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of **ALASKA**
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CS HB105 () Version 32-GH1576\I
Sectional Analysis
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The blank committee substitute for HB 105, version 32-GH1576\I, is a combination of HB 116 (version 32-LS0537\A), HB 105 (version 32-GH1576\B), and SB 91 (version 32-GS1576\I) as noted.

Section 1 (HB 116- Sec 1): Makes conforming changes to the terms used to describe juvenile facilities in statute related to indemnity of civil liability for the actions of minors in state custody. The section also adds a reference for the definition of foster home, and deletes outdated terms.

Section 2 (HB 116- Sec 2): Makes conforming changes to the definition of “juvenile facility staff” used in the crime of sexual assault in the third degree.

Section 3 (HB 116- Sec 3): Makes conforming changes to the definition of “juvenile probation officer” used in the crime of sexual assault in the third degree.

Section 4 (HB 116- Sec 4): Makes conforming changes to the definition of “juvenile probation officer” used in the crime of sexual assault in the fourth degree.

Section 5 (HB 116- Sec 5): Adds “juvenile and probation officers” and staff of “treatment institutions” to the list of persons who can be considered as a “legal guardian” of a minor committed to the state’s custody for the purpose of the crimes of sexual assault in the fourth degree, sexual abuse of a minor in the first degree, and sexual abuse of a minor in the second degree.

Section 6 (HB 116- Sec 6): Adds “juvenile or adult probation officer,” “juvenile facility staff,” staff of “treatment institution,” and “correctional employee” to the list of persons that may have a “position of authority” over a minor for the purposes of sexual abuse of a minor in the first degree, sexual abuse of a minor in the second degree, and sexual abuse of a minor in the fourth degree.

Section 7 (HB 116- Sec 7): Makes conforming changes to update the definitions for “juvenile facility staff” and “treatment institution” for the sexual assault and sexual abuse of a minor offenses in section 6 of the bill.

Section 8 (HB 116 116- Sec 8): Makes conforming changes to the terms for facilities used in the crime of indecent viewing or photography.

Section 9 (HB 116- Sec 9): Makes conforming changes to the terms used to describe Division of Juvenile Justice facilities in the Department of Education’s general education statute.

Section 10 (HB 116- Sec 10): Makes conforming changes to the terms used to describe juvenile facilities in the Department of Education's special education statute.

Section 11 (HB 116- Sec 11): Makes conforming changes to the terms used to describe Division of Juvenile Justice facilities used in the medical marijuana statute.

Section 12 (HB 116- Sec12): Makes conforming changes to the terms used to describe juvenile facilities used in statute addressing overtime pay for nurses in certain facilities.

Section 13 (SB91- Sec 1): Amends AS 33.30.011(a) *Duties of commissioner* to expand the duties of the Commissioner of the Department of Corrections to enter into agreements with the Department of Health and Social Services for the detention and care of minors who are waived into the adult criminal justice system.

**SB 91 (version 32-GS1576\l) includes a minor drafting style revision to this section.

Section 14 (SB91- Sec 2 and HB 116- Sec 13): Amends AS 47.10.141(c) *Runaway and missing minors* to reference the new subsection that adds new requirements for court findings related to holding non-delinquent minors in secure juvenile facilities. Makes conforming changes to the terms used to describe juvenile facilities where a runaway youth may be held pending a court order in child protection statutes. Runaways may not be held securely in adult facilities or "temporary secure juvenile holding area."

Section 15 (HB 116 Sec 14): Amends AS 47.10.141 *Runaway and missing minors* to add a new subsection (j) to include the definition for "temporary secure juvenile holding area" in child protection statutes. Runaway youth may not be held in these facilities.

Section 16 (HB 105- Sec 3 with HB 116 updated terms): Amends AS 47.10.141 *Runaway and missing minors* to add a new subsection (k) to include the expanded requirements for court findings before a non-delinquent minor can be held in a secure juvenile facility.

Section 17 (HB 116- Sec 15): Makes conforming changes in child protection statutes to update the definition of the detention facilities operated by the Division of Juvenile Justice.

Section 18 (HB 105- Sec 4): Amends AS 47.12.020 *Jurisdiction* to add a new subsection related to the jurisdiction of the Division of Juvenile Justice to detain and care for minors under Department of Corrections custody.

Section 19 (SB 91- Sec 5): Amends AS 47.12.022 *Applicability; inclusion of certain persons as minors* to make conforming amendments to include minors subject to the adult court processes in the definition of "minor" in delinquency statute.

**SB 91 (version 32-GS1576\l) includes a minor drafting style revision to this section.

Section 20 (HB 116- Sec 16): Makes conforming changes to the terms used to describe Division of Juvenile Justice facilities and other areas where a juvenile may be held securely. Clarifies that juvenile probation officers, not adult probation officers, have the authorities found in the section.

Section 21 (SB 91- Sec 6): Amends AS 47.12.030(a) *Provisions inapplicable* to add a reference to the new practice of holding minors subject to adult court to the existing autowaiver statute. The section also includes the term “transported” to the adult processes that apply to waived minors to reflect current practices.

**SB91 (version 32-GS1576\l) includes a minor drafting style revision to this section.

Section 22 (HB 116- Sec 17): Corrects a drafting error from SB165 (2016) that mistakenly removed language that made underage drinking offenses outside of Division of Juvenile Justice jurisdiction. Minor consuming alcohol offenses are and have been under the jurisdiction of the District Court under AS 04.16.050.

Section 23 (HB 116- Sec 18): Clarifies that the department may file amended or supplemental petitions in delinquency cases. Recent court decisions have unnecessarily limited the ability of the department to provide this additional information to the court.

Section 24 (HB 105- Sec 7): Amends AS 47.12.100(a) *Waiver of jurisdiction* to adds a reference to “discretionary waiver” statute to the holding of minor offenders who are subject to adult court being detained in secure juvenile facilities. The section also includes the list of adult court practices that apply to these offenders.

Section 25 (SB 91- Sec 8): Adds a new section 47.12.105 *Minor offenders subject to adult court* to describe the process, requirement, and exceptions for holding minor offenders in the custody of the Department of Corrections in secure Division of Juvenile Justice facilities until age 18.

**SB91 (version 32-GS1576\l) adds a definition for term "waived minor," clarifies the exceptions to the new rule of holding waived minors in DJJ facilities, and allows counsel for court hearings related to holding waived minors in adult facilities.

Section 26 (HB 116- Sec 19): Makes conforming changes to the terms used to describe Division of Juvenile Justice facilities and provides clarity that under a secure delinquency order under AS 47.12.120(b)(1) a minor may be placed in a secure Division of Juvenile Justice facility or a secure residential psychiatric treatment center.

Section 27 (HB 116- Sec 20): Clarifies the types of facilities where a court may order a youth detained in the department’s custody.

Section 28 (SB 91- Sec 9): Amends AS 47.12.150(a) *Legal custody, guardianship, and residual parental rights and responsibilities* to make conforming changes to clarify that minors in the custody of the Department of Corrections detained in Division of Juvenile Justice facilities and delinquents held in DJJ detention facilities are subject to the same residual parental rights as adjudicated offenders.

**SB91 (version 32-GS1576\l) includes a minor drafting style revision to this section.

Section 29 (HB 105- Sec 10): Amends AS 47.12.160(e) *Retention of jurisdiction over minor* to make conforming changes to the dual sentencing provisions.

Sections 30-34 (SB 91- Sec 11-15 incorporating updated terminology from HB116): Amends and reorganizes AS 47.12.240 to make conforming changes to the terms used to describe Division of Juvenile Justice facilities and authorized adult facilities used to temporarily hold delinquent minors and waived minors pending transport to a juvenile detention facility. These sections also clarify the conditions, mandated by federal law, that minors can be temporarily held in adult facilities.

**SB91 (version 32-GS1576\I) reorganizes these sections for clarity.

Section 35 (HB 116- Sec 24): Amends arrest under AS 47.12.245 to clarify that the duties described in this section refer to juvenile probation officer, not adult probation officers.

Section 36-37 (SB 91- Sec 16-17 incorporating updated terminology from HB 116): Amends AS 47.12.250 *Temporary Detention and Detention Hearing* to make conforming changes related to waived minors and clarifies that the duties described in this section refer to juvenile probation officer, not an adult probation officers. Adds temporary secure juvenile holding area to the list of places a minor may be held to protect the minor or the public, or ensure the minor's attendance at court hearings.

**SB91 (version 32-GS1576\I) adds new subsection (f) clarifying the expectation for transportation of waived minors.

Section 38 (HB 116- Sec 26): Repeals a section of delinquency statute describing the work of "youth counselors" and replaces it with an updated description of the duties of juvenile probation officers. This statute currently uses the term "youth counselors" to describe the work of juvenile probation officers.

Section 39 (HB 105- Sec 18): Amends AS 47.12.310(b) *Agency Records* to specifically allow information sharing between the Division of Juvenile Justice and the Department of Corrections about former juvenile offenders and waived minors.

Section 40 (HB 116- Sec 27): Amends AS 47.12.310(d) *Agency records* to reflect the duty of the division to notify victims when a minor is released from any secure placement under AS 47.12.120 (b)(1).

Section 41 (HB 116- Sec 28): Amends AS 47.12.315 *Public disclosure of information in department records relating to certain minors* to clarify the conditions under which the division may release confidential information for certain juvenile offenders.

Section 42 (HB 116- Sec 29): Updates the definition of "juvenile detention facility" in delinquency statute.

Section 43 (HB 116- Sec 30): Updates the definition of "minor" in delinquency statute. For the purposes of this chapter, "minor" may include adults who commit delinquent acts as juveniles.

Section 44 (HB 116- Sec 31): Adds new definitions to delinquency statute for "juvenile probation officer," "juvenile treatment facility," "residential child-care facility," and "temporary secure juvenile holding area."

Section 45 (HB 116- Sec 32): Makes conforming amendments to update the description of juvenile facilities in the Department of Health and Social Services powers over juvenile facilities and institutions. Replaces "cities" with the more inclusive term "municipalities."

Section 46-48 (HB 116- Sec 33): Makes conforming amendments to update the description of juvenile facilities in the Department of Health and Social Services duties related to juvenile facilities and institutions.

Section 49 (HB 116- Sec 34-36): Makes conforming amendments to update the authority of other entities to operate juvenile facilities. Replaces “cities” with the more inclusive term “municipalities.”

Section 50 (HB 116- Sec 37): Makes a conforming amendment to update the definition of “juvenile detention facility.”

Section 51 (HB 116- Sec 38): Updates the definition of “minor” in the department facility chapter. For the purposes of this chapter, “minor” may include individuals over the age of 18 who commit delinquent acts as juveniles.

Section 52 (HB 116- Sec 39): Adds new definitions to the department’s juvenile facility chapter for “juvenile probation officer,” “juvenile treatment facility,” and “temporary secure juvenile holding area.”

Section 53 (HB 116- Sec 40): Adds juvenile probation officers and Division of Juvenile Justice facility staff to the list of those who are mandatory reporters of child abuse and neglect.

Section 54 (HB 116- Sec 41): The repeal of AS 28.15.176 and 47.12.060(b)(5) would eliminate the requirement for the department to revoke a juvenile’s driver’s license for non-driving related misconduct involving controlled substance offenses, when addressed through informal processes outside the court system. The repeal of AS 47.12.990(8) and AS 47.14.990(8) eliminates the definition for the term “juvenile detention home.” The repeal of AS 47.12.990(9) and AS 47.14.990(9) eliminates the definition for the term “juvenile work camp.” The repeal of AS 47.12.990(15) repeals the definition for the term “treatment facility” from delinquency statute. The conforming amendments in the bill replace “treatment facility” with “treatment institution” as it is defined in AS 47.14.990.

Section 55 (HB 105- Sec 19 and HB 116- Sec 42): Applicability section applies to changes to criminal statute. Applicability clause applies to minors in Department of Corrections custody on or after the effective date.

Section 56 (HB 116- Sec 43): Authorizes the department to develop regulations to implement the changes in the bill.

Section 57 (HB 116- Sec 44): Authorizes the department to update necessary regulations immediately upon passage of the bill.

Section 58 (HB 105- Sec 20): Effective date of July 1, 2021, except as noted in section 57.