

HB351- Response to House Health and Social Services Committee Questions (3-6-2018)

1. Clarification on the penalty for failure to submit a DNA sample (Section 8)

Under AS 11.56.760, violating an order to submit to DNA testing is a class C felony.

2. Clarification over the duty of the Department of Education to provide education services to youthful offenders in the custody of the adult corrections system. (Section 10)

Section 10 addresses the duty of the Department of Education to coordinate with the Department of Health and Social Services for the education of youth held in secure facilities operated by the Department of Health and Social Services. This statute does not include coordination with the Department of Corrections.

The Anchorage School District receives state and federal funding to operate the New Path School in the Anchorage Correctional Complex in coordination with the Department of Corrections.

3. Clarification of the authority of adult probation officers employed by the Department of Corrections over juveniles under the jurisdiction of the Division of Juvenile Justice. (Section 22)

Section 22 amends AS 47.12.245(b) to clarify that the authority to arrest a minor, who is under the jurisdiction of the Division of Juvenile Justice for violation of conditions of release, rests with juvenile probation officers, not adult probation officers. AS 47.12.245(a), which is not amended in HB351, describes the authority of peace officers to arrest minors for criminal offenses.

The authority of adult probation officers to arrest probationers under the jurisdiction of the Department of Corrections is found at AS 33.05.070.

4. Clarification over the powers of juvenile probation officers as described in the bill, specifically the “service of process.” (Section 24)

Juvenile Probation Officers have the authority to provide service of a writ to youth, parents, and attorneys. These writs are most commonly used for emergency detention.

5. Clarification over whether the bill has an impact on the ability of Village Public Safety Officers (VPSOs) to detain adults or juveniles by hand-cuffing them to a secure object. (Definition of temporary secure juvenile holding area found in Section 29)

The Division of Juvenile Justice works with local law enforcement, including VPSOs, on how to properly detain juvenile offenders, including the requirement for sight and sound separation with adult offenders, pending transport to a DJJ detention facility. The methods of detention available to local law enforcement vary by community. In some communities and individual situations, handcuffing an offender to a secure object is the best available means of detaining the individual. Nothing in HB351 changes the ability of local law enforcement to choose this option.

6. Clarification over the ability of Tribal entities to operate and receive grants from the Department of Health and Social Services for the operation of juvenile detention and juvenile treatment facilities. (Section 34)

Section 34 does not preclude Tribal governments (governmental agencies) from receiving grants from or contracting with DHSS, or operating juvenile facilities under agreement with the Department of Health and Social Services. The Division of Juvenile Justice currently maintains several agreements with Tribal entities for the diversion of juvenile offenders out of the criminal justice system, into Tribal justice organizations. Future agreements on the detention of minor offenders could be complimentary to these efforts.