgment of conviction must set a schedule for payment of restitution owed
9 by the defendant. In the judgment of conviction and upon probation conditions that the court
10 considers appropriate, the court may withhold pronouncement of a period of imprisonment or
11 a fine to provide an incentive for the defendant to successfully complete recommended
12 treatment. Imprisonment or a fine imposed by a therapeutic court shall comply with AS 12.55
13 or any mandatory minimum or other sentencing provision applicable to the offense.
14 However, notwithstanding any other provision of law, the entire period of imprisonment or
15 amount of fine, including a presumptive or mandatory minimum sentence, may be suspended
16 if the defendant has successfully completed court-ordered treatment, is current with restitution
17 payments, and has substantially complied with sobriety and other conditions imposed by the
18 court.

19 (j) Notwithstanding any other provision of law to the contrary, the judge, the state, the
20 defendant, and the agencies involved in the defendant's treatment plan are entitled to
21 information and reports bearing on the defendant's assessment, treatment, and progress.

22 (k) The Alaska Judicial Council shall conduct an evaluation of the pilot therapeutic
23 courts and prepare a report to the legislature, courts, and affected agencies. The report shall
24 be disseminated no later than July 1, 2005.

25 (l) In addition to other conditions authorized under AS 12.30 or AS 12.55, a
26 therapeutic court may impose the following conditions of bail or probation:

27 (1) require the defendant to submit to electronic monitoring if the
28 commissioner of corrections agrees to this condition;

29 (2) require the defendant to submit to house arrest.

30 (m) A defendant who is subject to a condition set out in (l) of this section is not
31 entitled to credit for time served.

1 (n) In addition to other conditions authorized under AS 12.30, a therapeutic court may
2 require the defendant to take a drug or combination of drugs intended to prevent the
3 consumption of alcoholic beverages.

4 (o) The Department of Health and Social Services is authorized to make advances to a
5 defendant accepted to the therapeutic court to cover the initial costs of participating in the
6 treatment programs if the defendant is otherwise without resources to pay those costs. The
7 court shall require as a condition of probation that the defendant repay the department.

8 (p) In this section, "sentence" or "sentencing" includes a suspended imposition of
9 sentence as authorized under AS 12.55.085.

10 * **Sec. 2.** AS 22.10.120 is amended to read:

11 **Sec. 22.10.120. Number of judges.** The superior court consists of 34 [32]
12 judges, five of whom shall be judges in the first judicial district, three of whom shall
13 be judges in the second judicial district, 19 [18] of whom shall be judges in the third
14 judicial district, and seven [SIX] of whom shall be judges in the fourth judicial
15 district. At the time of submitting the names of nominees to the governor to fill a
16 vacancy on the superior court bench, the judicial council shall also designate the
17 district in which the appointee is to reside and serve.