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Governor Michael J. Dunleavy
STATE OF ALASKA

February 27, 2020

The Honorable Cathy Giessel
Senate President
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Giessel:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to involuntary mental health commitment procedures.

This bill would take four significant steps towards our common goal of improving mental health treatment in the State.

First, this bill would clarify what happens when a person is held in protective custody at a correctional facility or jail. Protective custody is only authorized after a person is involuntarily committed to a facility for a mental health evaluation and while the person is waiting for transportation, when a designated treatment facility, an evaluation facility, a crisis stabilization center, or a health care facility, lack the capacity to safely admit the person within a reasonable amount of time. This temporary hold would not constitute an arrest, nor would the correctional facility make any record to indicate that there was an arrest, ensuring protection of the person's rights while protecting public safety. The correctional facility would use its available resources to protect the person's health and safety, including providing physical and mental health treatment, either in person or using telehealth.

Second, this bill provides a clear process to ensure that a person is only held in protective custody for a very limited time. Under this mechanism, the Department is notified as soon as practicable when a person enters protective custody and provides re-evaluation of the person every 48 hours, after which it provides a written update to the court. Additionally, the court must conduct a review hearing within 96 hours of placement in protective custody to ensure there is still probable cause to hold the person.

Third, this bill would clarify the times during which the Department of Health and Social Services has custody of the person who is subject to an ex parte order. Specifically, the bill would clarify that the Department only has custody when a patient is admitted to the Alaska Psychiatric Institute (API) or while the person is in the transportation arranged by the

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Department of Health and Social Services to a designated evaluation or treatment facility. The bill would further clarify that the Department does not have custody after the person's discharge from API, upon the person's admission to a non-state-owned designated evaluation or treatment facility, or when the person is in protective custody.

Finally, this bill would allow a mental health evaluation facility to observe a person who is being held involuntarily for an entire 72-hour period before a person's court hearing. Currently, the hearing happens within the 72-hour period, so the court does not have the benefit of a full evaluation period. This amendment would allow the facility and the court to make a fully-informed decision as to whether the person should be held for an additional 30-day period. The bill would do this by extending the time within which a court must hold a 30-day hearing from 72 hours to 96 hours, and allowing a facility to hold the person in between the completion of the 72-hour evaluation and the hearing time.

I urge your prompt and favorable action on this measure.

Sincerely,



Mike Dunleavy
Governor