

32-GH1730\I
Dunmire
5/14/21

CS FOR HOUSE BILL NO. 172(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to crisis stabilization centers, crisis residential centers, and subacute**
2 **mental health facilities; relating to the administration of psychotropic medication in a**
3 **crisis situation; relating to licensed facilities; and providing for an effective date."**

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

5 * **Section 1.** AS 12.25.031(a) is amended to read:

6 (a) As an alternative to arrest, a peace officer may, at the officer's discretion,
7 deliver a person to a crisis stabilization center, a crisis residential center, or an
8 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, a crisis residential center, or an evaluation facility or to promptly seek
13 outpatient mental health treatment.

14 * **Sec. 2.** AS 12.25.031(b) is amended to read:

(b) Notwithstanding (a) of this section, a peace officer may, as an alternative to arrest, take a person into emergency custody under AS 47.30.705 and deliver the person to a crisis stabilization center, a crisis residential center, or an evaluation facility.

* **Sec. 3.** AS 12.25.031(c) is amended to read:

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

* **Sec. 4.** AS 12.25.031(d) is amended to read:

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

* **Sec. 5.** AS 12.25.031(f) is amended to read:

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

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

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

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

* **Sec. 6.** AS 12.25.031(g) is amended to read:

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

(1) a mental health professional shall make reasonable efforts to inform the arresting officer of the person's decision to leave the crisis stabilization

center, crisis residential center, or evaluation facility; and

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

* **Sec. 7.** AS 12.25.031(i)(1) is amended to read:

(1) "crisis stabilization center" has the meaning given in AS 47.32.900 [MEANS A FACILITY LICENSED UNDER AS 47.32 THAT MEETS THE DEFINITION OF "CRISIS STABILIZATION CENTER" IN AS 47.32.900];

* **Sec. 8.** AS 12.25.031(i) is amended by adding a new paragraph to read:

(4) "crisis residential center" has the meaning given in AS 47.32.900.

* **Sec. 9.** 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 from a prosecuting attorney in the jurisdiction in which the offense under investigation arose

(1) not to arrest the person; or

(2) to deliver the person to a crisis stabilization center, a crisis residential center, or an evaluation facility as provided in AS 12.25.031(b).

* **Sec. 10.** AS 18.65.530(g) is amended to read:

(g) A peace officer who delivers a person to a crisis stabilization center, a crisis residential center, or evaluation facility under (c) of this section shall provide the peace officer's contact information to the crisis stabilization center, crisis residential center, or evaluation facility and, if the peace officer is notified under AS 12.25.031(d) of a planned release of the person, shall make reasonable efforts to inform the victim of a crime committed under (a)(1) or (2) of this section of the planned release.

* **Sec. 11.** AS 47.30.705(a) is amended to read:

(a) A peace officer, health officer, mental health professional, or physician assistant licensed by the State Medical Board to practice in this state, [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 by a peace officer or health officer and delivered to the nearest crisis stabilization center, crisis residential center, [AS DEFINED IN AS 47.32.900 OR THE NEAREST] evaluation facility, or treatment 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, crisis residential center, evaluation facility, 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, health officer, [OR] mental health professional, or physician assistant shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the crisis stabilization center, crisis residential center, evaluation facility, or treatment facility.

* **Sec. 12.** AS 47.30.705 is amended by adding a new subsection to read:

(c) When delivering a person to a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility under (a) of this section, a peace officer or health officer shall give priority to a crisis stabilization center or crisis residential center if one exists in the service area served by the peace officer or health officer.

* **Sec. 13.** AS 47.30 is amended by adding a new section to read:

Sec. 47.30.707. Admission to and detention at a crisis stabilization center or crisis residential center; psychotropic medication; rights; notification. (a) Except as provided in (b) of this section, when a crisis stabilization center admits a respondent under AS 47.30.705, the crisis stabilization center may hold the respondent at the center for a period not to exceed 23 hours and 59 minutes. A mental health professional shall examine the respondent within three hours after the respondent arrives at the center.

(b) If the professional person in charge at the crisis stabilization center determines that there is probable cause to believe that the respondent's acute

behavioral health crisis will be resolved during admission to a crisis residential center and the person is not willing to voluntarily go to the crisis residential center, a mental health professional shall submit an ex parte application to the court for detention at the crisis residential center. If the court finds that there is probable cause to believe that the respondent's acute behavioral health crisis will be resolved during admission to a crisis residential center, and the person is not willing to go voluntarily, the court may grant the ex parte application and order the respondent to be delivered to, admitted to, and detained at a crisis residential center for a period of not more than 120 hours for evaluation, stabilization, and treatment. The respondent may remain at the crisis stabilization center until admission to a crisis residential center.

(c) If the professional person in charge at the crisis residential center determines that the respondent's acute behavioral health crisis requires hospitalization for evaluation, a mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. The respondent may remain at the crisis residential center until admission to a hospital performing the evaluation.

(d) If at any time during a respondent's detention at a crisis stabilization center or crisis residential center the professional person in charge determines that the respondent does not meet the standard for a stabilization hold or detention, the respondent may no longer be held or detained. The professional person in charge shall notify the court, if applicable, and the petitioner, if reasonably possible.

(e) When a respondent is detained at a crisis stabilization center or crisis residential center, the respondent has the following rights:

- (1) the rights identified in AS 47.30.725, as applicable;
- (2) with the exception of AS 47.30.839 and 47.30.851, the rights identified under AS 47.30.817 - 47.30.865.

(f) A respondent subject to an involuntary stabilization hold or detention at a crisis stabilization center or crisis residential center under this section may, at any time, convert to voluntary status if the professional person in charge agrees that

- (1) the respondent is an appropriate patient for voluntary status; and
- (2) the conversion is made in good faith.

(g) A crisis stabilization center or crisis residential center may administer

psychotropic medication or other treatment to an involuntarily detained respondent only in a manner that is consistent with AS 47.30.838.

(h) In this section, computations of a 23-hour and 59-minute holding period or a 120-hour detention period include Saturdays, Sundays, and legal holidays, but do not include any period of time necessary to transport a respondent to a crisis stabilization center or crisis residential center.

* **Sec. 14.** AS 47.30 is amended by adding a new section to read:

Sec. 47.30.709. Admission to crisis residential center. (a) A respondent who is delivered under AS 47.30.700 - 47.30.707 to a crisis residential center for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional within three hours after arrival at the facility.

(b) If the mental health professional who performs the emergency examination under (a) of this section has reason to believe that (1) the respondent is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others, and (2) the respondent's acute behavioral health crisis will be resolved during admission to the crisis residential center, the mental health professional may

(A) admit the respondent to the crisis residential center;

(B) hospitalize the respondent; or

(C) arrange for hospitalization, on an emergency basis.

(c) If a mental health professional admits a respondent to the crisis residential center, hospitalizes a respondent, or arranges for the hospitalization of a respondent under (b) of this section and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing admission to the crisis residential center or hospitalization for evaluation.

(d) If a mental health professional readmits a respondent to a crisis residential center after a discharge from a subacute mental health facility, the respondent is not willing to remain at the crisis residential center on a voluntary basis, and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. Unless otherwise

ordered by the court upon receiving the application for an ex parte order, the respondent shall remain at the crisis residential center until the court issues a decision on the application of an ex parte order.

* **Sec. 15.** AS 47.30.710 is amended to read:

Sec. 47.30.710. Examination; hospitalization. (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.]

(b) If the mental health professional who performs the emergency examination under (a) of this section has reason to believe that (1) the respondent is [(1)] mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others, and (2) the respondent is in need of care or treatment, the mental health professional may

(A) admit the respondent to a crisis residential center;

(B) hospitalize the respondent; [,] or

(C) arrange for hospitalization, on an emergency basis [. IF A JUDICIAL ORDER HAS NOT BEEN OBTAINED UNDER AS 47.30.700, THE MENTAL HEALTH PROFESSIONAL SHALL APPLY FOR AN EX PARTE ORDER AUTHORIZING HOSPITALIZATION FOR EVALUATION].

* **Sec. 16.** AS 47.30.710 is amended by adding new subsections to read:

(c) If a mental health professional hospitalizes a respondent or arranges for the hospitalization of a respondent under (b) of this section and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing the hospitalization for evaluation.

(d) If a mental health professional readmits a respondent to an evaluation facility after a discharge from a subacute mental health facility, the respondent is not willing to remain at the evaluation facility on a voluntary basis, and a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing hospitalization for evaluation. Unless otherwise ordered by the court upon receiving the application for an ex parte order, the respondent shall remain at the evaluation facility until the court issues a decision on the application of an ex parte order.

* **Sec. 17.** AS 47.30.715 is amended to read:

Sec. 47.30.715. Procedure after order. When an evaluation [A] facility receives a proper order for evaluation, it shall accept the order and the respondent for an evaluation period not to exceed 72 hours. The evaluation facility shall promptly notify the court of the date and time of the respondent's arrival. The court shall set a date, time, and place for a 30-day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the evaluation facility, the respondent, the respondent's attorney, and the petitioner's [PROSECUTING] attorney of the hearing arrangements. Evaluation personnel, when used, shall similarly notify the court of the date and time when they first met with the respondent.

* **Sec. 18.** AS 47.30.805(a) is amended to read:

(a) Except as provided in (b) of this section,

(1) computations of a 72-hour evaluation period under AS 47.30.715 or a 48-hour detention period under AS 47.30.685 do not include Saturdays, Sundays, legal holidays, or any period of time necessary to transport the respondent to the treatment facility or crisis residential center;

(2) a 30-day commitment period expires at the end of the 30th day after the 72 hours following initial acceptance;

(3) a 90-day commitment period expires at the end of the 90th day after the expiration of a 30-day period of treatment;

(4) a 180-day commitment period expires at the end of the 180th day, after the expiration of a 90-day period of treatment or previous 180-day period, whichever is applicable.

1 * **Sec. 19.** AS 47.30.838(c) is amended to read:

2 (c) If crisis situations as described in (a)(1) of this section occur repeatedly, or
3 if it appears that they may occur repeatedly, the evaluation facility, **crisis stabilization**
4 **center, crisis residential center,** or designated treatment facility may administer
5 psychotropic medication during **not** [NO] more than three crisis periods without the
6 patient's informed consent only with court approval under AS 47.30.839. **If a patient**
7 **is capable of giving informed consent and gives informed consent for more than**
8 **three crisis periods, the evaluation facility, crisis stabilization center, crisis**
9 **residential center, or designated treatment facility may administer psychotropic**
10 **medication based on that informed consent, regardless of whether the patient has**
11 **executed an advance health care directive under AS 13.52 or has authorized an**
12 **agent or surrogate under AS 13.52 to consent. After the crisis period is over, if**
13 **the patient is capable of giving informed consent, the patient may withdraw**
14 **consent for additional crisis medication.**

15 * **Sec. 20.** AS 47.30 is amended by adding a new section to read:

16 **Sec. 47.30.912. Regulations.** The department shall adopt regulations to
17 implement AS 47.30.700 - 47.30.915.

18 * **Sec. 21.** AS 47.30.915(7) is amended to read:

19 (7) "evaluation facility" means a **hospital or crisis residential center**
20 [HEALTH CARE FACILITY] that has been designated or is operated by the
21 department to perform the evaluations described in AS 47.30.660 - 47.30.915 [, OR A
22 MEDICAL FACILITY LICENSED UNDER AS 47.32 OR OPERATED BY THE
23 FEDERAL GOVERNMENT];

24 * **Sec. 22.** AS 47.30.915(15) is amended to read:

25 (15) "peace officer" **has the meaning given in AS 11.81.900(b)**
26 [INCLUDES A STATE POLICE OFFICER, MUNICIPAL OR OTHER LOCAL
27 POLICE OFFICER, STATE, MUNICIPAL, OR OTHER LOCAL HEALTH
28 OFFICER, PUBLIC HEALTH NURSE, UNITED STATES MARSHAL OR
29 DEPUTY UNITED STATES MARSHAL, OR A PERSON AUTHORIZED BY THE
30 COURT];

31 * **Sec. 23.** AS 47.30.915 is amended by adding new paragraphs to read:

(21) "crisis residential center" has the meaning given in AS 47.32.900;

(22) "crisis stabilization center" has the meaning given in AS 47.32.900;

(23) "health officer" means a state, municipal, or other local health officer, public health nurse, emergency medical technician, paramedic, firefighter, or a person authorized by the court to carry out AS 47.30.660 - 47.30.915;

(24) "subacute mental health facility" has the meaning given in AS 47.32.900.

* **Sec. 24.** 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) freestanding 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) subacute mental health facilities [CRISIS STABILIZATION CENTERS].

1 * **Sec. 25.** AS 47.32.900 is amended by adding a new paragraph to read:

2 (23) "crisis residential center" means a facility licensed under this
3 chapter that has a maximum stay of 120 hours;

4 (24) "crisis stabilization center" means a facility licensed under this
5 chapter that has a maximum stay of 23 hours and 59 minutes;

6 (25) "subacute mental health facility" means a facility, or a part or unit
7 of a facility, that has been designed to evaluate, stabilize, and treat, on a short-term,
8 intensive, and recovery-oriented basis and without the use of inpatient hospitalization,
9 individuals experiencing an acute behavioral health crisis.

10 * **Sec. 26.** AS 47.32.900(5) is repealed.

11 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: LICENSING. Notwithstanding AS 47.32.010(b), as amended by sec.
14 24 of this Act, the Department of Health and Social Services shall consider a valid non-
15 expired license issued before the effective date of sec. 24 of this Act to a facility identified as
16 a crisis stabilization center as a license for a subacute mental health facility until that license
17 is renewed, suspended, or revoked.

18 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 TRANSITION: REGULATIONS. The Department of Health and Social Services may
21 adopt regulations to implement this Act. The regulations take effect under AS 44.62
22 (Administrative Procedure Act) but not before the effective date of the law implemented by
23 the regulation.

24 * **Sec. 29.** Section 28 of this Act takes effect immediately under AS 01.10.070(c).