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CS FOR HOUSE BILL NO. 290(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES CLAMAN, Kopp

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an alternative to arrest procedure for persons suffering from an**
2 **acute behavioral health crisis; relating to emergency detention for mental health**
3 **evaluation; and 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 behavioral health crisis; 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 custody under AS 47.30.705 and deliver the

1 person to a crisis stabilization center.

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

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

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

12 (f) An agreement to participate in outpatient treatment or to be delivered to a
13 crisis stabilization center or an evaluation facility under (a) of this section

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

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

18 (3) does not create immunity from prosecution for the alleged criminal
19 activity.

20 (g) If a person violates an agreement to be delivered to a crisis stabilization
21 center or an evaluation facility or to seek outpatient treatment under (a) of this section,

22 (1) a mental health professional shall make reasonable efforts to
23 inform the arresting officer of the person's decision to leave the crisis stabilization
24 center or evaluation facility; and

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

27 (h) Notwithstanding the other provisions of this section, charges may be filed
28 or referred to the prosecutor, as appropriate, at any time in accordance with 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 **of a person** under (a) of this section if the officer has received authorization [NOT TO ARREST] from a prosecuting attorney in the jurisdiction in which the offense under investigation arose

(1) not to arrest the person;

(2) to deliver the person to a crisis stabilization center or an evaluation facility, as those terms are defined in AS 12.25.031; or

(3) to release the person 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 the nearest** 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** 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, evaluation facility, or treatment** 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

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

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

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

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

* Sec. 6. AS 47.32.900 is amended by adding a new paragraph to read:

- (22) "crisis stabilization center" means

1 (A) a facility, or a part or unit of a facility, that has been
2 designed to evaluate, stabilize, and treat, on a short-term basis and without the
3 use of hospitalization, individuals experiencing an acute behavioral health
4 crisis;

5 (B) a 23-hour crisis stabilization center;

6 (C) a crisis residential center; or

7 (D) a subacute facility.

8 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 TRANSITION. Notwithstanding AS 47.32.010(b), as amended by sec. 5 of this Act,
11 the Department of Health and Social Services may, before a crisis stabilization center is
12 licensed under AS 47.32.010(b), as amended by sec. 5 of this Act, issue a provisional license
13 to or reimburse the crisis stabilization center under a waiver that is in effect before the
14 effective date of this Act.