

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

HB 80: Incompetency; Civil Commitment Sectional Analysis

Section 1

Amends AS 12.47.100(b) to add the adjective “qualified” in front of all occurrences of “psychologist” and “psychiatrist” to clearly articulate who can conduct a competency evaluation.

Section 2

Amends AS 12.47.100 (h) to add the adjective “qualified” in front of “psychiatrist” and “psychologist.”

Section 3

Amends 12.47.110(a) by omitting the word “felony” as the basis for required initial restoration and shifts the requirement to a set of crimes outlined under the new subsection (f).

Section 4

Significantly amends AS 12.47.110(b). For non-felony cases, the court may rely on previous competency evaluations to determine if further evaluation is necessary. The requirement for further restoration that a crime involving force and the defendant presents a substantial danger to self or others is omitted and replaced with new criteria. Three additional 180-day commitment periods are added. However, a maximum time served if convicted criteria is overlaid over total possible restoration time. The five-year statute of limitation is omitted.

Section 5

Adds five new subsections to AS 12.47.110:

(f) makes restoration of incompetent defendants required for the first 90-day period if they have been charged with any crimes under AS 11.41, along with crimes of arson, child endangerment, harassment, etc.

(g) requires the commissioner of family and community services to file a petition for civil commitment if the defendant met the qualifications for the second 90-day period of restoration.

(h) clearly articulates that competency evaluations may be conducted telephonically.

(i) clarifies incompetency proceedings do not affect commitment proceedings.

(j) clarifies that designated treatment facilities and evaluation facilitates are not limited by the section in administering medication.

Section 6

Adds a new section under AS 12.47 which codifies *Sell v. United States*.

Section 7

Clearly identifies who can perform competency evaluations by defining “qualified psychiatrist” and “qualified psychologist.”

Section 8

Adds a new section under AS 47.30 which grants victim access to commitment proceedings, location of respondent’s whereabouts while under commitment, be notified of length of time of respondent’s commitment and when they will be discharged.

Section 9

Clarifies that if a respondent was previously found incompetent and charges dismissed under AS 12.47.110, their commitment trial will be conducted in the same manner as any other commitment proceeding.

Section 10

Amends AS 47.30.770, the section on 180-day commitment, to include “rights of a victim” under proper commitment procedures laid out under the 90-day commitment period.

Section 11

The applicability of this bill applies to offenses occurring before, on, or after the passage of this bill into law.