



Alaska State Legislature

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Senate Bill 53

Sectional Analysis — Version S

Section 1

AS 12.47.070. Psychiatric examination

Amends subsection (a) to reduce the number of qualified psychiatrists or psychologists from two to one for evaluation under the affirmative defense of insanity. Removes the requirement that the forensic psychologist is certified by the American Board of Forensic Psychology.

Section 2

AS 12.47.100. Incompetency to proceed

Amends subsection (b) by adding the requirement that the motion for judicial determination of competency must be a written motion.

Section 3

AS 12.47.100. Incompetency to proceed

Adds a new subsection (i), which states that the court may release a defendant on bail to be examined at an outpatient clinic or other facility under AS 12.30. Adds a new subsection (j) which states that when a qualified psychiatrist or psychologist is conducting an examination for competency under (b) of this section, they may, at the same time, evaluate the defendant to determine whether the defendant meets the standards for involuntary commitment.

Section 4

AS 12.47.110. Commitment on finding of incompetency

Amends subsection (b) to increase the maximum total time for competency restoration hold from one year to two years when the defendant is charged with a crime involving force against a person and the court finds that the defendant presents a substantial danger of physical injury to other persons and that there is a substantial probability that the defendant will regain competency. This change is reflected by amending “six” months to “18” months.

Section 5

AS 12.47.110. Commitment on finding of incompetency

Adds a new subsection (f), which states that the court may release a defendant on bail for further evaluation and treatment at an outpatient clinic or other facility under AS 12.30. Adds a new subsection (g), which requires that the prosecutor shall provide the court’s findings to the division of the Department of Law that has responsibility for civil cases within 24 hours of the court’s ruling, and adds the requirement that the Department of Law must file the petition for involuntary commitment within 72 hours of the dismissal of charges. Adds a new subsection (h), which states that when the court dismisses the charges, the defendant may not be discharged until 72 hours after the court dismisses the charges.

Section 6

AS 47.30.725. Rights; notification

Adds new subsections (g) and (h), which create notification provisions for the victim of the dismissed criminal case. Subsection (g) states that the victim shall be notified of: the time and place of a civil commitment hearing; of the length of time for which the respondent is committed and findings of fact made by the court; and when the respondent is discharged from commitment. Subsection (h) states that subsection (g) does not give the victim in a dismissed criminal case access to a record or information that is confidential under AS 47.30.845.

Section 7

AS 47.30.771. Additional five-year commitment

Adds a new section creating an additional five-year involuntary commitment. Five-year commitment petitions are filed at the expiration of 180-day commitments for individuals who meet the following criteria: the respondent is mentally ill and as a result is likely to cause harm to self or others; the respondent has a history of felony offenses against a person under AS 11.41 or arson, or attempts of harm to self; the respondent has been found incompetent to stand trial under AS 12.47.100 and 12.47.110 for a felony offense against a person under AS 11.41 or arson; and commitment of the respondent for greater than 180 days but not greater than five years is necessary to protect the public.

Clarifies that findings of fact relating to the respondent's behavior made at 30-day, 90-day, and 180-day commitment hearings shall be admitted as evidence and may not be rebutted except that newly discovered evidence may be used for the purpose of rebutting the findings. Instructs the department to submit an annual report to the attorney general, public defender, public advocate, Alaska Court System, and the attorney of record of the respondent detailing how many respondents are committed under this section and how much time remains on each order of commitment.

Section 8

AS 47.30.780. Early discharge

Amends subsection (a) to include reference to new subsection (c) of AS 47.30.780.

Section 9

AS 47.30.780. Early discharge

Adds new subsections that require that the professional person in charge may not discharge respondents from involuntary commitment unless the court enters an order officially terminating the involuntary commitment after a hearing. This section requires a court decision on discharge of a respondent from involuntary commitment.

Section 10

AS 47.30.805. Computation, extension, and expiration of periods of time

Amends section (a) to include five-year commitments. States that five-year commitment period expires at the end of five years after the 180-day period of treatment.

Section 11*Indirect Court Rule Amendments*

Conforms court rule with Section 2 of the legislation, which requires attorneys to file a motion that is written in their requests for competency evaluation.

Section 12*Conditional Effect*

Adds conditional effect language based on the indirect court rule change.