



Alaska State Legislature

Senator Matt Claman

Session: State Capitol, Juneau, AK 99801 Phone: 465-4919

Interim: 1500 W. Benson Blvd., Anchorage, AK 99503 Phone: 269-0130

Senate Bill 53

Explanation of Changes

Version S to Version Y

Version S to Version Y

Section 1 (page 1, lines 5-14; page 2, lines 1-7):

- Amends subsection (a) to remove the requirement that psychologists are “forensic” psychologists.

Section 2 (page 2, lines 8-25):

- Amends subsection (b) to remove the requirement that attorneys file a motion that is “written” when making a motion for a judicial determination of the competency of the defendant.
- Amends subsection (b) to specify that the court make findings of fact and conclusions of law that justify an examination before ordering the defendant examined for competency.

Section 3 (page 2, lines 26-31; page 3, lines 1-17):

- New subsection (i) states that defendants may be released on bail conditions for outpatient competency examinations. It states that before releasing a defendant on bail under this section, the court shall consider: (1) any medical information provided by the Department of Family and Community Services; (2) the defendant’s mental condition; (3) the defendant’s level of need for evaluation and treatment under this chapter; (4) the defendant’s ability to participate in outpatient treatment; and (5) the defendant’s history of evaluation and treatment under this chapter.
- New subsection (k) states that a court may rely on a defense attorney’s representation that the attorney possesses information, including privileged information provided at an ex parte hearing when determining bail conditions for defendants under this section.

Section 4 (page 3, lines 18-31; page 4, lines 1-10):

- Amends (b) to conform with dangerousness standards created by the legislation and limits the arson standard to felony arson only. Defendants charged with a felony offense against a person or felony arson may be committed for a total of two years for competency restoration.

Section 5 (page 4, lines 11-31; page 5, lines 1-6):

- Amends subsection (f) to state that before releasing a defendant on bail under this section, the court shall consider: (1) any medical information provided by the Department of Family and Community Services; (2) the defendant’s mental condition; (3) the defendant’s level of need for evaluation and treatment under this chapter; (4) the defendant’s ability to participate in outpatient treatment; and (5) the defendant’s history of evaluation and treatment under this chapter.

- Amends subsection (g) to limit the arson standard to felony arson only. This section states that, at the expiration of the competency restoration period, the prosecutor shall: (1) file a petition seeking involuntary commitment under the new AS 47.30.706 before dismissal of charges; (2) notify the civil division of the Department of Law within 24 hours after filing the petition; and (3) provide the court’s findings to the civil division of the Department of Law within 24 hours after the court’s ruling.

Section 6 (page 5, lines 7-31; page 6, lines 1-5):

- Creates a new section AS 47.30.706: Commitment after finding of incompetence.
- This section closes the period of time between a criminal case dismissal of charges for a felony offense against a person or felony arson, based on an individual’s incompetency, and the start of civil commitment proceedings. Under current statute, there is not a process that allows for the civil commitment proceedings to begin for individuals who meet the dangerous standard without them being released to the public.
- The section states that: if a person is found incompetent to proceed on a felony offense against a person or felony arson, an attorney with the Department of Law shall file a petition to have the person delivered to the nearest evaluation facility. Upon receipt of this petition, the court shall issue an ex parte order, appoint an attorney for the respondent, and may direct the peace officer to take the respondent into custody and deliver them to the nearest appropriate facility for evaluation. The court shall set a date, time, and place for a 30-day commitment hearing, to be held within 72 hours. This matches the current statute and timeline for 30-day commitment hearings.
- This section includes language which states that an individual charged with a felony offense against a person or felony arson who is found to be incompetent to stand trial is rebuttably presumed to be mentally ill and present a likelihood of serious harm to self or others. This creates the basis by which the court can issue the ex parte order and initiate the 30-day commitment proceedings.

Section 7 (page 6, lines 6-11):

- This section amends AS 47.30.710 subsection (a) to include the new section of statute AS 47.30.706: Commitment after finding of incompetence.

Section 8 (page 6, lines 12-22):

- This section was numbered Section 6 in the previous bill version.

Section 9 (page 6, lines 23-31; page 7, lines 1-28):

- This section was numbered Section 7 in the previous bill version.
- Amends section to limit the arson standard to felony arson only.
- Amends subsection (a) to clarify that a respondent is released from involuntary treatment at the expiration of the 180-day commitment period unless an additional 180-day commitment is petitioned or a commitment up to five-years is petitioned, if the individual meets the standards of a five-year commitment.
- Removes “attempts of harm to self” from the involuntary commitment standards for additional five-year involuntary commitment.

Section 10 (page 7, lines 29-31; page 8, lines 1-3):

- This section was numbered Section 8 in the previous bill version.

Section 11 (page 8, lines 4-23):

- This section was numbered Section 9 in the previous bill version.
- Amends section to limit the arson standard to felony arson only.

Section 12 (page 8, lines 24-31; page 9, lines 1-14):

- This section was numbered Section 10 in the previous bill version.