

33-LS1049S
Bergerud
3/13/24

CS FOR HOUSE BILL NO. 363()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES GRAY, Fields, Armstrong

A BILL

FOR AN ACT ENTITLED

"An Act relating to the placement of foster children in psychiatric hospitals; and amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure."

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

*** Section 1.** AS 47.10.087(b) is amended to read:

(b) A court shall review a placement made under **(a)** of this section at least once every 90 days. The court may authorize the department to continue the placement of the child in a secure residential psychiatric treatment center if the court finds, based on the testimony of a mental health professional, that the conditions or symptoms that resulted in the initial order have not ameliorated to such an extent that the child's needs can be met in a less restrictive setting and that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

*** Sec. 2.** AS 47.10.087(d) is amended to read:

(d) In this section,

(1) "acute psychiatric hospital" means a hospital or part of a

hospital that primarily provides diagnosis and short-term treatment of mental, emotional, and behavioral disorders;

(2) "contemporaneous two-way video conference" means a conference among people at different places by means of transmitted audio and visual signals, using any communication technology that allows people at two or more places to interact simultaneously by way of two-way video and audio transmission;

(3) "likely to cause serious harm" has the meaning given in AS 47.30.915.

* **Sec. 3.** AS 47.10.087 is amended by adding new subsections to read:

(e) The department may place a child who is in the custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 in an acute psychiatric hospital if it is the least restrictive placement available and the person in charge of admittance to the facility finds that

(1) the child is gravely disabled or suffering from a mental illness and, as a result, is likely to cause serious harm to the child or another person; and

(2) there is reason to believe that the child's mental condition could be improved by the course of treatment or would deteriorate further if left untreated.

(f) Within 24 hours after placing a child in an acute psychiatric hospital under (e) of this section, the department shall notify the court, the child's parents, and any other parties to an ongoing child-in-need-of-aid case involving the child of the placement. Upon making the placement, the department shall immediately begin to search for a less restrictive placement for the child.

(g) A court shall review a placement made under (e) of this section within 48 hours after receiving notification of the child's placement in an acute psychiatric hospital. The court shall notify the child, the child's attorney, the child's parents, the department, and any parties to a child-in-need-of-aid case involving the child of the time and place of the hearing once the hearing is scheduled. Computation of the 48-hour period at an acute psychiatric hospital does not include Saturdays, Sundays, and legal holidays, except that if the exclusion of Saturdays, Sundays, and legal holidays from the computation of the 48-hour period would result in the child being held for

1 longer than 48 hours, the 48-hour period ends at 5:00 pm on the next day that is not a
 2 Saturday, Sunday, or legal holiday. The court may grant one request to continue the
 3 hearing for up to two business days if necessary to secure the attendance of the child, a
 4 party, or a material witness. The hearing shall be held at the acute psychiatric hospital
 5 in person, by contemporaneous two-way video conference, or by teleconference,
 6 absent extraordinary circumstances. If a hearing is held by contemporaneous two-way
 7 video conference, only the court may record the hearing. The court may authorize the
 8 department to continue the placement of the child in an acute psychiatric hospital if
 9 the court finds by clear and convincing evidence, based on the testimony of a mental
 10 health professional, that the conditions or symptoms that resulted in the initial
 11 placement under (e) of this section have not ameliorated to such an extent that the
 12 child's needs can be met in a less restrictive setting and that the child's mental
 13 condition could be improved by the course of treatment or would deteriorate if
 14 untreated.

15 (h) The court shall review a placement approved under (g) of this section

16 (1) at least once every 30 days; and

17 (2) when requested by the child or another party, upon a showing of
 18 good cause.

19 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 20 read:

21 DIRECT COURT RULE AMENDMENT. Rule 12.1(b), Alaska Child in Need
 22 of Aid Rules of Procedure, is amended to read:

23 (b) **Appointment Types.**

24 (1) **Mandatory Appointments.**

25 (A) The court shall appoint an attorney for a child who is 10
 26 years of age or older in any of the following circumstances:

27 (i) [(A)] The child does not consent to placement in a
 28 [PSYCHIATRIC HOSPITAL OR] residential treatment center;

29 (ii) [(B)] The child does not consent to administration
 30 of psychotropic medication;

31 (iii) [(C)] The child objects to disclosure of

1 psychotherapy information or records under CINA Rule 9(b);

2 (iv) [(D)] A request for a court order authorizing
3 emergency protective custody has been made under AS 47.10.141(c);

4 or

5 (v) [(E)] The child is pregnant or has custody of a minor
6 child; and

7 **(B) The court shall appoint an attorney for a child who has**
8 **been placed in an acute psychiatric hospital as defined in AS 47.10.087.**

9 (2) **Discretionary Appointments.** The court may appoint an attorney
10 in other circumstances including, but not limited to:

11 (A) The child's and guardian ad litem's positions are not
12 aligned on placement, family or sibling contact, permanency goal, case plan, or
13 another important issue in the case;

14 (B) The child would benefit from a confidential relationship
15 with an attorney; or

16 (C) The child is not residing in the designated placement.