

CS FOR HOUSE BILL NO. 172(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/28/22

Referred: Health and Social Services, Finance

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 new sections to read:

Sec. 47.30.707. Admission to and hold at a crisis stabilization center. (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

1 and the respondent is not willing to voluntarily go to the crisis residential center, a
 2 mental health professional may submit an ex parte application to the court under
 3 AS 47.30.700 for detention at the crisis residential center. Based on the application, if
 4 the court finds that probable cause exists to believe that the respondent's acute
 5 behavioral health crisis will be resolved during admission to a crisis residential center,
 6 the court shall grant the application. If the court finds no probable cause, the court
 7 shall order the respondent released.

8 **Sec. 47.30.708. Admission to and detention at a crisis residential center. (a)**

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

13 (b) The mental health professional who performs the emergency examination
 14 under (a) of this section may admit the respondent to the crisis residential center if the
 15 mental health professional has probable cause to believe that

16 (1) the respondent is mentally ill and that condition causes the
 17 respondent to be gravely disabled or to present a likelihood of serious harm to self or
 18 others; and

19 (2) the respondent's acute behavioral health crisis will be resolved
 20 during admission to the crisis residential center.

21 (c) If a mental health professional admits a respondent to a crisis residential
 22 center and a judicial order has not been obtained, the mental health professional may
 23 apply for an ex parte order under AS 47.30.700 authorizing admission to the crisis
 24 residential center. Based on the application, if the court finds that probable cause
 25 exists to believe that the respondent is suffering an acute behavioral health crisis and
 26 the respondent's acute behavioral health crisis will be resolved during admission to a
 27 crisis residential center, the court shall grant the application. If the court finds no
 28 probable cause, the court shall order the respondent released.

29 (d) When, under (c) of this section, the court grants an application to admit a
 30 respondent to a crisis residential center, the court shall set a time for a hearing, to be
 31 held if needed within 72 hours after the respondent's arrival at the crisis stabilization

center or the crisis residential center, whichever is earlier, and the court shall notify the respondent, the respondent's attorney, the respondent's guardian, if any, the petitioner's attorney, if any, and the attorney general of the time and place of the hearing. Computation of the 72-hour period at a crisis residential center before a hearing does not include Saturdays, Sundays, and legal holidays. The hearing shall be held at the crisis residential center in person, by contemporaneous two-way video conference, or by teleconference, absent extraordinary circumstances. If a hearing is held by contemporaneous two-way video conference, only the court may record the hearing. In this subsection, "contemporaneous two-way video conference" means a conference among people at different places by means of transmitted audio and visual signals, using any communication technology that allows people at two or more places to interact simultaneously by way of two-way video and audio transmission.

(e) In the course of the 72-hour period, a petition for 30-day commitment or for seven-day detention at a crisis residential center may be filed in court. A petition for 30-day commitment must conform with AS 47.30.730. A petition for seven-day detention at a crisis residential center must be signed by two mental health professionals, one of whom must be a physician, who have examined the respondent. A copy of the petition shall be served on the respondent, the respondent's attorney, and the respondent's guardian, if any, before the hearing. The petition for detention must

(1) allege that the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause harm to self or others or is gravely disabled;

(2) allege that resolution of the respondent's acute behavioral health crisis is likely during the admission to the crisis residential center;

(3) allege that the respondent has been advised of the need for, but has not accepted, voluntary treatment, and request that the court order the respondent to be detained at the crisis residential center for up to seven days following the respondent's arrival at the crisis stabilization center or the crisis residential center, whichever is earlier;

(4) list prospective witnesses; and

(5) list specific facts and describe behavior of the respondent supporting the allegations in (1) - (3) of this subsection.

(f) If, at a hearing held under (d) of this section, the court reviews a petition for 30-day commitment, the court shall hold the next hearing in accordance with AS 47.30.735. If the court grants the petition for 30-day commitment, the respondent may remain at the crisis residential center until admission to a designated treatment facility.

(g) If, at a hearing held under (d) of this section, the court reviews a petition for seven-day detention at a crisis residential center, the respondent has the rights listed in AS 47.30.735(b)(1) - (9). At the conclusion of a hearing on a petition for seven-day detention at a crisis residential center, the court

(1) may order the respondent detained at the crisis residential center for up to seven days following the respondent's arrival at the crisis stabilization center or the crisis residential center, whichever is earlier, if the court finds there is probable cause to believe that

(A) the respondent is suffering an acute behavioral health crisis and, as a result, is likely to cause harm to self or others or is gravely disabled; and

(B) the respondent's acute behavioral health crisis will be resolved during admission to the crisis residential center;

(2) shall order the respondent released, if the court finds no probable cause.

Sec. 47.30.709. Rights of respondents at crisis stabilization centers and crisis residential centers; psychotropic medication; time. (a) If at any time during a respondent's hold at a crisis stabilization center or detention at a crisis residential center the professional person in charge determines that the respondent does not meet the standard for a hold or detention, the respondent may no longer be held or detained. The professional person in charge shall notify the petitioner and the court, if applicable.

(b) When a respondent is held at a crisis stabilization center or detained at a crisis residential center, the respondent has the rights identified in AS 47.30.725 and,

(1) if an adult, the rights identified under AS 47.30.817 - 47.30.838, 47.30.840 - 47.30.850, and 47.30.855 - 47.30.865; and

(2) if a minor, the rights identified in AS 47.30.700 - 47.30.815.

(c) A respondent subject to an involuntary stabilization hold or detention at a crisis stabilization center or crisis residential center 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.

(d) A crisis stabilization center or crisis residential center may administer psychotropic medication to an involuntarily held or detained respondent only in a manner that is consistent with AS 47.30.838.

(e) Computation of a 23-hour and 59-minute holding time at a crisis stabilization center includes Saturdays, Sundays, and legal holidays, but does not include any period of time necessary to transport a respondent to a crisis stabilization center. Computation of a seven-day detention at a crisis residential center includes Saturdays, Sundays, and legal holidays, but does not include any period of time necessary to transport a respondent to a crisis residential center.

* **Sec. 14.** 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 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 the respondent [(2)] is in need of care or treatment, the mental health professional may

1 **(1) admit the respondent to a crisis residential center;**

2 **(2) hospitalize the respondent;** [,] or

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

7 * **Sec. 15.** AS 47.30.710 is amended by adding new subsections to read:

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

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

20 * **Sec. 16.** AS 47.30.715 is amended to read:

21 **Sec. 47.30.715. Procedure after order.** When **an evaluation** [A] facility
22 receives a proper order for evaluation, it shall accept the order and the respondent for
23 an evaluation period not to exceed 72 hours. The **evaluation** facility shall promptly
24 notify the court of the date and time of the respondent's arrival. The court shall set a
25 date, time, and place for a 30-day commitment hearing, to be held if needed within 72
26 hours after the respondent's arrival, and the court shall notify the **evaluation** facility,
27 the respondent, **the respondent's guardian, if any,** the respondent's attorney, [AND]
28 the **petitioner's** [PROSECUTING] attorney, **if any, and the attorney general** of the
29 **time and place of the** hearing [ARRANGEMENTS]. Evaluation personnel, when
30 used, shall similarly notify the court of the date and time when they first met with the
31 respondent.

1 * **Sec. 17.** AS 47.30.805 is amended to read:

2 **Sec. 47.30.805. Computation, extension, and expiration of periods of time.**

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

4 (1) computations of a 72-hour evaluation period under AS 47.30.708
 5 or 47.30.715 [AS 47.30.715] or a 48-hour detention period under AS 47.30.685 do not
 6 include Saturdays, Sundays, legal holidays, or any period of time necessary to
 7 transport the respondent to the treatment facility;

8 (2) a seven-day detention at a crisis residential center expires at
 9 the end of the seventh day following the respondent's arrival at the crisis
 10 stabilization center or the crisis residential center, whichever is earlier;

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

13 (4) [(3)] a 90-day commitment period expires at the end of the 90th
 14 day after the expiration of a 30-day period of treatment;

15 (5) [(4)] a 180-day commitment period expires at the end of the 180th
 16 day, after the expiration of a 90-day period of treatment or previous 180-day period,
 17 whichever is applicable.

18 (b) When a respondent has failed to appear or been absent through the
 19 respondent's own actions contrary to any order properly made or entered under
 20 AS 47.30.660 - 47.30.915, the relevant commitment period shall be extended for a
 21 period of time equal to the respondent's absence if written notice of absence is
 22 promptly provided to the respondent's attorney and guardian, if any [THERE IS
 23 ONE], and if, within 24 hours after the respondent has returned to the evaluation or
 24 treatment facility, written notice of the corresponding extension and the reason for it is
 25 given to the respondent and the respondent's attorney and guardian, if any, and to the
 26 court.

27 * **Sec. 18.** AS 47.30.838(c) is amended to read:

28 (c) If crisis situations as described in (a)(1) of this section occur repeatedly, or
 29 if it appears that they may occur repeatedly, the evaluation facility, crisis stabilization
 30 center, crisis residential center, or designated treatment facility may administer
 31 psychotropic medication during not [NO] more than three crisis periods without the

1 patient's informed consent only with court approval under AS 47.30.839.

2 * **Sec. 19.** AS 47.30 is amended by adding a new section to read:

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

5 * **Sec. 20.** AS 47.30.915(7) is amended to read:

6 (7) "evaluation facility" means a **hospital or crisis residential center**
7 [HEALTH CARE FACILITY] that has been designated or is operated by the
8 department to perform the evaluations described in AS 47.30.660 - 47.30.915, or a
9 medical facility [LICENSED UNDER AS 47.32 OR] operated by the federal
10 government **that performs evaluations**;

11 * **Sec. 21.** AS 47.30.915(15) is amended to read:

12 (15) "peace officer" **has the meaning given in AS 01.10.060(a)**
13 [INCLUDES A STATE POLICE OFFICER, MUNICIPAL OR OTHER LOCAL
14 POLICE OFFICER, STATE, MUNICIPAL, OR OTHER LOCAL HEALTH
15 OFFICER, PUBLIC HEALTH NURSE, UNITED STATES MARSHAL OR
16 DEPUTY UNITED STATES MARSHAL, OR A PERSON AUTHORIZED BY THE
17 COURT];

18 * **Sec. 22.** AS 47.30.915 is amended by adding new paragraphs to read:

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

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

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

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

27 * **Sec. 23.** AS 47.32.010(b) is amended to read:

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

30 (1) ambulatory surgical centers;

31 (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].

* **Sec. 24.** AS 47.32.900 is amended by adding a new paragraph to read:

(23) "subacute mental health facility" means a facility, or a part or unit of a facility, that has been designed to evaluate, stabilize, and treat, on a short-term, intensive, and recovery-oriented basis, and without the use of hospitalization, individuals experiencing an acute behavioral health crisis, including a crisis stabilization center and a crisis residential center; in this paragraph,

(A) "crisis residential center" means a subacute mental health facility that has a maximum stay of seven days;

(B) "crisis stabilization center" means a subacute mental health facility that has a maximum stay of 23 hours and 59 minutes.

* **Sec. 25.** AS 47.32.900(5) is repealed.

* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to read:

1 REPORT TO THE LEGISLATURE. (a) One year after the effective date of this Act,
 2 the Department of Health and Social Services and the Alaska Mental Health Trust Authority
 3 shall submit a joint report to the senate secretary and chief clerk of the house of
 4 representatives and notify the legislature that the report is available. The report must

5 (1) include an assessment of the current state, federal, and accrediting body
 6 requirements for psychiatric patient rights, including patient grievance and appeal policies and
 7 procedures; the assessment must address the adequacy of these policies and procedures and
 8 the practical challenges patients face in availing themselves of these rights;

9 (2) identify and recommend any additional changes to state statutes,
 10 regulations, or other requirements that could enhance patient rights, particularly involving
 11 involuntary admissions, involuntary medications, and the practical ability of patients to avail
 12 themselves of their rights; and

13 (3) assess and recommend any needed changes to current processes for data
 14 collection and reporting of patient grievances and appeals, patient reports of harm and
 15 restraint, and the resolution of these matters.

16 (b) The process used by the Department of Health and Social Services and the Alaska
 17 Mental Health Trust Authority to develop the assessment and recommendations under (a) of
 18 this section must include convening a diverse stakeholder group that includes members
 19 representing patients with lived experience, patient advocates, the Disability Law Center of
 20 Alaska, providers of psychiatric services, the ombudsman, the Alaska Mental Health Board,
 21 the Department of Health and Social Services, and the Alaska Mental Health Trust Authority.
 22 A draft assessment and any recommendations must be made available for public comment,
 23 and any comments must be given due consideration before the production and transmittal of
 24 the final report.

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

27 TRANSITION: LICENSING. Notwithstanding AS 47.32.010(b), as amended by sec.
 28 23 of this Act, the Department of Health and Social Services shall consider a valid non-
 29 expired license issued before the effective date of sec. 23 of this Act to a facility identified as
 30 a crisis stabilization center as a license for a subacute mental health facility until that license
 31 is renewed, suspended, or revoked.

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

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

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