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Bergerud
5/8/25

SENATE CS FOR HOUSE BILL NO. 36()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GRAY, Fields, Burke, Jimmie, Foster, Tomaszewski, Story, Mina, Eischeid, Bynum, Galvin, Hannan, Josephson, Stutes, Ruffridge, Schrage, Costello, Mears, Saddler

A BILL

FOR AN ACT ENTITLED

"An Act relating to the placement of foster children in hospitals and residential psychiatric treatment centers for psychiatric care; relating to the care of children in state custody placed in psychiatric residential treatment facilities outside the state; and amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure."

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

*** Section 1.** AS 47.10.087 is amended to read:

Sec. 47.10.087. Placement in [SECURE] residential psychiatric treatment center. (a) The court may authorize the department to place a child who is in the custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 in a [SECURE] residential psychiatric treatment center if the court finds, based on the testimony of a mental health professional, that

(1) the child is gravely disabled or is suffering from mental illness and, as a result, is likely to cause serious harm to the child or to another person;

(2) there is no reasonably available, appropriate, and less restrictive

alternative for the child's treatment or that less restrictive alternatives have been tried and have failed; and

(3) there is reason to believe that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

(b) A court shall review a placement made under this section at least once every 90 days. The court may authorize the department to continue the placement of the child in a [SECURE] residential psychiatric treatment center if the court finds, based on the testimony of a mental health professional, that the conditions or symptoms that resulted in the initial order have not ameliorated to such an extent that the child's needs can be met in a less restrictive setting and that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

(c) The department shall transfer a child from a [SECURE] residential psychiatric treatment center to another appropriate placement if the mental health professional responsible for the child's treatment determines that the child would no longer benefit from the course of treatment or that the child's treatment needs could be met in a less restrictive setting. The department shall notify the child, the child's parents or guardian, [AND] the child's guardian ad litem, and any other parties of a determination and transfer made under this subsection.

(d) In this section,

(1) "likely to cause serious harm" has the meaning given in AS 47.30.915;

(2) "residential psychiatric treatment center" has the meaning given in AS 47.32.900.

* **Sec. 2.** AS 47.10 is amended by adding a new section to read:

Sec. 47.10.105. Admission for short-term psychiatric care. (a) The department may admit a child who is in the custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 into a hospital that is not a residential psychiatric treatment center to receive psychiatric care if the person in charge of admittance to the hospital finds that

(1) the child is gravely disabled or suffering from a mental illness and,

as a result, is likely to cause serious harm to the child or another person;

(2) there is no reasonably available, appropriate, and less restrictive alternative for the child to receive treatment; and

(3) there is reason to believe that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

(b) Within 24 hours after admitting a child in a hospital as authorized under (a) of this section, the department shall notify the court, the child, the child's parents or guardians, the child's guardian ad litem, and any other parties to an ongoing child-in-need-of-aid case involving the child of the admission. Providing notification under this subsection does not relieve the department of the duty to promptly look to place the child in the least restrictive environment.

(c) A court shall review an admission made under (a) of this section within seven calendar days after the child's admission to a hospital. The court may grant one request to continue the hearing for up to seven calendar days if necessary to secure the attendance of the child, a party, or a material witness. The court may authorize the department to continue the admission of the child to a hospital if the court finds by clear and convincing evidence, based on the testimony of a mental health professional, and taking into account the length of time the child has been in the hospital, that the conditions or symptoms that resulted in the initial admission made under (a) of this section have not ameliorated to the extent that the child's needs can be met in a less restrictive setting and that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated. If a court does not make the findings required under this subsection, the child shall be released from the hospital for placement in a less restrictive setting.

(d) The court shall review an admission approved under (c) of this section

(1) at least once every 30 days; and

(2) when requested by the child, the child's parent or guardian, the child's guardian ad litem, or any other party, upon a showing of good cause.

* **Sec. 3.** AS 47.14.112(d) is amended to read:

(d) The division of the department with responsibility over the custody of children shall prepare and make available to the legislature an annual report on

employee recruitment and retention, including a five-year plan, for the division. Not later than November 15 of each year, the department shall deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. The report prepared under this subsection is separate from the annual report to the legislature required under AS 18.05.020 and must include, for the previous 12 months,

(1) the number of frontline social workers employed by the division, the annual average turnover rate of the workers, and the average caseload of the workers on January 1 and July 1 of that year;

(2) the number of children removed from their homes;

(3) the achievement of success measured by the following:

(A) rate of family reunification;

(B) average length of time children spent in custody of the department;

(C) rate of placement with an adult family member or family friend;

(D) number of children placed in a permanent living arrangement with a guardian or biological or adoptive parent;

(E) number of children released from the custody of the department;

(4) if the department has met or exceeded the caseload standards under this chapter and, if the standards were exceeded, the number of caseworker positions in the division that could be eliminated and the amount of funding that could be reduced while continuing to meet but not routinely exceed the caseload standards;

(5) the performance of the department on federal benchmarks focused on the safety, well-being, and permanent placements of foster children compared with the previous five years;

(6) the number of children placed in psychiatric residential treatment facilities providing care for children outside the state.

* Sec. 4. AS 47.10.990(31) is repealed.

* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 DIRECT COURT RULE AMENDMENT. Rule 12.1(b), Alaska Child in Need
3 of Aid Rules of Procedure, is amended to read:

4 (b) **Appointment Types.**

5 (1) **Mandatory Appointments.**

6 (A) The court shall appoint an attorney for a child who is 10
7 years of age or older in any of the following circumstances:

8 (i) [(A)] The child does not consent to placement in a
9 [PSYCHIATRIC HOSPITAL OR] residential treatment center;

10 (ii) [(B)] The child does not consent to administration
11 of psychotropic medication;

12 (iii) [(C)] The child objects to disclosure of
13 psychotherapy information or records under CINA Rule 9(b);

14 (iv) [(D)] A request for a court order authorizing
15 emergency protective custody has been made under AS 47.10.141(c);
16 or

17 (v) [(E)] The child is pregnant or has custody of a minor
18 child; **and**

19 **(B) The court shall appoint an attorney for a child who has**
20 **been placed in a hospital as authorized under AS 47.10.105.**

21 (2) **Discretionary Appointments.** The court may appoint an attorney
22 in other circumstances including, but not limited to:

23 (A) The child's and guardian ad litem's positions are not
24 aligned on placement, family or sibling contact, permanency goal, case plan, or
25 another important issue in the case;

26 (B) The child would benefit from a confidential relationship
27 with an attorney; or

28 (C) The child is not residing in the designated placement.