

# CS 363

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PLACEMENT AND HOLDING OF  
FOSTER CHILDREN IN ACUTE PSYCHIATRIC HOSPITALS

## The Purpose of CS 363

To assure that children in the care of  
the State of Alaska maintain their  
constitutional right to due process.

Article 1 sec 7 of the  
Constitution of the State of  
Alaska states that:

“No person shall be  
deprived of life, liberty or  
property, without due  
process of law.”

# The Supreme Court of the State of Alaska

## Kwinhagak v. State of Alaska Dept. of Health and Social Services

"...when OCS sought to admit the child to the hospital for psychiatric care, the due process clause of the Alaska Constitution required OCS to promptly notify the parties to the CINA case. Due process also required the court to hold a hearing as soon as reasonably possible to determine whether the hospitalization was justified."

# What is Happening

Acute Psychiatric Hospitals are typically hospitals that provide intensive, 24-hour inpatient care for individuals experiencing severe psychiatric crises.

The Office Of Children's Services sometimes needs to place a foster child into acute psychiatric care to address immediate needs including:

- suicidal ideation, homicidal ideation, and/or to be gravely disabled (disabling behaviors related to a mental disorder.)

The Office of Children's Services has placed foster youth in acute psychiatric care facilities who did not meet the definition above but were just in need of a bed.

# What is Happening

Sometimes when it is determined that a child is no longer in need of acute psychiatric treatment, the child has remained in the acute psychiatric hospital for longer than necessary.

# Alaska Supreme Court Ruling

The Alaska Supreme Court ruled,

“There is no doubt that children in OCS custody are at substantial risk of being hospitalized for longer than they need, or when they do not need to be hospitalized at all.”

# What is Happening

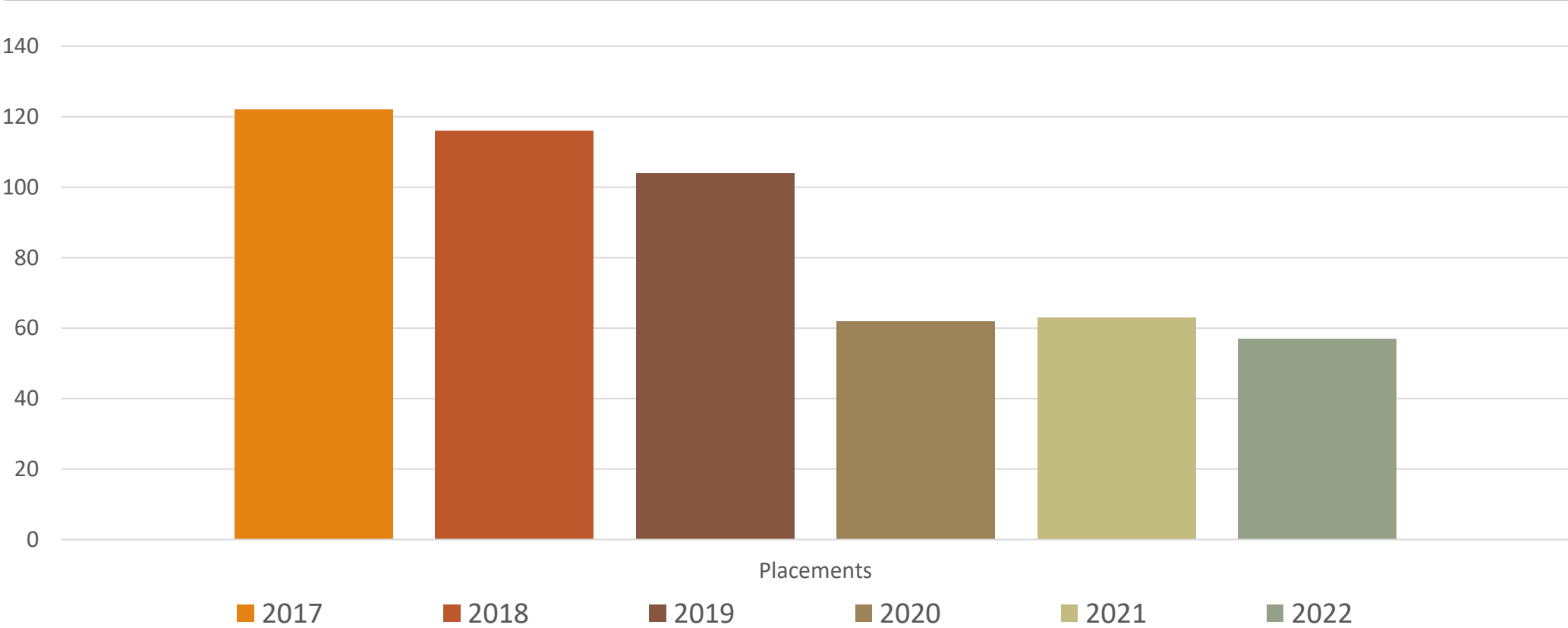
OCS has the authority to place a child in acute care without prior court approval. Such emergency placements sometimes must be made to keep the child safe and to ensure that immediate treatment is being provided.

47.10.087 as currently written does not apply in acute psychiatric hospitals.

There is no statute that addresses placement of foster children in acute psychiatric hospitals, nor the court hearing to address their need to be there.

This is a gap in our laws that needs a legislative fix.

# OCS Youth Placements In Acute Psychiatric Care Between 2017 And 2022





## What CS 363 Does

Strikes balance of child's constitutional rights and the burden placed on the state.

Adds needed standards for how OCS places a child into an acute psychiatric hospital:

1. Notify the court of placement within 24 hours (or reasonable timeframe)
2. Hold hearing on placement with 48 hours of notification (or reasonable timeframe)
3. Allow for a two-day continuance of hearing,
4. Allow for teleconference or video conference.

# What CS 363 Does

5. OCS begins searching for a less restrictive placement for the child upon hospital placement
6. Review case every 30 days



# Thank You

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