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House Bill 172 Mental Health Facilities & Meds Sectional Analysis (Ver. D.A)

Section 1: Amends AS 12.25.031(a) to add a “crisis residential center” as another facility a peace officer may deliver a person to as an alternative to arrest. An officer may, at their discretion, deliver a person to a crisis stabilization center, crisis residential center, or evaluation facility instead of arresting them if the officer believes that the person is suffering from an acute episode of mental illness and if the person voluntarily agrees to be taken to a crisis stabilization center or evaluation facility.

Section 2: Conforming amendment AS 12.25.031(b) to add a “crisis residential center” as another facility a peace officer may take a person into emergency custody under AS 47.30.705 as an alternative to arrest.

Section 3: Conforming amendment to AS 12.25.031(c) to include “crisis residential center” in the alternative to arrest statutes (AS 12.25.031); makes it clear that delivery of a person to a crisis stabilization center, a crisis residential center, or an evaluation facility under these provisions does not constitute an involuntary commitment under AS 47.30 or an arrest.

Section 4: Conforming amendment to AS 12.25.031(d), alternative to arrest statutes; requires a mental health professional to make reasonable efforts to inform the arresting officer and the arresting officer’s employing agency before they release a person delivered to a crisis stabilization center, crisis residential center, or an evaluation facility under this provision if the officer has specifically requested notification.

Section 5: Conforming amendment to AS 12.25.031(f) to include “a crisis residential center” in the alternative to arrest statutes (AS 12.25.031)

Section 6: Conforming amendment to AS 12.25.031(g) to include “a crisis residential center” in the alternative to arrest statutes. Expands the notification requirement to include notifying the arresting officer’s employing agency in addition to the arresting officer.

Section 7: Amends the alternative to arrest statutes (AS 12.25.031) to update the definition of “crisis stabilization center” to have the meaning given in AS 47.32.900, which is updated in Section 24.

Section 8: Adds a definition for “crisis residential center” to the alternative to arrest statutes in AS 12.25.031.

Section 9: Conforming amendment to AS 18.65.530(c) to add “a crisis residential center” to the Mandatory arrest for Crimes for Domestic Violence, Violation of Protective Orders, and Violation of Conditions of Release statutes (AS 18.65.530). This section of law provides that a peace officer is not required to make an arrest under AS 18.65.530(a) if the officer has authorization from a prosecuting attorney in the jurisdiction in which the offense under investigation arose to deliver the person to a crisis stabilization center, a crisis residential center, or an evaluation facility as provided in AS 12.25.031.

Section 10: Conforming amendment to AS 18.65.530(g) to add “a crisis residential center” to the Mandatory Arrest for Crimes Involving Domestic Violence, Violation of Protective Orders, and Violation of Conditions of Release statutes (AS 18.65.530). This section requires a peace officer who delivers a person to a crisis stabilization center, a crisis residential center, or evaluation facility to leave their contact information and their employing agency’s contact information with the crisis stabilization center or evaluation facility and, if notified of a release from crisis stabilization under AS 12.25.031(d), to make reasonable efforts to inform the victim of a crime under (a)(1) and (2) of AS 18.65.530.

Section 11: Amends AS 18.85.100(a), the Public Defender Agency statutes, to clarify that the Public Defender Agency is the attorney representation in all proceedings under AS 47.30 including when individuals are at crisis stabilization centers or crisis residential centers.

Section 12: Amends AS 47.30.705(a) to expand the category of who can cause a person to be taken into custody for delivery to a crisis stabilization center, a crisis residential center, evaluation facility, or treatment facility. The new language would allow a “health officer” as newly defined in Section 22, the existing “mental health professional” as defined in AS 47.30.915(13), or a physician assistant licensed by the State Medical Board to practice in this state, in addition to a peace officer to take someone into custody.

Clarifies that a person is taken “into custody” by a peace officer or health officer and then delivered to the nearest crisis stabilization center, crisis residential center, evaluation facility or treatment facility.

Clarifies that a person taken into custody may not be placed in jail or other correctional facility except for protective custody purposes while they await transportation to a crisis stabilization center, crisis residential center, evaluation facility, or treatment facility.

Section 13: Adds a new subsection (c) to AS 47.30.705 that requires a peace officer or health officer to prioritize delivery to a crisis stabilization center if one exists in the area served by the peace officer or health officer.

Section 14: Adds a new section AS 47.30.707 for admission to and detention at a crisis stabilization center with the following options and rights for a patient:

- (a) Requires a mental health professional to examine the patient (respondent) delivered to a crisis stabilization center within 3 hours after arrival when a patient (respondent) is delivered pursuant to AS 47.30.705 and specifies that a hold may last no longer than 23 hours and 59 minutes.
- (b) Creates a new process for evaluation, stabilization, and treatment at crisis residential centers which provides a less restrictive alternative to traditional involuntary commitment holds at a Designated Evaluation and Treatment Facility (DET) or the Alaska Psychiatric Institute (API). If there is probable cause to believe the person is suffering from an acute behavioral health crisis, meaning a sudden in onset and severe behavioral health event that could be stabilized on a short term basis in a

less restrictive setting without the use of hospitalization by admitting to a crisis residential center, the mental health professional in charge at the 23-hour, 59-minute crisis stabilization center can apply to the court for an ex parte detention order after which the person could be detained at a crisis residential center for no more than 7 days.

Adds a new section AS 47.30.708 for admission to and detention at a crisis residential center with the following options and rights for a patient:

- (a) Requires a mental health professional to examine the patient's (respondent) mental and physical condition within 3 hours after arrival.
- (b) Allows the mental health professional who performs the emergency examination under (a) to admit the patient (respondent) to the crisis residential center if:
 - 1. The patient (respondent) is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others; and
 - 2. The patient's (respondent's) acute behavioral health crisis will be resolved during admission to the crisis residential center.
- (c) Allows the mental health professional to apply for an ex parte order under this section if admission is made to a crisis residential center and a judicial order has not been obtained. Sets forth that the court will grant an application if there is probable cause to believe that the patient's (respondent's) acute behavioral health crisis will be resolved during admission to a crisis residential center.
- (d) Requires the court to set a time for a 72-hour evaluation hearing to be held if needed within 72 hours after the patient's (respondent's) arrival to the crisis stabilization center or crisis residential center, whichever is earlier, if a court grants admission to a crisis residential center under (c). Sets out the parties the court must notify of the time and place of the hearing. Provides for the computation of time of the 72-hour period, which does not include Saturdays, Sundays, and legal holidays, except that if the exclusion of Saturdays, Sundays, and legal holidays from the computation of the 72-hour period would result in the respondent being held for longer than 72 hours, the 72-hour period would result in the respondent being held for longer than 72 hours, the 72-hour period ends at 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. Requires hearings to be held at the crisis residential center in person by contemporaneous two-way video conference or by teleconference.
- (e) Sets forth the requirements for a petition filed in court for a 30-day commitment or for detention at a crisis stabilization center. Requires a petition for a 30-day commitment to confirm with AS 47.30.730, which is the statute regarding petitions for 30-day commitment to a treatment facility. Specifies the items that must be included in any petition.
- (f) Provides for the court reviewing a 30-day commitment petition under (d) to hold the next hearing in accordance with AS 47.30.735. If the 30-day commitment petition is granted, allows the patient (respondent) to remain at the crisis residential center until admission to a designated treatment facility.
- (g) Provides for patients' rights listed in AS 47.30-735(b)(1)-(9) when the court is reviewing a petition for detention under (d) to a crisis residential center. Allows the court to order a patient (respondent) to be detained at a crisis residential center for up to seven days from the date of first admission to a crisis stabilization center or crisis residential center if the court has probable cause to believe:
 - A. The patient (respondent) is mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others; and
 - B. The patient's (respondent's) acute behavioral health crisis will be resolved during admission to the crisis residential center.

Adds a new section AS 47.30.709. Rights of respondents at crisis stabilization centers and crisis residential centers; psychotropic medication; time.

- (a) Requires that if at any time during an involuntary hold at a crisis stabilization center or crisis residential center, the patient (respondent) no longer meets the standards for a stabilization hold or detention, that they no longer be held or detained, and the court notified if applicable.
- (b) Provides for the patient's (respondent's) rights when being involuntarily held at a crisis stabilization center or crisis residential center.
- (c) Allows for the patient (respondent) to convert to voluntary status for care.
- (d) Allows a crisis stabilization center or crisis residential center to administer crisis psychotropic medication consistent with the practice permitted in AS 47.30.838 for evaluation and designated treatment facilities.
- (e) Adds language to clarify how time is calculated in this section for the 23-hour, 59- minutes holding period at a crisis stabilization center and the seven-day detention at a crisis residential center.

In this section “professional person in charge” has the meaning given in AS 47.30.915(17).

Section 15: Provides clarifying edits to AS 47.30.710 to remove references to a “crisis stabilization center” because new AS 47.30.707 and AS 47.30.708 address this process under Section 13.

Adds language to allow a mental health professional, after examination, to either:

- 1. Admit the person to a crisis residential center;
- 2. Hospitalize the respondent; or
- 3. Arrange for emergency hospitalization.

Section 16: Adds a new subsection (c) to AS 47.30.710 to require application for an ex parte order if a judicial order is not in place.

Adds a new subsection (d) requiring a mental health professional to apply for an ex parte order if a patient (respondent) is readmitted to an evaluation facility after discharge from a subacute mental health facility and is not willing to stay voluntarily. Requires the patient (respondent) to stay at the evaluation facility until the court issues a decision on the ex parte application.

Section 17: Amends AS 47.30.715 to clarify that orders for evaluation are directed to “evaluation facilities” and to require admission of the patient (respondent) for a 72-hour evaluation to determine if a petition for 30-day commitment should be filed. Clarifies the individuals that are required to be notified by the court of the hearing arrangements.

Section 18: Amends AS 47.30.805(a), a computation of time statute, to include computation for proceedings or transportation to a crisis residential center. Adds a new computation for a seven-day detention at a crisis residential center. Amends the current computation of time to require a period to end at 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday if exclusion of those days would result in the patient being held for longer than 72 hours or 48 hours as applicable.

Section 19: Amends AS 47.30.838(c) to include crisis stabilization center and crisis residential center as a type of facility authorized to administer psychotropic crisis medication when there is a crisis situation where

the patient requires immediate medication to prevent significant physical harm to themselves or others. Current law allows a facility to administer three periods of crisis medication without further court approval, but also states a facility should consider the patient’s view on how to manage future crises.

Section 20: Amends AS 47.30.839(b) regarding court-ordered administration of medication to further clarify the court hearing must include information on the capacity of the patient to give informed consent and on the proposed use of psychotropic medication. Requires the petition to provide specific information regarding the factors listed in AS 47.30.837(d)(2)(A)-(E). These changes address a statute declared unconstitutional by the Alaska Supreme Court and align the language with the court decision.

Section 21: Amends AS 47.30.839(g) regarding court-ordered administration of medication to require the court determine by clear and convincing evidence that any proposed use of medication is in the best interests of the patient considering at a minimum the factors listed in AS 47.30.837(d)(2)(A)-(E), and that there is no feasible less intrusive alternative.

Section 22: Adds a new section to AS 47.30 to require the department to adopt regulations to implement these changes to the involuntary commitment statutes.

Section 23: Amends AS 47.30.915(7) to clarify that “evaluation facility” means a department-designated hospital or crisis residential center that has been designated to perform evaluations, or a medical facility operated by the federal government that performs evaluations.

Section 24: Amends AS 47.30.915(9) to amend the definition of “gravely disabled” to address a statute declared unconstitutional by the Alaska Supreme Court and insert language that was used in the Court decision.

Section 25: Amends the definition of “peace officer” in AS 47.30.915(15) to have the meaning given in AS 01.10.060(a).

Section 26: Amends AS 47.30.915 to provide definitions:

- “crisis residential center” has the meaning given in AS 47.32.900.
- “crisis stabilization center” has the meaning given in AS 47.32.900.
- “health officer” means a state, municipal, or other local health officer, public health nurse, emergency medical technician, paramedic, firefighter, or a person authorized by the court to carry out AS 47.30.660-47.30.915. This definition removed “state, municipal, or other local health officers, public health nurse, or a person authorized by the court to carry out AS 47.30.700-AS 47.30.915” from the current definition of “peace officer” found in AS 47.30.915(7), adds emergency medical technician, paramedic, and firefighter, and creates a new term for all of these providers.
- “subacute mental health facility” is defined in AS 47.32.900.

Section 27: Amends the licensing statutes in AS 47.32.010(b) to change “crisis stabilization centers” to “subacute mental health facilities.”

Section 28: Adds a new paragraph to AS 47.32.900 to define “subacute mental health facilities” in the licensing statutes and provides for “crisis residential centers” and “crisis stabilization centers” as subtypes of “subacute mental health facilities.”

- “crisis residential center” means a subacute mental health facility that has a maximum stay of seven days for an involuntary admission.
- “crisis stabilization center” means a subacute mental health facility that has a maximum stay of 23 hours and 59 minutes.

Section 29: Repeals AS 47.32.900(5), the current definition for “crisis stabilization centers” since it is replaced with the new definition in Section 28.

Section 30: Adds a new section to the uncodified law to require the Department of Health, Department of Family and Community Services, and the Alaska Mental Health Trust Authority to submit a joint report to the Legislature one year after the effective date of the act. The report shall assess current state, federal, and accrediting body requirements for psychiatric patient rights, including patient grievances and appeal policies; identify any changes that could improve patient outcomes and enhance patient rights; and analyze data collection and reporting of patient grievances and appeals, patient reports of harm and restraint, and the resolution of these matters. The report must include recommendations. The process to assess and provide recommendations for needed changes must include the convening of a diverse stakeholder group and require a robust public comment process.

Section 31: Adds a new section to the uncodified law to clarify that the Department of Health will consider previously issued “crisis stabilization center” licenses as a license for “subacute mental health facility.”

Section 32: Adds a new section to the uncodified law to allow the Department of Health and the Department of Family and Community Services to adopt transition regulations to implement this act.

Section 32: Provides for an immediate effective date for the bill.