

# 34<sup>TH</sup> ALASKA STATE LEGISLATURE

## Session

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## Interim

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## REPRESENTATIVE ANDREW GRAY

### House Bill 36 (34-LS0358\N) Sponsor Statement February 18, 2025

Due process is a basic constitutional right of every person in Alaska: adults, children, even children in the custody of the state.

HB 36 would require a judicial hearing within seven days of admission of a foster child to an acute psychiatric hospital with the possibility of an additional seven-day extension. HB 36 also allows parties to appear remotely thus reducing cost and protecting expedient due process.

In 2015 an Alaska Superior court deliberated the case of a foster child admitted to an acute psychiatric hospital. After the child had been stabilized, the child was not discharged to a less restrictive environment, but instead remained hospitalized unnecessarily without any judicial review process in statute.

The case, *Hooper Bay v. Lawton*, recognized an absence of statutory guidance regarding children in the custody of the state. The findings in that case led to an injunction requiring a court hearing to be held within 30 days for children admitted to acute psychiatric facilities while in the custody of the Office of Children's Services (OCS).

In the 2024 Alaska Supreme Court case *Kwinkagak v. State* the court found that the lack of statutory guidance evident in *Hooper Bay* had not been ameliorated, and that 30 days was too long. In this case a child was held for 46 days without a judicial review. The Alaska Supreme Court concluded in its decision:

"There is no doubt that children in OCS custody are at substantial risk of being hospitalized for longer than they need, or when they do not need to be hospitalized at all." And further, "Clarifying the legal protections for a vulnerable population of children in state custody is of utmost importance."

House Bill 36 provides the necessary statutory guidance asked for in the *Kwinkagak* decision.

I appreciate your support.

