

HOUSE BILL NO. 290

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CLAMAN, Kopp

Introduced: 2/24/20

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an alternative to arrest procedure for persons in acute episodes of**
2 **mental illness; relating to emergency detention for mental health evaluation; and**
3 **relating to licensure of crisis stabilization centers."**

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

5 *** Section 1.** AS 12.25 is amended by adding a new section to read:

6 **Sec. 12.25.031. Alternative to arrest.** (a) As an alternative to arrest, a peace
7 officer may, at the officer's discretion, deliver a person to a crisis stabilization center
8 or an evaluation facility or decline to arrest the person if

9 (1) the arresting officer believes in good faith that the person is
10 suffering from an acute episode of mental illness; and

11 (2) the person voluntarily agrees to be taken to a crisis stabilization
12 center or an evaluation facility or to promptly seek outpatient mental health treatment.

13 (b) Notwithstanding (a) of this section, a peace officer may, as an alternative
14 to arrest, take a person into emergency protective custody under AS 47.30.705.

1 (c) A person who is delivered to a crisis stabilization center or an evaluation
2 facility under (a) of this section must be examined by a mental health professional
3 within three hours after arriving at the center.

4 (d) Delivery of a person to a crisis stabilization center or an evaluation facility
5 for examination under (a) of this section does not constitute an involuntary
6 commitment under AS 47.30 or an arrest.

7 (e) Before a person delivered to a crisis stabilization center or an evaluation
8 facility under (a) of this section is released to the community, a mental health
9 professional shall make reasonable efforts to inform the arresting officer of the
10 planned release if the officer has specifically requested notification and provided the
11 officer's contact information to the provider.

12 (f) A peace officer is not liable for civil damages arising from an act or
13 omission done with reasonable care and in good faith under this section.

14 (g) An agreement to participate in outpatient treatment or to be delivered to a
15 crisis stabilization center or an evaluation facility under (a) of this section

16 (1) may not require a person to stipulate to any facts regarding the
17 alleged criminal activity as a prerequisite to participation in a mental health treatment
18 alternative;

19 (2) is inadmissible in any criminal or civil proceeding; and

20 (3) does not create immunity from prosecution for the alleged criminal
21 activity.

22 (h) If a person violates an agreement to be delivered to a crisis stabilization
23 center or an evaluation facility or to seek outpatient treatment under (a) of this section,
24 and if mental health treatment is no longer an appropriate alternative,

25 (1) a mental health professional shall make reasonable efforts to
26 inform the arresting officer of the violation; and

27 (2) the original charges may be filed or referred to the prosecutor, as
28 appropriate, and the matter may proceed as provided by law.

29 (i) In this section,

30 (1) "crisis stabilization center" means a facility licensed under
31 AS 47.32 that meets the definition of "crisis stabilization center" in AS 47.32.900;

(2) "evaluation facility" means an evaluation facility as defined in AS 47.30.915;

(3) "mental health professional" has the meaning given in AS 47.30.915.

* **Sec. 2.** AS 18.65.530(c) is amended to read:

(c) A peace officer is not required to make an arrest under (a) of this section if the officer

(1) has received authorization not to arrest from a prosecuting attorney in the jurisdiction in which the offense under investigation arose; or

(2) delivers to a crisis stabilization center or an evaluation facility, as those terms are defined in AS 12.25.031, or releases the person described in (a) of this section as provided in AS 12.25.031.

* **Sec. 3.** AS 47.30.705(a) is amended to read:

(a) A peace officer, a psychiatrist or physician who is licensed to practice in this state or employed by the federal government, or a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest crisis stabilization center as defined in AS 47.32.900 or other evaluation facility. A person taken into custody for emergency evaluation may not be placed in a jail or other correctional facility except for protective custody purposes and only while awaiting transportation to a crisis stabilization center or other treatment facility. However, emergency protective custody under this section may not include placement of a minor in a jail or secure facility. The peace officer or mental health professional shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the crisis stabilization center or other facility.

* **Sec. 4.** AS 47.30.710(a) is amended to read:

(a) A respondent who is delivered under AS 47.30.700 - 47.30.705 to an

1 evaluation facility, **except for delivery to a crisis stabilization center as defined in**
 2 **AS 47.32.900,** for emergency examination and treatment shall be examined and
 3 evaluated as to mental and physical condition by a mental health professional and by a
 4 physician within 24 hours after arrival at the facility. **A respondent who is delivered**
 5 **under AS 47.30.705 to a crisis stabilization center shall be examined by a mental**
 6 **health professional as defined in AS 47.30.915 within three hours after arriving at**
 7 **the center.**

8 * **Sec. 5.** AS 47.32.010(b) is amended to read:

9 (b) This chapter and regulations adopted under this chapter apply to the
 10 following entities:

- 11 (1) ambulatory surgical centers;
- 12 (2) assisted living homes;
- 13 (3) child care facilities;
- 14 (4) child placement agencies;
- 15 (5) foster homes;
- 16 (6) free-standing birth centers;
- 17 (7) home health agencies;
- 18 (8) hospices, or agencies providing hospice services or operating
- 19 hospice programs;
- 20 (9) hospitals;
- 21 (10) intermediate care facilities for individuals with an intellectual
- 22 disability or related condition;
- 23 (11) maternity homes;
- 24 (12) nursing facilities;
- 25 (13) residential child care facilities;
- 26 (14) residential psychiatric treatment centers;
- 27 (15) runaway shelters;
- 28 (16) rural health clinics;
- 29 **(17) crisis stabilization centers.**

30 * **Sec. 6.** AS 47.32 is amended by adding a new section to read:

31 **Sec. 47.32.035. Crisis stabilization center license.** (a) A crisis stabilization

center licensed under this chapter shall

(1) provide 24-hour services each day under the direction of a mental health professional as defined in AS 47.30.915;

(2) provide a level of security necessary to protect public safety;

(3) employ qualified staff that includes an advanced practice registered nurse or a registered nurse with a master's degree in psychiatric nursing, licensed by the State Board of Nursing, who is on site; and

(4) examine, stabilize, and treat an individual suffering from an acute episode of mental illness for a continuous period not to exceed 24 hours.

(b) A crisis stabilization center licensed under this chapter may be located at a correctional facility if the center is physically separate from the general population of the facility.

* **Sec. 7.** AS 47.32.900 is amended by adding a new paragraph to read:

(22) "crisis stabilization center" means a facility, or a part or unit of a facility, that has been designed to evaluate, stabilize, and treat, on a short-term basis and without the use of hospitalization, individuals experiencing an acute episode of mental illness.