

HOUSE BILL NO. 87 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES B.DAVIS, Davies, Robinson, Brown, James

SENATORS Hoffman, Ellis, Lincoln, Salo, Pearce, Duncan, Zharoff, Kelly

Amended: 5/3/95

Introduced: 1/17/95

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing youth courts to provide for peer adjudication of minors who
2 have allegedly committed violations of state or municipal laws, and renaming the
3 community legal assistance grant fund and amending the purposes for which
4 grants may be made from that fund in order to provide financial assistance for
5 organization and initial operation of youth courts."

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

7 * **Section 1.** PURPOSE OF ACT. The purpose of this Act is to provide a means by which
8 young people under the age of 18, with the concurrence of the juvenile intake unit of the
9 Department of Health and Social Services, may choose to work with their peers and with
10 interested adults in order to resolve their legal problems outside the traditional juvenile justice
11 system.

12 * **Sec. 2.** CONSIDERATIONS RELATING TO THE ACT'S ADOPTION. (a) ". . .
13 [P]ursuant to [state] constitutional authority granting rulemaking power to the Alaska supreme

1 court," the Alaska Court System has adopted a body of rules applicable to the practice and
2 procedures governing certain juvenile proceedings, the Alaska Delinquency Rules. To the
3 extent of any inconsistency between them, the supreme court has observed, the delinquency
4 rules supersede and prevail over related procedural provisions of the state statutes.

5 (b) The court's delinquency rules authorize the informal disposition of alleged juvenile
6 delinquency matters before the filing with the court of a petition for juvenile delinquency
7 adjudication. They assign primary responsibility for those informal dispositions to the juvenile
8 intake unit of the Department of Health and Social Services.

9 (c) The authorization and expansion of the youth court model made by this Act as a
10 pre-petition diversion program is prompted by the success enjoyed by the Anchorage Youth
11 Court model since its inception in 1989. In the Anchorage Youth Court model, interested
12 young people and adults, with the generous support and assistance of the juvenile intake
13 office, Department of Health & Social Services, the Alaska Court System, the Alaska Bar
14 Association, the Anchorage Bar Association, law enforcement and school district officials,
15 professionals, and parents, have developed and implemented a mechanism by which to respond
16 to juvenile legal problems and to adjudicate them informally, promptly, and effectively, in a
17 way that is meaningful to the offender, the victim, and the community.

18 (d) This Act is adopted in furtherance of the recommendation expressed in Legislative
19 Resolve 61 adopted by the Seventeenth Alaska State Legislature urging expanded use of youth
20 courts within the state.

21 * **Sec. 3.** AS 44.47.200 is amended to read:

22 Sec. 44.47.200. [COMMUNITY] LEGAL ASSISTANCE AND JUVENILE
23 JUSTICE GRANT FUND. There is created in the department the [COMMUNITY]
24 legal assistance and juvenile justice grant fund. From legislative appropriations to the
25 fund, the department shall make grants

26 (1) to eligible communities and regions for the purpose of enabling
27 them to obtain legal assistance; and

28 (2) to a nonprofit corporation established under AS 47.10.265 to
29 operate as a youth court.

30 * **Sec. 4.** AS 44.47.210 is amended to read:

31 Sec. 44.47.210. ELIGIBILITY. First and second class cities and

1 unincorporated villages, and regional associations of those communities, may apply to
2 the department for a grant under AS 44.47.200(1) [AS 44.47.200]. Grants shall be
3 made only to those communities or regions that would otherwise be unable to obtain
4 legal assistance. A regional or village corporation formed under 43 U.S.C. 1601 -
5 1608 (Alaska Native Claims Settlement Act) is not eligible for a grant under
6 AS 44.47.200(1) [AS 44.47.200].

7 * **Sec. 5.** AS 44.47.210 is amended by adding a new subsection to read:

8 (b) Nonprofit corporations proposing to establish and operate youth courts
9 under AS 47.10.265 may apply to the department for an organizational grant under
10 AS 44.47.200(2). A grant under this subsection must be matched on a dollar-for-dollar
11 basis by the grantee in cash or in kind. The commissioner may waive the match
12 required under this subsection on a showing satisfactory to the commissioner by the
13 prospective applicant that matching funds are not available.

14 * **Sec. 6.** AS 44.47.220 is amended to read:

15 Sec. 44.47.220. GRANTS. Grants made under AS 44.47.200(1)
16 [AS 44.47.200] shall be used for a single legal project and not for the provision of
17 general legal counsel. The department shall assure that the grant is spent for necessary
18 legal assistance and that appropriate accounting procedures are maintained. Grants
19 made under AS 44.47.200(1) and this subsection may not exceed \$20,000.

20 * **Sec. 7.** AS 44.47.220 is amended by adding a new subsection to read:

21 (b) Grants made under AS 44.47.200(2) shall be used to defray the costs of
22 organization of youth courts under AS 18.50.100. The department shall assure that the
23 grant is spent for necessary organizational assistance and that appropriate accounting
24 procedures are maintained. Grants made under AS 44.47.200(2) and this subsection
25 may not exceed \$5,000. Only one grant may be made to a grantee under authority of
26 this subsection.

27 * **Sec. 8.** AS 47.10.020(a) is amended to read:

28 (a) Whenever circumstances subject a minor to the jurisdiction of
29 AS 47.10.010 - 47.10.142, the court shall

30 (1) provide, under procedures adopted by court rule, that, for a minor
31 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall

1 make a preliminary inquiry to determine if any action is appropriate and may take
2 appropriate action to adjust or dispose of the matter without a court hearing; if, under
3 this paragraph,

4 (A) the state agency makes a preliminary inquiry and takes
5 appropriate action to adjust or dispose of the matter without a court hearing,
6 the minor may not be detained or taken into custody as a condition of the
7 adjustment or disposition and, subject to (d) of this section, the matter shall be
8 closed by the agency if the minor successfully completes all that is required of
9 the minor by the agency in the adjustment or disposition; **in a municipality or**
10 **municipalities in which a youth court has been established under**
11 **AS 47.10.265, adjustment or disposition of the matter under this paragraph**
12 **may include referral to the youth court;**

13 (B) the agency concludes that the matter may not be adjusted
14 or disposed of without a court hearing, the agency may file a petition under (2)
15 of this subsection setting out the facts; or

16 (2) appoint a competent person or agency to make a preliminary inquiry
17 and report for the information of the court to determine whether the interests of the
18 public or of the minor require that further action be taken; if, under this paragraph, the
19 court appoints a person or agency to make a preliminary inquiry and to report to it,
20 then upon the receipt of the report, the court may informally adjust or dispose of the
21 matter without a hearing, or it may authorize the person having knowledge of the facts
22 of the case to file with the court a petition setting out the facts; if the court informally
23 adjusts or disposes of the matter, the minor may not be detained or taken into the
24 custody of the court as a condition of the adjustment or disposition, and the matter
25 shall be closed by the court upon adjustment or disposition.

26 * Sec. 9. AS 47.10 is amended by adding a new section to read:

27 ARTICLE 3A. YOUTH COURTS.

28 Sec. 47.10.265. YOUTH COURTS. (a) The department may use youth courts
29 to hear, determine, and dispose of cases involving a minor whose alleged act that
30 brings the minor within the jurisdiction of AS 47.10.010 - 47.10.142 constitutes a
31 violation of a state law that is a misdemeanor or a violation or that constitutes a

1 violation of a municipal ordinance that prescribes a penalty not exceeding the penalties
2 for a class A misdemeanor under state law.

3 (b) Unless otherwise directed by the commissioner, the jurisdiction of a youth
4 court is coextensive with the boundaries of the municipality in which the youth court
5 is located. Only one youth court may be established within the boundaries of a
6 municipality. Nothing in this subsection prohibits two or more municipalities from
7 operating a single youth court for the municipalities by agreement between them.

8 (c) A nonprofit corporation may obtain recognition from the commissioner to
9 serve as a youth court. The corporation may exercise only the powers that are
10 delegated to a youth court by the commissioner, and shall exercise those powers as
11 authorized by the corporation's articles of incorporation and bylaws. The bylaws of
12 the corporation must set out standards and procedures by which the corporation, in its
13 capacity as a youth court,

14 (1) establishes a system by which the minor may be held accountable
15 for the conduct that brings the minor within the jurisdiction of the youth court by
16 being tried, represented, and adjudicated by the minor's peers;

17 (2) guarantees the constitutional rights of the minor that are guaranteed
18 by the state and federal constitutions;

19 (3) may secure jurisdiction over a minor; the youth court may secure
20 jurisdiction over the minor only with the consent of the minor and the agreement of
21 the minor's legal custodian;

22 (4) sets out the process for disposing of matters referred to it for
23 resolution;

24 (5) provides a process for appeal of a verdict or sentence, and defines
25 the basis for appeals;

26 (6) reserves the right to refer to the department, under
27 AS 47.10.020(a)(1), a matter transmitted to the youth court for disposition in which
28 the minor fails, without good cause, to comply with all requirements ordered by the
29 youth court as a part of sentence imposed on the minor; and

30 (7) prepares and delivers a report of the disposition of the matter
31 referred to it for resolution to the commissioner.

1 (d) Subject to the privileges that witnesses have in the courts of this state, the
2 commissioner may compel by subpoena, at a specified time and place, the

3 (1) appearance and sworn testimony of a person who the commissioner
4 reasonably believes may be able to give information relating to a matter before a youth
5 court; and

6 (2) production by a person of a record or object that the commissioner
7 reasonably believes may relate to a matter before a youth court.

8 (e) If a person refuses to comply with a subpoena issued under (d) of this
9 section, the superior court may, upon application of the commissioner, compel
10 obedience by proceedings for contempt in the same manner as in the case of
11 disobedience to the requirements of a subpoena issued by the court or refusal to testify
12 in the court.

13 (f) The commissioner shall make and keep records of all cases referred to a
14 youth court. The records of a youth court proceeding

15 (1) relating to a minor who complies with all requirements ordered by
16 the youth court as a part of sentence imposed on the minor shall be sealed by the
17 commissioner and may not be used for any purpose; and

18 (2) except as to a record described in (1) of this subsection, shall be
19 afforded at least the same protection and are subject to at least the same procedural
20 safeguards in matters relating to access, use, and security as they would be under
21 AS 47.10.093.