

HOUSE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SPOHNHOLZ

Introduced: 2/24/21

Referred: Judiciary, Health and Social Services

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to care of juveniles and to juvenile justice; relating to employment of
2 juvenile probation officers by the Department of Health and Social Services; relating to
3 terms used in juvenile justice; relating to mandatory reporters of child abuse or neglect;
4 relating to sexual assault in the third degree; relating to sexual assault in the fourth
5 degree; repealing a requirement for administrative revocation of a minor's driver's
6 license, permit, privilege to drive, or privilege to obtain a license for consumption or
7 possession of alcohol or drugs; and providing for an effective date."

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

9 * **Section 1.** AS 09.65.255(b) is amended to read:

10 (b) A state agency or its agents, including a person working in or responsible
11 for the operation of a foster home, as defined in AS 47.32.900, juvenile treatment
12 facility, juvenile detention facility [, RECEIVING, OR DETENTION HOME], or
13 treatment [CHILDREN'S] institution, is not liable for the acts of unemancipated

1 minors in its charge or custody. A state agency or an agent of a state agency, including
 2 a nonprofit corporation that designates shelters for runaways under AS 47.10.392 -
 3 47.10.399 and employees of or volunteers with that corporation, is not liable for the
 4 acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399. **In this**
 5 **subsection, "juvenile treatment facility" and "juvenile detention facility" have**
 6 **the meanings given in AS 47.12.990 and "treatment institution" has the meaning**
 7 **given in AS 47.14.990.**

8 * **Sec. 2.** AS 11.41.425(b)(1) is amended to read:

9 (1) "juvenile facility staff" means a person employed in a juvenile
 10 detention **facility** or **juvenile** treatment facility **as those terms are defined in**
 11 **AS 47.12.990;**

12 * **Sec. 3.** AS 11.41.425(b)(2) is amended to read:

13 (2) "juvenile probation officer" **has the meaning given in**
 14 **AS 47.12.990** [MEANS A PERSON ASSIGNED TO SUPERVISE ANOTHER
 15 PERSON 18 OR 19 YEARS OF AGE WHO IS COMMITTED TO THE
 16 PROBATIONARY SUPERVISION OF THE DEPARTMENT OF HEALTH AND
 17 SOCIAL SERVICES];

18 * **Sec. 4.** AS 11.41.427(b)(2) is amended to read:

19 (2) "juvenile probation officer" has the meaning given in **AS 47.12.990**
 20 [AS 11.41.425];

21 * **Sec. 5.** AS 11.41.470(3) is amended to read:

22 (3) "legal guardian" means a person who is under a duty to exercise
 23 general supervision over a minor or other person committed to the custody of the
 24 Department of Health and Social Services under AS 47.10 or AS 47.12 as a result of a
 25 court order, statute, or regulation, and includes Department of Health and Social
 26 Services employees, foster parents, and staff members and other employees of
 27 **treatment institutions,** group homes, or youth facilities where the minor or other
 28 person is placed as a result of a court order or the action of the Department of Health
 29 and Social Services, and police officers, **juvenile and adult** probation officers, and
 30 social workers when those persons are exercising custodial control over a minor or
 31 other person;

1 * **Sec. 6.** AS 11.41.470(5) is amended to read:

2 (5) "position of authority" means an employer, youth leader, scout
3 leader, coach, teacher, counselor, school administrator, religious leader, doctor, nurse,
4 psychologist, guardian ad litem, babysitter, or a substantially similar position, and a
5 police officer, correctional employee, juvenile facility staff, staff member of a
6 treatment institution, or juvenile or adult probation officer other than when the
7 officer or staff member is exercising custodial control over a minor;

8 * **Sec. 7.** AS 11.41.470 is amended by adding new paragraphs to read:

9 (9) "juvenile facility staff" has the meaning given in AS 11.41.425(b);

10 (10) "treatment institution" has the meaning given in AS 47.14.990.

11 * **Sec. 8.** AS 11.61.123(e)(2) is amended to read:

12 (2) "private exposure" means that a person has exposed the person's
13 body or part of the body in a place, and under circumstances, that the person
14 reasonably believed would not result in the person's body or body parts being (A)
15 viewed by the defendant; or (B) produced in a picture; "private exposure" does not
16 include the exposure of a person's body or body parts in a law enforcement facility,
17 correctional facility, treatment institution, designated treatment facility, juvenile
18 treatment facility, or a juvenile detention facility; in this paragraph, "correctional
19 facility" has the meaning given in AS 33.30.901, "designated treatment facility" has
20 the meaning given in AS 47.30.915, [AND] "juvenile detention facility" and
21 "juvenile treatment facility" have [HAS] the meanings [MEANING] given in
22 AS 47.12.990; and "treatment institution" has the meaning given in AS 47.14.990.

23 * **Sec. 9.** AS 14.07.020(a) is amended to read:

24 (a) The department shall

25 (1) exercise general supervision over the public schools of the state
26 except the University of Alaska;

27 (2) study the conditions and needs of the public schools of the state,
28 adopt or recommend plans, administer and evaluate grants to improve school
29 performance awarded under AS 14.03.125, and adopt regulations for the improvement
30 of the public schools; the department may consult with the University of Alaska to
31 develop secondary education requirements to improve student achievement in college

1 preparatory courses;

2 (3) provide advisory and consultative services to all public school
3 governing bodies and personnel;

4 (4) prescribe by regulation a minimum course of study for the public
5 schools; the regulations must provide that, if a course in American Sign Language is
6 given, the course shall be given credit as a course in a foreign language;

7 (5) establish, in coordination with the Department of Health and Social
8 Services, a program for the continuing education of children who are held in **juvenile**
9 detention **facilities or juvenile treatment** facilities, **as those terms are defined in**
10 **AS 47.12.990**, in the state during the period of detention **or treatment**;

11 (6) accredit those public schools that meet accreditation standards
12 prescribed by regulation by the department; these regulations shall be adopted by the
13 department and presented to the legislature during the first 10 days of any regular
14 session, and become effective 45 days after presentation or at the end of the session,
15 whichever is earlier, unless disapproved by a resolution concurred in by a majority of
16 the members of each house;

17 (7) prescribe by regulation, after consultation with the state fire
18 marshal and the state sanitarian, standards that will ensure healthful and safe
19 conditions in the public and private schools of the state, including a requirement of
20 physical examinations and immunizations in pre-elementary schools; the standards for
21 private schools may not be more stringent than those for public schools;

22 (8) exercise general supervision over pre-elementary schools that
23 receive direct state or federal funding;

24 (9) exercise general supervision over elementary and secondary
25 correspondence study programs offered by municipal school districts or regional
26 educational attendance areas; the department may also offer and make available to any
27 Alaskan through a centralized office a correspondence study program;

28 (10) accredit private schools that request accreditation and that meet
29 accreditation standards prescribed by regulation by the department; nothing in this
30 paragraph authorizes the department to require religious or other private schools to be
31 licensed;

1 (11) review plans for construction of new public elementary and
2 secondary schools and for additions to and major rehabilitation of existing public
3 elementary and secondary schools and, in accordance with regulations adopted by the
4 department, determine and approve the extent of eligibility for state aid of a school
5 construction or major maintenance project; for the purposes of this paragraph, "plans"
6 include educational specifications, schematic designs, projected energy consumption
7 and costs, and final contract documents;

8 (12) provide educational opportunities in the areas of vocational
9 education and training, and basic education to individuals over 16 years of age who
10 are no longer attending school; the department may consult with businesses and labor
11 unions to develop a program to prepare students for apprenticeships or internships that
12 will lead to employment opportunities;

13 (13) administer the grants awarded under AS 14.11;

14 (14) establish, in coordination with the Department of Public Safety, a
15 school bus driver training course;

16 (15) require the reporting of information relating to school disciplinary
17 and safety programs under AS 14.33.120 and of incidents of disruptive or violent
18 behavior;

19 (16) establish by regulation criteria, based on low student performance,
20 under which the department may intervene in a school district to improve instructional
21 practices, as described in AS 14.07.030(a)(14) or (15); the regulations must include

22 (A) a notice provision that alerts the district to the deficiencies
23 and the instructional practice changes proposed by the department;

24 (B) an end date for departmental intervention, as described in
25 AS 14.07.030(a)(14)(A) and (B) and (15), after the district demonstrates three
26 consecutive years of improvement consisting of not less than two percent
27 increases in student proficiency on standards-based assessments in language
28 arts and mathematics, as provided in AS 14.03.123(f)(1)(A); and

29 (C) a process for districts to petition the department for
30 continuing or discontinuing the department's intervention;

31 (17) notify the legislative committees having jurisdiction over

1 education before intervening in a school district under AS 14.07.030(a)(14) or
 2 redirecting public school funding under AS 14.07.030(a)(15).

3 * **Sec. 10.** AS 14.30.186(a) is amended to read:

4 (a) Special education and related services shall be provided by

5 (1) a borough or city school district for a child with a disability
 6 residing within the district;

7 (2) the board of a regional educational attendance area operating a
 8 school in the area for a child with a disability residing in the area served by the school;

9 (3) the borough, city school district, or regional educational attendance
 10 area in which a **treatment institution, as that term is defined in AS 47.14.990,**
 11 **juvenile detention facility or juvenile** treatment facility, **as those terms are defined**
 12 **in AS 47.12.990,** or a correctional [OR YOUTH DETENTION] facility is located for
 13 a child with a disability placed at the facility;

14 (4) a state boarding school established under AS 14.16 for a child with
 15 a disability enrolled at a state boarding school; or

16 (5) a school district that provides a statewide correspondence study
 17 program for a child with a disability who is enrolled in the program.

18 * **Sec. 11.** AS 17.37.070(6) is amended to read:

19 (6) "facility monitored by the department or the Department of
 20 Administration" means an institution, building, office, or home operated by the
 21 department or the Department of Administration, funded by the department or the
 22 Department of Administration, under contract with the department or the Department
 23 of Administration, inspected by the department or the Department of Administration,
 24 designated by the department or the Department of Administration, or licensed by the
 25 department or the Department of Administration, for the care of

26 (A) juveniles; for the purposes of this subparagraph,
 27 "institution" includes a foster home and a group home, and a juvenile detention
 28 facility [, A JUVENILE DETENTION HOME, A JUVENILE WORK
 29 CAMP,] and a **juvenile** treatment facility, as those terms are defined in
 30 AS 47.12.990;

31 (B) the elderly; for the purposes of this subparagraph,

1 "institution" includes

2 (i) an assisted living home as defined in AS 47.33.990;

3 and

4 (ii) the Alaska Pioneers' Home or the Alaska Veterans'

5 Home, operated under AS 47.55;

6 (C) the mentally ill; for the purposes of this subparagraph,

7 "institution" includes a designated treatment facility and an evaluation facility,
8 as those terms are defined in AS 47.30.915;

9 * **Sec. 12.** AS 18.20.499(2) is amended to read:

10 (2) "health care facility" means a private, municipal, or state hospital;
11 independent diagnostic testing facility; primary care outpatient facility; skilled nursing
12 facility; kidney disease treatment center, including freestanding hemodialysis units;
13 intermediate care facility; ambulatory surgical facility; Alaska Pioneers' Home or
14 Alaska Veterans' Home administered by the Department of Health and Social Services
15 under AS 47.55; correctional facility owned or administered by the state; private,
16 municipal, or state facility employing one or more public health nurses; long-term care
17 facility; psychiatric hospital; residential psychiatric treatment center, as defined in
18 AS 18.07.111 or AS 47.32.900; secure residential psychiatric treatment center under
19 AS 47.12.990; a juvenile detention facility [; JUVENILE DETENTION HOME,
20 JUVENILE WORK CAMP,] or juvenile treatment facility, as those terms are
21 defined in AS 47.12.990; or a treatment institution as that term is defined in
22 AS 47.14.990;

23 * **Sec. 13.** AS 47.10.141(c) is amended to read:

24 (c) A minor may be taken into emergency protective custody by a peace
25 officer and placed into temporary detention in a juvenile detention facility [HOME] in
26 the local community if there has been an order issued by a court under a finding of
27 probable cause that (1) the minor is a runaway in wilful violation of a valid court order
28 issued under AS 47.10.080(c)(1), 47.10.142(f), AS 47.12.120(b)(1) or (3), or
29 47.12.250(d), (2) the minor's current situation poses a severe and imminent risk to the
30 minor's life or safety, and (3) no reasonable placement alternative exists within the
31 community. A minor detained under this subsection shall be brought before a court on

1 the day the minor is detained, or if that is not possible, within 24 hours after the
 2 detention for a hearing to determine the most appropriate placement in the best
 3 interests of the minor. A minor taken into emergency protective custody under this
 4 subsection may not be detained for more than 24 hours, except as provided under
 5 AS 47.12.250. Emergency protective custody may not include placement of a minor in
 6 **an adult correctional facility, an adult** [A] jail or **a temporary secure juvenile**
 7 **holding area** [SECURE FACILITY OTHER THAN A JUVENILE DETENTION
 8 HOME,] nor may an order for protective custody be enforced against a minor who is
 9 residing in a licensed program for runaway minors, as defined in AS 47.10.390.

10 * **Sec. 14.** AS 47.10.141(j) is amended by adding a new paragraph to read:

11 (3) "temporary secure juvenile holding area" has the meaning given in
 12 AS 47.12.990.

13 * **Sec. 15.** AS 47.10.990(20) is amended to read:

14 (20) "juvenile detention **facility** [HOME]" **has the meaning given in**
 15 **AS 47.12.990** [IS A SEPARATE ESTABLISHMENT, EXCLUSIVELY DEVOTED
 16 TO THE DETENTION OF MINORS ON A SHORT-TERM BASIS AND NOT A
 17 PART OF AN ADULT JAIL];

18 * **Sec. 16.** AS 47.12.025(c) is amended to read:

19 (c) If a person who is subject to the jurisdiction of this chapter due solely to
 20 AS 47.12.020(b) has been arrested by a peace officer or a **juvenile** probation officer
 21 under AS 47.12.245, detained under AS 47.12.250, or committed to the custody or
 22 supervision of the department under AS 47.12.120(b) or 47.12.240, the department,
 23 after consulting the peace officer or **juvenile** probation officer if appropriate, shall
 24 make arrangements for the detention, placement, or supervision of the person. In the
 25 discretion of the department, the person may be detained or placed in a juvenile
 26 **detention facility, juvenile treatment** facility, **temporary secure juvenile holding**
 27 **area**, or in an adult correctional facility.

28 * **Sec. 17.** AS 47.12.030(b) is amended to read:

29 (b) When a minor is accused of violating a statute specified in this subsection,
 30 other than a statute the violation of which is a felony, this chapter and the Alaska
 31 Delinquency Rules do not apply and the minor accused of the offense shall be

1 charged, prosecuted, and sentenced in the district court in the same manner as an
 2 adult; if a minor is charged, prosecuted, and sentenced for an offense under this
 3 subsection, the minor's parent, guardian, or legal custodian shall be present at all
 4 proceedings; the provisions of this subsection apply when a minor is accused of
 5 violating

6 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
 7 a municipality;

8 (2) AS 11.76.105, relating to the possession of tobacco by a person
 9 under 19 years of age;

10 (3) a fish and game statute or regulation under AS 16;

11 (4) a parks and recreational facilities statute or regulation under
 12 AS 41.21;

13 (5) [REPEALED]

14 (6) a municipal curfew ordinance, whether adopted under
 15 AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its
 16 ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for
 17 the violation of a municipal curfew ordinance, the court shall allow a defendant the
 18 option of performing community work; the value of the community work, which may
 19 not be lower than the amount of the fine, shall be determined under AS 12.55.055(c);
 20 in this paragraph, "community work" includes the work described in AS 12.55.055(b)
 21 or work that, on the recommendation of the municipal or borough assembly, city
 22 council, or traditional village council of the defendant's place of residence, would
 23 benefit persons within the municipality or village who are elderly or disabled;

24 **(7) AS 04.16.050, relating to consumption, possession, or control of**
 25 **alcohol by a person under 21 years of age.**

26 * **Sec. 18.** AS 47.12.040(a) is amended to read:

27 (a) Whenever circumstances subject a minor to the jurisdiction of this chapter,
 28 the court shall

29 (1) require in conformance with this section, that, for a minor who is
 30 alleged to be a delinquent minor under AS 47.12.020, the department or an entity
 31 selected by it shall make a preliminary inquiry to determine if any action is

1 appropriate and may take appropriate action to adjust the matter without a court
2 hearing; the department or an entity selected by it may arrange to interview the minor,
3 the minor's parents or guardian, and any other person having relevant information; at
4 or before the interview, the minor and the minor's parents or guardian, if present, must
5 be advised that any statement may be used against the minor and of the following
6 rights of the minor: to have a parent or guardian present at the interview; to remain
7 silent; to have retained or appointed counsel at all stages of the proceedings, including
8 the initial interview; if a petition is filed, to have an adjudication hearing before a
9 judge or jury with compulsory process to compel the attendance of witnesses; and the
10 opportunity to confront and cross-examine witnesses; if, under this paragraph,

11 (A) the department or an entity selected by it makes a
12 preliminary inquiry and takes appropriate action to adjust the matter without a
13 court hearing, the minor may not be detained or taken into custody as a
14 condition of the adjustment and, subject to AS 47.12.060, the matter shall be
15 closed by the department or an entity selected by it if the minor successfully
16 completes all that is required of the minor by the department or an entity
17 selected by it in the adjustment; in a municipality or municipalities in which a
18 youth court has been established under AS 47.12.400, adjustment of the matter
19 under this paragraph may include referral to the youth court; if a community
20 dispute resolution center has been established under AS 47.12.450(a) and has
21 obtained recognition under AS 47.12.450(b), adjustment of the matter under
22 this paragraph may include use of the services of the community dispute
23 resolution center;

24 (B) the department or an entity selected by it concludes that the
25 matter may not be adjusted without a court hearing, the department may file a
26 petition, **amended petition, or supplemental petition** under (2) of this
27 subsection setting out the facts; or

28 (2) appoint a competent person or agency to make a preliminary
29 inquiry and report for the information of the court to determine whether the interests
30 of the public or of the minor require that further action be taken; if, under this
31 paragraph, the court appoints a person or agency to make a preliminary inquiry and to

1 report to it, then upon the receipt of the report, the court may informally adjust the
 2 matter without a hearing, or it may authorize the person having knowledge of the facts
 3 of the case to file with the court a petition setting out the facts; **if, following the filing**
 4 **of a petition, additional facts are determined, the court may authorize a person**
 5 **having knowledge of the facts to file an amended petition or supplemental**
 6 **petition**; if the court informally adjusts the matter, the minor may not be detained or
 7 taken into the custody of the court as a condition of the adjustment, and the matter
 8 shall be closed by the court upon adjustment.

9 * **Sec. 19.** AS 47.12.120(b) is amended to read:

10 (b) If the minor is not subject to (j) of this section and the court finds that the
 11 minor is delinquent, it shall

12 (1) order the minor committed to the department for a period of time
 13 not to exceed two years or in any event extend past the day the minor becomes 19
 14 years of age, except that the department may petition for and the court may grant in a
 15 hearing (A) two-year extensions of commitment that do not extend beyond the minor's
 16 19th birthday if the extension is in the best interests of the minor and the public; and
 17 (B) an additional one-year period of supervision past age 19 if continued supervision
 18 is in the best interests of the person and the person consents to it; the department shall
 19 place the minor in the juvenile facility that the department considers appropriate and
 20 that may include a juvenile [CORRECTIONAL SCHOOL, JUVENILE WORK
 21 CAMP,] treatment facility, **juvenile** [DETENTION HOME, OR] detention facility, **or**
 22 **secure residential psychiatric treatment center**; the minor may be released from
 23 placement or detention and placed on probation on order of the court and may also be
 24 released by the department, in its discretion, under AS 47.12.260;

25 (2) order the minor placed on probation, to be supervised by the
 26 department, and released to the minor's parents, guardian, or a suitable person; if the
 27 court orders the minor placed on probation, it may specify the terms and conditions of
 28 probation; the probation may be for a period of time not to exceed two years and in no
 29 event to extend past the day the minor becomes 19 years of age, except that the
 30 department may petition for and the court may grant in a hearing

31 (A) two-year extensions of supervision that do not extend

1 beyond the minor's 19th birthday if the extension is in the best interests of the
2 minor and the public; and

3 (B) an additional one-year period of supervision past age 19 if
4 the continued supervision is in the best interests of the person and the person
5 consents to it;

6 (3) order the minor committed to the custody of the department and
7 placed on probation, to be supervised by the department and released to the minor's
8 parents, guardian, other suitable person, or suitable nondetention setting such as with a
9 relative or in a foster home or residential child care facility, whichever the department
10 considers appropriate to implement the treatment plan of the predisposition report; if
11 the court orders the minor placed on probation, it may specify the terms and conditions
12 of probation; the department may transfer the minor, in the minor's best interests, from
13 one of the probationary placement settings listed in this paragraph to another, and the
14 minor, the minor's parents or guardian, the minor's foster parent, and the minor's
15 attorney are entitled to reasonable notice of the transfer; the probation may be for a
16 period of time not to exceed two years and in no event to extend past the day the
17 minor becomes 19 years of age, except that the department may petition for and the
18 court may grant in a hearing

19 (A) two-year extensions of commitment that do not extend
20 beyond the minor's 19th birthday if the extension is in the best interests of the
21 minor and the public; and

22 (B) an additional one-year period of supervision past age 19 if
23 the continued supervision is in the best interests of the person and the person
24 consents to it;

25 (4) order the minor and the minor's parent to make suitable restitution
26 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
27 under this paragraph,

28 (A) except as provided in (B) of this paragraph, the court may
29 not refuse to make an order of restitution to benefit the victim of the act of the
30 minor that is the basis of the delinquency adjudication; under this
31 subparagraph, the court may require the minor to use the services of a

1 community dispute resolution center that has been recognized by the
2 commissioner under AS 47.12.450(b) to resolve any dispute between the minor
3 and the victim of the minor's offense as to the amount of or manner of payment
4 of the restitution;

5 (B) the court may not order payment of restitution by the parent
6 of a minor who is a runaway or missing minor for an act of the minor that was
7 committed by the minor after the parent has made a report to a law
8 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run
9 away or is missing; for purposes of this subparagraph, "runaway or missing
10 minor" means a minor who a parent reasonably believes is absent from the
11 minor's residence for the purpose of evading the parent or who is otherwise
12 missing from the minor's usual place of abode without the consent of the
13 parent; and

14 (C) at the request of the department, the Department of Law,
15 the victims' advocate, or on its own motion, the court shall, at any time, order
16 the minor and the minor's parent, if applicable, to submit financial information
17 on a form approved by the Alaska Court System to the court, the department,
18 and the Department of Law for the purpose of establishing the amount of
19 restitution or enforcing an order of restitution under AS 47.12.170; the form
20 must include a warning that submission of incomplete or inaccurate
21 information is punishable as unsworn falsification in the second degree under
22 AS 11.56.210;

23 (5) order the minor committed to the department for placement in an
24 adventure-based education program established under AS 47.21.020 with conditions
25 the court considers appropriate concerning release upon satisfactory completion of the
26 program or commitment under (1) of this subsection if the program is not satisfactorily
27 completed;

28 (6) in addition to an order under (1) - (5) of this subsection, order the
29 minor to perform community service; for purposes of this paragraph, "community
30 service" includes work

31 (A) on a project identified in AS 33.30.901; or

1 (B) that, on the recommendation of the city council or
 2 traditional village council, would benefit persons within the city or village who
 3 are elderly or disabled; or

4 (7) in addition to an order under (1) - (6) of this subsection, order the
 5 minor's parent or guardian to comply with orders made under AS 47.12.155, including
 6 participation in treatment under AS 47.12.155(b)(1).

7 * **Sec. 20.** AS 47.12.140 is amended to read:

8 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order
 9 under AS 47.12.120(b)(1) - (3) and (5) and (j), the court shall

10 (1) consider both the best interests of the minor and the interests of the
 11 public, and, in doing so, the court shall take into account

12 (A) the seriousness of the minor's delinquent act and the
 13 attitude of the minor and the minor's parents toward that act;

14 (B) the minor's culpability as indicated by the circumstances of
 15 the particular case;

16 (C) the age of the minor;

17 (D) the minor's prior criminal or juvenile record and the
 18 success or failure of any previous orders, dispositions, or placements imposed
 19 on the minor;

20 (E) the effect of the dispositional order to be imposed in
 21 deterring the minor from committing other delinquent acts;

22 (F) the need to commit the minor to the department's custody or
 23 to detain the minor in a juvenile treatment facility, juvenile detention
 24 facility, secure residential psychiatric treatment center, [AN
 25 INSTITUTION] or other suitable place in order to prevent further harm to the
 26 public;

27 (G) the interest of the public in securing the minor's
 28 rehabilitation; and

29 (H) the ability of the state to take custody of and to care for the
 30 minor; and

31 (2) order the least restrictive alternative disposition for the minor; for

1 purposes of this paragraph, the "least restrictive alternative disposition" means that
2 disposition that is no more restrictive than is, in the judgment of the court, most
3 conducive to the minor's rehabilitation taking into consideration the interests of the
4 public.

5 * **Sec. 21.** AS 47.12.150(a) is amended to read:

6 (a) When a minor is committed under AS 47.12.120(b)(1) or (3), **or 47.12.240**
7 to the department or released under AS 47.12.120(b)(2) to the minor's parents,
8 guardian, or other suitable person, a relationship of legal custody exists. This
9 relationship imposes on the department and its authorized agents or the parents,
10 guardian, or other suitable person the responsibility of physical care and control of the
11 minor, the determination of where and with whom the minor shall live, the right and
12 duty to protect, train, and discipline the minor, and the duty of providing the minor
13 with food, shelter, education, and medical care. These obligations are subject to any
14 residual parental rights and responsibilities and rights and responsibilities of a
15 guardian if one has been appointed. When a minor is committed to the department and
16 the department places the minor with the minor's parent, the parent has the
17 responsibility to provide and pay for food, shelter, education, and medical care for the
18 minor. When parental rights have been terminated, or there are no living parents and a
19 guardian has not been appointed, the responsibilities of legal custody include those in
20 (b) and (c) of this section. The department or person having legal custody of the minor
21 may delegate any of the responsibilities under this section, except authority to consent
22 to marriage, adoption, and military enlistment may not be delegated. For purposes of
23 this chapter, a person in charge of a placement setting is an agent of the department.

24 * **Sec. 22.** AS 47.12.240(a) is amended to read:

25 (a) When the court commits a minor to the custody of the department, the
26 department shall arrange to place the minor in a **juvenile detention facility**
27 [DETENTION HOME, WORK CAMP,] or another suitable place that the department
28 designates for that purpose. Except **under the conditions described in** [WHEN
29 DETENTION IN A CORRECTIONAL FACILITY IS AUTHORIZED BY] (c) of this
30 section, the minor may not be **detained** [INCARCERATED] in a correctional facility
31 that houses adult prisoners.

1 * **Sec. 23.** AS 47.12.240(c) is amended to read:

2 (c) Notwithstanding (a) of this section, a minor may be **detained**
 3 **[INCARCERATED]** in **an adult** [A] correctional facility, **an adult jail, or a**
 4 **temporary secure juvenile holding area only if one of the following applies:**

5 (1) [IF] the minor is the subject of a petition filed with the court under
 6 this chapter seeking adjudication of the minor as a delinquent minor or [IF] the minor
 7 is **detained or** in official detention pending the filing of that petition; however,
 8 detention in **an adult** [A] correctional facility, **an adult jail, or a temporary secure**
 9 **juvenile holding area** under this paragraph may not exceed the lesser of

10 (A) six hours, except under the criteria listed in (e) of this
 11 section; or

12 (B) the time necessary to arrange the minor's transportation to a
 13 juvenile detention **facility** [HOME] or comparable facility for the detention of
 14 minors;

15 (2) [IF,] in response to a petition of delinquency filed under this
 16 chapter, the court has entered an order closing the case under AS 47.12.100(a),
 17 allowing the minor to be prosecuted as an adult; or

18 (3) [IF] the minor is at least 16 years of age and the court has entered
 19 an order under AS 47.12.160(e) imposing an adult sentence and transferring custody
 20 of the minor to the Department of Corrections.

21 * **Sec. 24.** AS 47.12.245(b) is amended to read:

22 (b) A **juvenile** probation officer may arrest a minor if the **juvenile** probation
 23 officer has probable cause to believe that the minor has violated [CONDITIONS OF]
 24 the minor's **conditions of conduct** [RELEASE] or probation.

25 * **Sec. 25.** AS 47.12.250(a) is amended to read:

26 (a) A peace officer or a **juvenile** probation officer who has arrested, or a peace
 27 officer who has continued the arrest of, a minor under AS 47.12.245 may

28 (1) have the minor detained in a juvenile detention facility **or**
 29 **temporary secure juvenile holding area** if, in the opinion of the [PEACE] officer
 30 making or continuing the arrest, it is necessary to do so to protect the minor or the
 31 community; however, the department may direct that a minor who was arrested or

1 whose arrest was continued be released from detention before the hearing required by
2 (c) of this section;

3 (2) before taking the minor to a juvenile detention facility **or**
4 **temporary secure juvenile holding area**, release the minor to the minor's parents or
5 guardian if detention is not necessary to

6 (A) protect the minor or the community; or

7 (B) ensure the minor's attendance at subsequent court hearings.

8 * **Sec. 26.** AS 47.12.270 is repealed and reenacted to read:

9 **Sec. 47.12.270. Juvenile probation officers.** (a) The department shall employ
10 juvenile probation officers. A juvenile probation officer shall exercise the duties of a
11 probation officer and shall prepare preliminary investigations and assist and advise the
12 court in the furtherance of the welfare and control of a minor under the court's
13 jurisdiction. A juvenile probation officer shall also carry out other duties in the care
14 and treatment of minors that are consistent with the intent of this chapter.

15 (b) A juvenile probation officer has the powers of a peace officer with respect
16 to the service of process and arresting a minor when

17 (1) a court has issued an arrest warrant;

18 (2) there is probable cause to believe the minor has violated conditions
19 of conduct or probation; or

20 (3) probable cause exists for believing that the minor has escaped from
21 or unlawfully evaded a placement made under AS 47.12.120(b)(1).

22 * **Sec. 27.** AS 47.12.310(d) is amended to read:

23 (d) Upon request of a victim, the department shall make every reasonable
24 effort to notify the victim as soon as practicable, by telephone or in writing, when a
25 delinquent minor is to be released from placement [IN A JUVENILE FACILITY]
26 under AS 47.12.120(b)(1). The notice under this subsection must include the expected
27 date of the delinquent minor's release, the geographic area in which the delinquent
28 minor is required to reside, and other pertinent information concerning the delinquent
29 minor's conditions of **conduct or probation** [RELEASE] that may affect the victim.

30 * **Sec. 28.** AS 47.12.315(c) is amended to read:

31 (c) When required by this section to disclose information, the department may

1 disclose only the name of the minor, the name of each legal parent or guardian, the
 2 specific offense **for which the minor was adjudicated delinquent** [ALLEGED TO
 3 HAVE BEEN COMMITTED IN THE PETITION], and the final outcome of the court
 4 proceedings relating to the offense. Before the disclosure, the department shall delete
 5 the information that identifies the victim of the offense.

6 * **Sec. 29.** AS 47.12.990(7) is amended to read:

7 (7) "juvenile detention facility" means **a secure facility** [SEPARATE
 8 QUARTERS WITHIN A CITY JAIL USED] for the detention of delinquent minors **in**
 9 **the custody of the department under AS 47.12.240 or 47.12.250;**

10 * **Sec. 30.** AS 47.12.990(12) is amended to read:

11 (12) "minor" means a person **who is**

12 **(A)** under 18 years of age **at the time the person commits an**

13 **offense; and**

14 **(B)** **subject to the jurisdiction of the court under this**

15 **chapter;**

16 * **Sec. 31.** AS 47.12.990 is amended by adding new paragraphs to read:

17 (17) "juvenile probation officer" means an officer described in
 18 AS 47.12.270;

19 (18) "juvenile treatment facility" means a secure facility for treatment
 20 of minors adjudicated delinquent and committed by a court to the care and custody of
 21 the department under AS 47.12.120(b)(1);

22 (19) "residential child care facility" has the meaning given in
 23 AS 47.32.900;

24 (20) "temporary secure juvenile holding area" means separate quarters
 25 that are used for the temporary detention of delinquent minors pending a court order or
 26 transportation to a juvenile detention facility and that are not within sight or sound of
 27 any adult prisoners.

28 * **Sec. 32.** AS 47.14.010 is amended to read:

29 **Sec. 47.14.010. General powers of department over juvenile facilities and**
 30 **institutions.** The department may

31 (1) purchase, lease, or construct buildings or other facilities for the

1 care, detention, rehabilitation, and education of children in need of aid or delinquent
2 minors;

3 (2) adopt plans for construction of juvenile **detention facilities**
4 [HOMES, JUVENILE WORK CAMPS], juvenile **treatment** [DETENTION]
5 facilities, and other juvenile institutions;

6 (3) adopt standards and regulations for the design, construction, repair,
7 maintenance, and operation of all juvenile detention **facilities, juvenile treatment**
8 [HOMES, WORK CAMPS,] facilities, and institutions;

9 (4) inspect periodically each juvenile detention **facility, juvenile**
10 **treatment** [HOME, WORK CAMP,] facility, or other institution to ensure that the
11 standards and regulations adopted are being maintained;

12 (5) reimburse **municipalities** [CITIES] maintaining and operating
13 juvenile detention [HOMES, WORK CAMPS, AND] facilities;

14 (6) enter into contracts and arrangements with cities and state and
15 federal agencies to carry out the purposes of AS 47.10, AS 47.12, and this chapter;

16 (7) do all acts necessary to carry out the purposes of AS 47.10,
17 AS 47.12, and this chapter;

18 (8) adopt the regulations necessary to carry out AS 47.10, AS 47.12,
19 and this chapter;

20 (9) accept donations, gifts, or bequests of money or other property for
21 use in construction of juvenile [HOMES, WORK CAMPS,] institutions, [OR]
22 detention facilities, **or juvenile treatment facilities**;

23 (10) operate juvenile **detention facilities** [HOMES] when
24 municipalities are unable to do so;

25 (11) receive, care for, and place in a juvenile detention **facility**
26 [HOME], the minor's own home, a foster home, [OR] a **juvenile treatment facility**
27 [CORRECTIONAL SCHOOL, WORK CAMP], or treatment institution all minors
28 committed to its custody under AS 47.10, AS 47.12, and this chapter.

29 * **Sec. 33.** AS 47.14.020 is amended to read:

30 **Sec. 47.14.020. Duties of department.** The department shall

31 (1) accept all minors committed to the custody of the department and

1 all minors who are involved in a written agreement under AS 47.14.100(c), and
 2 provide for the welfare, control, care, custody, and placement of these minors in
 3 accordance with this chapter;

4 (2) require and collect statistics on juvenile offenses and offenders in
 5 the state;

6 (3) conduct studies and prepare findings and recommendations on the
 7 need, number, type, construction, maintenance, and operating costs of juvenile
 8 **detention facilities, juvenile treatment** [HOMES, WORK CAMPS,] facilities, and
 9 [THE] other institutions, and adopt and submit a plan for construction of the
 10 [HOMES, WORK CAMPS,] facilities [,] and institutions when needed, together with
 11 a plan for financing the construction programs;

12 (4) examine, where possible, all facilities, institutions, [WORK
 13 CAMPS,] and places of juvenile detention **and treatment** in the state and inquire into
 14 their methods and the management of juveniles in them.

15 * **Sec. 34.** AS 47.14.040 is amended to read:

16 **Sec. 47.14.040. Authority to maintain and operate temporary secure**
 17 **juvenile holding area, juvenile detention facility, or juvenile treatment** [HOME,
 18 **WORK CAMP, OR] facility. (a) A municipality or entity [CITY] may maintain
 19 and operate a **temporary secure juvenile holding area** [JUVENILE DETENTION
 20 FACILITY], and a **municipality** [CITY] or a nonprofit corporation may maintain and
 21 operate a juvenile detention **facility or juvenile treatment facility** [HOME OR A
 22 JUVENILE WORK CAMP].**

23 (b) The **municipality** [CITY] or nonprofit corporation may receive grants-in-
 24 aid from the state for costs of operation of the **temporary secure juvenile holding**
 25 **area or facility** [HOMES, WORK CAMPS, OR FACILITIES] maintained and
 26 operated under (a) of this section.

27 * **Sec. 35.** AS 47.14.050(a) is repealed and reenacted to read:

28 (a) The department shall adopt standards and regulations for the operation of
 29 juvenile detention facilities and juvenile treatment facilities in the state.

30 * **Sec. 36.** AS 47.14.050(b) is amended to read:

31 (b) The department may enter into contracts with **municipalities** [CITIES]

1 and other governmental agencies for the detention of juveniles before and after
 2 commitment by juvenile authorities. A contract may not be made for longer than one
 3 year.

4 * **Sec. 37.** AS 47.14.990(7) is amended to read:

5 (7) "juvenile detention facility" **has the meaning given in**
 6 **AS 47.12.990** [MEANS SEPARATE QUARTERS WITHIN A CITY JAIL USED
 7 FOR THE DETENTION OF DELINQUENT MINORS];

8 * **Sec. 38.** AS 47.14.990(10) is amended to read:

9 (10) "minor" **has the meaning given in AS 47.12.990** [MEANS A
 10 PERSON UNDER 18 YEARS OF AGE];

11 * **Sec. 39.** AS 47.14.990 is amended by adding new paragraphs to read:

12 (12) "juvenile probation officer" has the meaning given in
 13 AS 47.12.990;

14 (13) "juvenile treatment facility" has the meaning given in
 15 AS 47.12.990;

16 (14) "temporary secure juvenile holding area" has the meaning given
 17 in AS 47.12.990.

18 * **Sec. 40.** AS 47.17.020(a) is amended to read:

19 (a) The following persons who, in the performance of their occupational
 20 duties, their appointed duties under (8) of this subsection, or their volunteer duties
 21 under (9) of this subsection, have reasonable cause to suspect that a child has suffered
 22 harm as a result of child abuse or neglect shall immediately report the harm to the
 23 nearest office of the department and, if the harm appears to be a result of a suspected
 24 sex offense, shall immediately report the harm to the nearest law enforcement agency:

25 (1) practitioners of the healing arts;

26 (2) school teachers and school administrative staff members, including
 27 athletic coaches, of public and private schools;

28 (3) peace officers and officers of the Department of Corrections;

29 (4) administrative officers of institutions;

30 (5) child care providers;

31 (6) paid employees of domestic violence and sexual assault programs,

1 and crisis intervention and prevention programs as defined in AS 18.66.990;

2 (7) paid employees of an organization that provides counseling or
3 treatment to individuals seeking to control their use of drugs or alcohol;

4 (8) members of a child fatality review team established under
5 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
6 under AS 47.14.300;

7 (9) volunteers who interact with children in a public or private school
8 for more than four hours a week;

9 **(10) juvenile probation officers, juvenile probation office staff, and**
10 **staff of juvenile detention facilities and juvenile treatment facilities, as those**
11 **terms are defined in AS 47.12.990.**

12 * **Sec. 41.** AS 28.15.176; AS 47.12.060(b)(5), 47.12.990(8), 47.12.990(9), 47.12.990(15);
13 AS 47.14.990(8), and 47.14.990(9) are repealed.

14 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 APPLICABILITY. AS 11.41.425(b)(1), as amended by sec. 2 of this Act,
17 AS 11.41.425(b)(2), as amended by sec. 3 of this Act, AS 11.41.427(b)(2), as amended by
18 sec. 4 of this Act, AS 11.41.470(3), as amended by sec. 5 of this Act, AS 11.41.470(5), as
19 amended by sec. 6 of this Act, AS 11.41.470(9) and (10), enacted by sec. 7 of this Act,
20 AS 11.61.123(e), as amended by sec. 8 of this Act, and AS 47.12.030(b), as amended by sec.
21 17 of this Act, apply to offenses committed on or after the effective date of secs. 2 - 8 and 17
22 of this Act.

23 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: REGULATIONS. The Department of Health and Social Services may
26 adopt regulations necessary to implement the changes made by this Act. The regulations take
27 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
28 relevant provision of this Act implemented by the regulation.

29 * **Sec. 44.** Section 43 of this Act takes effect immediately under AS 01.10.070(c).