



**SB 238 Involuntary Commitment; Protective Custody
Version A**

February 29, 2020

SECTIONAL ANALYSIS

Section 1: Removes the reference when a person can be held in protective custody (now addressed in section 2) and adds “emergency” to state “*emergency* protective custody under this section may not include placement of a minor in a jail or secure facility.”

Section 2: Creates AS 17.30.706 “Protective custody at a correctional facility or jail. The new statute only allows placement at a correctional facility if no designated treatment or evaluation facility, crisis stabilization center, or health care facility has the “capacity to safely admit the person within a reasonable amount of time.” Once the person is under protective custody, they can only be held there while transport arrangements are made. The correctional facility/jail must notify the Department of Health and Social Services (DHSS) as soon as practicable if they have a person in protective custody, and then the DHSS makes arrangements for transport and admission to a designated treatment or evaluation facility. If the person remains in protective custody for more than 48 hours without a plan in place to transport within the next 12 hours, the DHSS will provide an evaluator every 48 hours to determine if the person still meets the criteria for probable cause for the *ex parte* hold. The DHSS will notify the court if the person is released or if the person is being held and what the transfer plan is. The court is required to conduct a review hearing no later than 96 hours after the person is placed in protective custody. The correctional facility/jail is required to take reasonable steps to protect the person’s health and safety and is permitted to take reasonable steps for protection of others. Finally, the statute prohibits making a record that the person has been arrested or charged with a crime.

Section 3 (AS 47.30.715), Section 4 (AS 47.30.725(b)), and Section 5 (AS 47.30.725(f)): Amends current law to clarify timelines for a commitment hearing and evaluation. The purpose is to ensure the evaluation facility has the full 72 hour period to evaluate the respondent before a hearing is held.

Section 6: Creates AS 47.30.727 Custody of the department to clearly delineate when DHSS has custody of a person during the civil commitment process. DHSS only has custody during the time it takes physical control in order to provide transportation, and when the person is at the state hospital.

Section 7: Amends AS 47.30.870 Transportation to clarify that before DHSS takes custody of the person, DHSS shall arrange and pay for transportation. Also, DHSS must arrange transportation when the DHSS takes custody of the person.

Section 8: Amends AS 47.30.915 to add a definition of “crisis stabilization center.”

Section 9: The law applies to those taken into custody on or after the effective date of the Act, which takes effect immediately.