

SENATE CS FOR CS FOR HOUSE BILL NO. 202(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 5/5/96

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the participation and accountability of parents and
2 guardians and the enforcement of restitution orders entered in juvenile
3 delinquency proceedings; relating to claims on permanent fund dividends for
4 certain court-ordered treatment in juvenile delinquency proceedings; and
5 amending Alaska Delinquency Rules 3(b) and 8(b); and providing for an
6 effective date."

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

8 * **Section 1.** AS 43.23 is amended by adding a new section to read:

9 Sec. 43.23.066. CLAIMS ON REIMBURSEMENT FOR COURT-ORDERED
10 TREATMENT. (a) AS 09.38 does not apply to permanent fund dividends taken under
11 AS 47.10.079(c). Notwithstanding AS 09.35, execution on a dividend claimed under
12 AS 47.10.079(c) is accomplished by delivering a certified claim to the department
13 containing the following information:

- (1) the name and social security number of the individual whose dividend is being claimed;
- (2) the amount the individual owes on the reimbursement claim; and
- (3) a statement that
 - (A) the Department of Health and Social Services has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the reimbursement claim;
 - (B) the individual was notified of the right to request a hearing and allowed 30 days after the date of the notice described in (A) of this paragraph to request the Department of Health and Social Services to hold a hearing on the reimbursement claim;
 - (C) the reimbursement claim has not been contested, or, if contested, that the issue has been resolved in favor of the Department of Health and Social Services; and
 - (D) if the reimbursement claim has been contested and resolved in favor of the Department of Health and Social Services, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the Department of Health and Social Services.

(b) The Department of Health and Social Services shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

- (1) the amount of the reimbursement claim;
- (2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the reimbursement claim, shall be paid to the Department of Health and Social Services; and
- (3) notification that the individual has a right to request a hearing and has 30 days after the date the notice is mailed in which to file with the Department of Health and Social Services an objection to the dividend claim if a mistake has been made.

(c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual

under (b)(3) of this section.

* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.079. PARENTAL OR GUARDIAN ACCOUNTABILITY AND PARTICIPATION. (a) The parent or guardian of a minor who is alleged to be a delinquent under AS 47.10.010(a)(1) or found to be a delinquent under AS 47.10.080(b) shall attend each hearing held during the delinquency proceedings unless the court excuses the parent or guardian from attendance for good cause.

(b) If a minor is found to be a delinquent under AS 47.10.080(b), the court may order that the minor's parent or guardian

(1) personally participate in treatment reasonably available in the parent's or guardian's location as specified in a plan set out in the court order;

(2) notify the department if the minor violates a term or condition of the court order; and

(3) comply with any other conditions set out in the court order.

(c) If a court orders a minor's parent or guardian to participate in treatment under (b) of this section, the court also shall order the parent or guardian to use any available insurance or another resource to cover the treatment, or to pay for the treatment if other coverage is unavailable. If the court determines that the parent or guardian is unable to pay for the treatment due to indigence and the department pays for the treatment, the department may seek reimbursement only from the indigent parent or guardian's permanent fund dividend.

(d) The permanent fund dividend of an indigent parent or guardian participating in treatment ordered under (b) of this section may be taken under AS 43.23.065(b)(6) and 43.23.066 to satisfy the balance due on a reimbursement claim by the department under (c) of this section.

(e) If a parent or guardian fails to attend a hearing as required in (a) of this section, the court shall hold the hearing without the attendance of the parent or guardian.

* **Sec. 3.** AS 47.10.080(b) is amended to read:

(b) If the court finds that the minor is delinquent, it shall

(1) order the minor committed to the department for a period of time

1 not to exceed two years or in any event extend past the day the minor becomes 19,
2 except that the department may petition for and the court may grant in a hearing (A)
3 two-year extensions of commitment that do not extend beyond the child's 19th
4 birthday if the extension is in the best interests of the minor and the public; and (B)
5 an additional one-year period of supervision past age 19 if continued supervision is in
6 the best interests of the person and the person consents to it; the department shall place
7 the minor in the juvenile facility that the department considers appropriate and that
8 may include a juvenile correctional school, juvenile work camp, treatment facility,
9 detention home, or detention facility; the minor may be released from placement or
10 detention and placed on probation on order of the court and may also be released by
11 the department, in its discretion, under AS 47.10.200;

12 (2) order the minor placed on probation, to be supervised by the
13 department, and released to the minor's parents, guardian, or a suitable person; if the
14 court orders the minor placed on probation, it may specify the terms and conditions
15 of probation; the probation may be for a period of time, not to exceed two years and
16 in no event extend past the day the minor becomes 19, except that the department may
17 petition for and the court may grant in a hearing

18 (A) two-year extensions of supervision that do not extend
19 beyond the child's 19th birthday if the extension is in the best interests of the
20 minor and the public; and

21 (B) an additional one-year period of supervision past age 19 if
22 the continued supervision is in the best interests of the person and the person
23 consents to it;

24 (3) order the minor committed to the department and placed on
25 probation, to be supervised by the department, and released to the minor's parents,
26 guardian, other suitable person, or suitable nondetention setting such as a family home,
27 group care facility, or child care facility, whichever the department considers
28 appropriate to implement the treatment plan of the predisposition report; if the court
29 orders the minor placed on probation, it may specify the terms and conditions of
30 probation; the department may transfer the minor, in the minor's best interests, from
31 one of the probationary placement settings listed in this paragraph to another, and the

1 minor, the minor's parents or guardian, and the minor's attorney are entitled to
2 reasonable notice of the transfer; the probation may be for a period of time, not to
3 exceed two years and in no event extend past the day the minor becomes 19, except
4 that the department may petition for and the court may grant in a hearing

5 (A) two-year extensions of commitment that do not extend
6 beyond the child's 19th birthday if the extension is in the best interests of the
7 minor and the public; and

8 (B) an additional one-year period of supervision past age 19 if
9 the continued supervision is in the best interests of the person and the person
10 consents to it;

11 (4) order the minor and the minor's parent to make suitable
12 restitution in lieu of or in addition to the court's order under (1), (2), or (3) of this
13 subsection; under this paragraph,

14 (A) except as provided in (B) of this paragraph, the court
15 may not refuse to make an order of restitution [UNDER THIS PARAGRAPH]
16 to benefit the victim of the act of the minor that is the basis of the delinquency
17 adjudication; and

18 (B) the court may not order payment of restitution by the
19 parent of a minor who is a runaway or missing minor for an act of the
20 minor that was committed by the minor after the parent has made a
21 report to a law enforcement agency, as authorized by AS 47.10.141(a), that
22 the minor has run away or is missing; for purposes of this subparagraph,
23 "runaway or missing minor" means a minor who a parent reasonably
24 believes is absent from the minor's residence for the purpose of evading
25 the parent or who is otherwise missing from the minor's usual place of
26 abode without the consent of the parent;

27 (5) order the minor committed to the department for placement in an
28 adventure based education program established under AS 47.21.020 with conditions
29 the court considers appropriate concerning release upon satisfactory completion of the
30 program or commitment under (1) of this subsection if the program is not satisfactorily
31 completed; [OR]

(6) in addition to an order under (1) - (5) of this subsection, if the delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or 11.71.040(a)(4), order the minor to perform 50 hours of community service; for purposes of this paragraph, "community service" includes work

(A) defined as community service under AS 33.30.901; or

(B) that, on the recommendation of the city council or traditional village council, would benefit persons within the city or village who are elderly or disabled; **or**

(7) in addition to an order under (1) - (6) of this subsection, order parent or guardian to comply with orders made under AS 47.10.079, participation in treatment under AS 47.10.079(b)(1).

* **Sec. 4.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.086. ENFORCEMENT OF RESTITUTION. A person who is a recipient of a restitution order involving a minor found delinquent under AS 47.10.080 may enforce an order for restitution under AS 47.10.080 against the minor and the minor's parent under AS 09.35 as if the order were a civil judgment enforceable by execution. This section does not limit the authority of the court to otherwise enforce orders of payment for restitution. An order of restitution enforced under this section does not limit under other law the civil liability of the minor or the minor's parent as a result of the delinquent conduct.

* **Sec. 5.** Rule 3(b), Alaska Delinquency Rules, is amended to read:

(b) PRESENCE OF JUVENILE AND OTHER PARTIES. The presence of the juvenile is required unless the juvenile:

(1) waives the right to be present and the juvenile's presence is excused by the court; or

(2) engages in conduct which justifies exclusion from the courtroom.

The presence of the parent or guardian is **required** [PREFERRED, BUT NOT REQUIRED] unless **excused by** the court **for good cause** [SO ORDERS].

* **Sec. 6.** Rule 8(b), Alaska Delinquency Rules, is amended to read:

(b) SUMMONS. Upon the filing of a petition for adjudication, the court shall set a time for the arraignment on petition and shall, if the juvenile is not in custody,

1 issue a summons to be served with the petition compelling the attendance of the
2 juvenile. The court shall [MAY] issue a summons compelling the attendance of the
3 juvenile's parents or guardian at the hearing. If the summons and petition are not
4 contained in one document, the petition must be attached to and incorporated by
5 reference into the summons. The summons must contain a statement advising the
6 parties of their right to counsel.

7 * **Sec. 7.** REVISOR'S INSTRUCTIONS. In the event SCS CSSSHB 387 (JUD), passed
8 by the Nineteenth Alaska State Legislature, becomes law, the following instructions apply.
9 AS 47.10.079, enacted by sec. 2 of this Act, and AS 47.10.086, enacted by sec. 4 of this Act,
10 shall be placed in AS 47.12, and cross-references to those sections shall be conformed to the
11 renumbering. In AS 47.10.079, enacted by sec. 2 of this Act, the references to
12 AS 47.10.010(a)(1) and AS 47.10.080(b) shall be changed to AS 47.12.020 and
13 AS 47.12.120, respectively. The amendment made to AS 47.10.080(b) by sec. 3 of this Act
14 shall be treated as an amendment to AS 47.12.120. In AS 47.10.086, enacted by sec. 4 of this
15 Act, the references to AS 47.10.080 shall be changed to AS 47.12.120.

16 * **Sec. 8.** Sections 5 and 6 of this Act take effect only if those sections receive the two-
17 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
18 Alaska.

19 * **Sec. 9.** Sections 1 - 4 and 7 of this Act take effect only if secs. 5 and 6 of this Act take
20 effect.

21 * **Sec. 10.** If this Act takes effect, it takes effect immediately under AS 01.10.070(c).