

HOUSE CS FOR CS FOR SENATE BILL NO. 289(FIN) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/4/96

Offered: 5/3/96

Sponsor(s): SENATORS FRANK, Miller, Phillips, Halford, Green, Taylor, Leman, Kelly, Torgerson,
Hoffman, Pearce, Rieger

REPRESENTATIVES Kelly, Therriault, Austerman, James, Ogan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to runaways, other minors, and their families or legal
2 custodians."

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

4 * **Section 1. FINDINGS; PURPOSE.** (a) The legislature finds that

5 (1) the number of runaway minors in this state is a significant problem that
6 is a threat to the public health and safety as well as to the individual health and safety of the
7 minors who, because of their runaway status, are without the care and protection of their
8 families;

9 (2) some adults who harbor runaway minors do not serve the best interests of
10 the minors, particularly when they encourage them to remain away from the custody of their
11 parents, and the current law that prohibits adults from encouraging minors to remain away
12 from their parents has been largely unenforceable against these adults because of the broadly
13 worded exception it contains;

14 (3) even many licensed facilities for runaway minors have been unable to serve

1 their intended purpose of protecting the minors and facilitating family reunification because
2 they lack the security measures that would keep the minors in the facilities long enough to
3 assess their needs and the needs of their families;

4 (4) in most circumstances, runaway minors would be best cared for by their
5 parents and other family members.

6 (b) The purpose of this Act is to address the problem of runaway minors by tightening
7 up the law designed to penalize the adults who inappropriately harbor runaways so that the
8 law is more enforceable, to require facilities for runaway minors to be more secure, and to
9 require facilities for runaway minors to more promptly assess the minors' needs and notify
10 the minors' parents of their presence in the facility. The legislature intends, through this Act,
11 to better fulfill its responsibility to protect runaway minors and to meet its goal of returning
12 them as quickly as possible to the custody and control of their parents in all appropriate
13 circumstances.

14 * **Sec. 2.** AS 11.51.130(a) is amended to read:

15 (a) A person commits the crime of contributing to the delinquency of a minor
16 if, being 19 years of age or older or being under 19 years of age and having the
17 disabilities of minority removed for general purposes under AS 09.55.590, the person
18 aids, induces, causes, or encourages a child

19 (1) under 18 years of age to do any act prohibited by state law unless
20 the child's disabilities of minority have been removed for general purposes under
21 AS 09.55.590;

22 (2) under 18 years of age to enter or remain in the same room in a
23 building where the unlawful sale of a drug occurs unless the child's disabilities of
24 minority have been removed for general purposes under AS 09.55.590;

25 (3) under 16 years of age to be repeatedly absent from school, without
26 just cause; or

27 (4) under 18 years of age to be absent from the custody of a parent,
28 guardian, or custodian without **the permission of the parent, guardian, or custodian**
29 **or without the knowledge of the parent, guardian, or custodian** [JUST CAUSE],
30 unless the child's disabilities of minority have been removed for general purposes
31 under AS 09.55.590 or the person has immunity under AS 47.10.350 or 47.10.398(a);

1 it is an affirmative defense to a prosecution under this paragraph that, at the time
2 of the alleged offense, the defendant

3 (A) reasonably believed that the child was in danger of
4 physical injury or in need of temporary shelter; and

5 (B) within 12 hours after taking the actions comprising the
6 alleged offense, notified a peace officer, a law enforcement agency, or the
7 Department of Health and Social Services of the name of the child and the
8 child's location.

9 * Sec. 3. AS 47.10.141(b) is amended to read:

10 (b) A peace officer shall take into protective custody a minor described in (a)
11 of this section if the minor is not otherwise subject to arrest or detention. Unless (c)
12 of this section applies, the peace officer shall [EXERCISE THE OFFICER'S
13 DISCRETION AND] (1) return the minor to the legal custodian at the legal
14 custodian's residence if the residence is in the same community where the minor
15 was found and if the legal custodian consents to the return except that the officer may
16 not use this option if the officer has reasonable cause to believe [SUSPECT] that the
17 minor has experienced physical or sexual abuse in the legal custodian's household; (2)
18 take the minor to a nearby location agreed to by [THE MINOR AND] the legal
19 custodian if the legal custodian does not consent to return of the minor under (1)
20 of this subsection and the officer does not have reasonable cause to believe that
21 the minor has experienced physical or sexual abuse in the legal custodian's
22 household; or (3) if disposition of the minor is not made under (1) or (2) of this
23 subsection, take the minor to an office specified by the Department of Health and
24 Social Services, a program for runaway minors licensed by the department under
25 AS 47.10.310, a shelter for runaways that has a permit from the department under
26 AS 47.35.085 that agrees to shelter the minor, or a facility or contract agency of the
27 department. If the peace officer plans to take the minor to an office, program,
28 shelter, or facility under (3) of this subsection, the peace officer shall give the
29 highest priority to taking the minor to an office, program, shelter, or facility that
30 is semi-secure. If an office specified by the department, a licensed program for
31 runaway minors, a shelter for runaways that will accept the minor, or a facility or

1 contract agency of the department does not exist in the community, the officer shall
2 take the minor to another suitable location and promptly notify the department. A
3 minor under protective custody may not be housed in a jail or other detention facility
4 **but may be housed in a semi-secure portion of an office, program, shelter, or**
5 **other facility under (3) of this subsection.** Immediately upon taking a minor into
6 protective custody, the officer shall advise the minor **of available mediation services**
7 **and** [ORALLY AND IN WRITING] of the right to social services under
8 AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the
9 minor has been taken into protective custody and that counseling services for the
10 custodian and the minor's household may be available under AS 47.10.142(b).

11 * **Sec. 4.** AS 47.10.141(c) is amended to read:

12 (c) A minor may be taken into emergency protective custody by a peace
13 officer and placed into temporary detention in a juvenile detention home in the local
14 community if there has been an order issued by a court under a finding of probable
15 cause that (1) the minor is a runaway in wilful violation of a valid court order issued
16 under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe
17 and imminent risk to the minor's life or safety, and (3) no reasonable placement
18 alternative exists within the community. [FOR THE PURPOSES OF THIS
19 SUBSECTION, A RISK MAY NOT BE CONSIDERED SEVERE AND IMMINENT
20 SOLELY BECAUSE OF THE GENERAL CONDITIONS FOR RUNAWAY MINORS
21 IN THE COMMUNITY, BUT SHALL BE ASSESSED IN VIEW OF THE SPECIFIC
22 BEHAVIOR AND SITUATION OF THE MINOR.] A minor detained under this
23 subsection shall be brought before a court on the day the minor is detained, or if that
24 is not possible, within 24 hours after the detention for a hearing to determine the most
25 appropriate placement in the best interests of the minor. A minor taken into
26 emergency protective custody under this subsection may not be detained for more than
27 24 hours, except as provided under AS 47.10.140. Emergency protective custody may
28 not include placement of a minor in a jail or secure facility other than a juvenile
29 detention home, nor may an order for protective custody be enforced against a minor
30 who is residing in a licensed program for runaway minors, as defined in AS 47.10.390.

31 * **Sec. 5.** AS 47.10.141(e) is amended to read:

- 1 (e) In this section,
- 2 (1) "law enforcement agency" has the meaning given in AS 12.36.090;
- 3 (2) **"semi-secure" means operated according to standards that may**
- 4 **be established by the department in regulations that are designed to require a**
- 5 **level of security that will reasonably ensure that, if a minor leaves without**
- 6 **permission, the minor's act of leaving will be immediately noticed.**

7 * Sec. 6. AS 47.10.141 is amended by adding new subsections to read:

8 (f) In the absence of gross negligence or intentional misconduct, an office,

9 program, shelter, or facility, or an employee of an office, program, shelter, or facility,

10 to which a minor is taken by a peace officer for semi-secure custody is not subject to

11 civil or criminal liability based on the minor's leaving the office, program, shelter, or

12 facility without permission unless the office, program, shelter, or facility is not in

13 compliance with the department's regulations that set standards for semi-security and

14 the lack of compliance was a material factor in the minor's being able to leave without

15 permission.

16 (g) If a minor, without permission, leaves the semi-secure portion of an office,

17 program, shelter, or facility to which the minor was taken by a peace officer under

18 (b)(3) of this section, the office, program, shelter, or facility shall immediately notify

19 the department and the nearest law enforcement agency of the identity of the minor

20 and the minor's absence. If the same minor is again taken into protective custody

21 under (b) of this section and the peace officer knows that the minor has previously

22 been reported under this subsection as missing from a semi-secure placement, the

23 peace officer, in addition to taking the appropriate action under (b) of this section,

24 shall report the circumstances and the identity of the minor to the department. Within

25 48 hours after receiving this report, the department shall determine whether to file a

26 petition alleging that the minor is a child in need of aid under AS 47.10.010(a)(2)(A).

27 If the department decides not to file a petition alleging that the minor is a child in

28 need of aid, the department shall, within seven state working days after receiving the

29 report from the peace officer under this subsection, send to the minor's parents or

30 guardian, as applicable, written notice of its determination not to proceed with the

31 petition, including the reasons on which the determination was based. If the

1 department is unable to obtain a reasonably reliable address for a parent or guardian,
2 the department shall keep a copy of the notice on file and, notwithstanding
3 AS 47.10.093, release the notice to the minor's parent or guardian on request of the
4 parent or guardian. If the department files a petition alleging that the minor is a child
5 in need of aid, the court shall proceed under AS 47.10.142(d).

6 (h) If the department files a petition alleging the minor is a child in need of
7 aid under AS 47.10.010(a)(2)(A) because the minor is habitually absent from home or
8 refuses available care, the minor's parent or guardian shall attend each hearing held
9 during the child-in-need-of-aid proceedings unless the court excuses the parent or
10 guardian from attendance for good cause. If the minor is found to be a child in need
11 of aid, the court may order that the minor's parent or guardian

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

14 (2) comply with other conditions set out in the court order.

15 (i) If the court orders a minor's parent or guardian to participate in the
16 treatment under (h) of this section, the court may also order the parent or guardian to
17 use available insurance or another resource to cover the treatment, or to pay for the
18 treatment if other coverage is unavailable.

19 (j) If the parent or guardian fails to attend a hearing as required by the court
20 under (h) of this section, the hearing shall proceed without the presence of the parent.

21 * **Sec. 7.** AS 47.10.142(f) is amended to read:

22 (f) When a minor is committed to the department for temporary placement
23 under (e) of this section, the court order shall specify the terms, conditions, and
24 duration of placement. **If the court orders the minor returned to the custody of the**
25 **minor's parents or guardian under (e) of this section after a hearing held on a**
26 **petition filed under AS 47.10.141(g), the court shall specify the terms and**
27 **conditions that must be followed by the minor and the minor's parents or**
28 **guardian.** The court **shall** [MAY] require the minor to remain in the placement
29 provided by the department and shall clearly state in the order the consequences of
30 violating the order, including [THE POSSIBILITY OF] detention under
31 AS 47.10.141(c).

1 * **Sec. 8.** AS 47.10.310(c) is amended to read:

2 (c) A program for runaway minors shall

3 (1) explain to a minor who seeks assistance from the program the legal
4 rights and responsibilities of runaway minors and the services and assistance provided
5 for runaway minors by the program and by the state or local municipality;

6 (2) **upon admission of a minor to the program,** attempt to determine
7 why **the** [A] minor [IN THE PROGRAM] is a runaway **and what services may be**
8 **necessary or appropriate for reuniting the minor with the minor's family;**

9 (3) provide or help arrange for the provision of services necessary to
10 promote the health and welfare of a minor in the program and, if appropriate, members
11 of the minor's family; services may include, but are not limited to, the provision of
12 food, shelter, clothing, medical care, and individual, **group,** or family counseling;

13 (4) **within one state working day after admission of a minor to the**
14 **program** [PROMPTLY] inform the department of a minor in the program

15 (A) who claims to be the victim of child abuse or neglect, as
16 defined in AS 47.17.290;

17 (B) whom an employee of the program has cause to believe has
18 been a victim of child abuse or neglect; or

19 (C) whom an employee of the program has reason to believe is
20 evading the supervision of the department, the person to whom the department
21 has entrusted supervision, or the minor's legal guardian;

22 (5) be operated with the goal of reuniting runaway minors with their
23 families, except in cases in which reunification is clearly contrary to the best interest
24 of the minor; and

25 (6) maintain adequate staffing and accommodations to ensure physical
26 security and to provide crisis services to minors residing in a facility operated by the
27 program; **a program that, as determined by the department, regularly receives**
28 **state money in an amount that exceeds one-fourth of the program's costs shall**
29 **maintain semi-secure portions of its facilities in a proportion that meets**
30 **regulations established by the department;** residents under 18 years of age shall be
31 segregated from residents who are 18 years of age or older.

1 * **Sec. 9.** AS 47.10.390 is amended by adding a new paragraph to read:

2 (3) "semi-secure" has the meaning given in AS 47.10.141(e).

3 * **Sec. 10.** AS 47.10.394(b) is amended to read:

4 (b) The provider of a shelter for runaways shall promptly, but within **one state**
5 **working day** [48 HOURS], inform the department of a runaway minor in the shelter

6 (1) who claims to be the victim of child abuse or neglect, as defined
7 in AS 47.17.290;

8 (2) whom the provider has reasonable cause to suspect has been a
9 victim of child abuse or neglect; or

10 (3) whom the provider has reason to believe is evading the supervision
11 of the department, the person to whom the department has entrusted supervision, or the
12 minor's legal guardian.

13 * **Sec. 11.** REVISOR'S INSTRUCTION. In the event SCS CSSSHB 387(JUD) and
14 SCS CSSSHB 104(FIN), passed by the Nineteenth Alaska State Legislature, both become law,
15 the amendment to AS 47.10.093(c) made in SCS CSSSHB 104(FIN) shall be treated as an
16 amendment to AS 47.12.310(c), as enacted in SCS CSSSHB 387(JUD).