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SENATE CS FOR CS FOR HOUSE BILL NO. 115(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/5/01

Referred: Judiciary

Sponsor(s): REPRESENTATIVES KAPSNER, James, Dyson, Wilson, Cissna, Joule

SENATORS Olson, Halford, Taylor, Pearce, Lincoln

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the services of certain medical professionals in civil proceedings for**
2 **the commitment of certain intoxicated persons; allowing a physician assistant or**
3 **advanced nurse practitioner to certify the need for emergency treatment as a result of**
4 **intoxication; and providing for an effective date."**

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

6 * **Section 1.** AS 47.37.180(b) is amended to read:

7 (b) The certifying physician, physician assistant, advanced nurse
8 practitioner, spouse, guardian, or relative of the person to be committed, or any other
9 responsible person, may make a written application for commitment under this
10 section, directed to the administrator of the approved public treatment facility. The
11 application must state facts to support the need for emergency treatment and be
12 accompanied by a physician's, physician assistant's, or advanced nurse
13 practitioner's certificate supporting the need for emergency treatment and stating that
14 the physician, physician assistant, or advanced nurse practitioner has examined the

1 person sought to be committed within two days before the certificate's date.

2 * **Sec. 2.** AS 47.37.180(f) is amended to read:

3 (f) A copy of the written application for commitment and of the physician's,
4 physician assistant's, or advanced nurse practitioner's certificate, and a written
5 explanation of the person's right to legal counsel, shall be given to the person within
6 24 hours after commitment by the administrator, who shall provide a reasonable
7 opportunity for the person to consult with legal counsel.

8 * **Sec. 3.** AS 47.37.190(a) is amended to read:

9 (a) A spouse or guardian, a relative, the certifying physician, physician
10 assistant, advanced nurse practitioner, or the administrator in charge of an approved
11 public treatment facility may petition the court for a 30-day involuntary commitment
12 order. The petition must allege that the person is an alcoholic or drug abuser who (1)
13 has threatened, attempted to inflict, or inflicted physical harm on another and that
14 unless committed is likely to inflict physical harm on another; or (2) is incapacitated
15 by alcohol or drugs. A refusal to undergo treatment does not constitute evidence of
16 lack of judgment as to the need for treatment. The petition must be accompanied by a
17 certificate of a licensed physician, physician assistant, or advanced nurse
18 practitioner who has examined the person within two days before submission of the
19 petition, unless the person whose commitment is sought has refused to submit to a
20 medical examination, in which case the fact of refusal must be alleged in the petition.
21 The certificate must set out the physician's, physician assistant's, or advanced nurse
22 practitioner's findings of the examination in support of the allegations of the
23 petition.

24 * **Sec. 4.** AS 47.37.200(a) is amended to read:

25 (a) At the hearing for a 30-day commitment required under AS 47.37.190(b),
26 the court shall hear all relevant testimony, including, if possible, the testimony of at
27 least one person [LICENSED PHYSICIAN] who has examined the person whose
28 commitment is sought under AS 47.37.180(b) or 47.37.190(a). The person whose
29 commitment is sought shall be present unless the court believes that being present is
30 likely to be injurious to the person, in which case the court may conduct the hearing
31 telephonically. The court may examine the person in open court, or, if advisable,

1 examine the person out of court. If the person has refused to be examined **under**
2 **AS 47.37.180(b) or 47.37.190(a)** [BY A LICENSED PHYSICIAN], the person shall
3 be given an opportunity to request examination by a court-appointed licensed
4 physician, **physician assistant, or advanced nurse practitioner**. If the person fails
5 to request a medical examination and there is sufficient evidence to believe that the
6 allegations of the petition are true, or, if the court believes that more medical evidence
7 is necessary, the court may issue a temporary order committing the person to a private
8 or public facility for a period of not more than five days for purposes of a diagnostic
9 examination.

10 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).