



LAWS OF ALASKA

1971

Source

CSHB 223 (Judiciary) am

Chapter No.

100

AN ACT

Relating to the well-being and protection of children.

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

* Section 1. AS 47 is amended by adding a new chapter to read:

CHAPTER 17. CHILD PROTECTION.

Sec. 47.17.010. PURPOSE. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical abuse or neglect requiring the attention of a practitioner of the healing arts, the legislature requires the reporting of these cases by practitioners and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever possible.

Sec. 47.17.020. PERSONS REQUIRED TO REPORT. (a) The following persons who, in the performance of their professional duties, have cause to believe that a child has suffered harm as a result of abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers;
- (3) social workers;

(4) peace officers, and officers of the division of corrections;

(5) administrative officers of institutions.

(b) This section does not prohibit the named persons from reporting cases which have come to their attention in their nonprofessional capacities nor does it prohibit any other person from reporting a child's harm which he has cause to believe is a result of abuse or neglect. These reports shall be made to the nearest office of the department.

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department, and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

Sec. 47.17.030. ACTION ON REPORTS; TERMINATION OF PARENTAL RIGHTS. (a) If a child, concerning whom a report of harm is made, is believed to reside within the boundaries of a local government exercising health functions for the area in which the child is believed to reside, the department may, upon receipt of the report, refer the matter to the appropriate health or social services agency of that local government. For cases not referred to an agency of a local government, the department shall, for each report received, investigate and take action, in accordance with law, which may be necessary to prevent further harm to the child or to insure the proper care and protection of the child.

(b) A local government health or social services agency receiving a report of harm shall, for each report received, investigate and take action, in accordance with law, which may be necessary to prevent further harm to the child or to insure the proper care and protection of the child. In addition, the agency receiving a report of harm shall forward a copy of its report of the investigation, including information the department requires by regulation, to the department.

(c) Action shall be taken regardless of whether the identity of the person making the report of harm is known.

(d) Before the department or a local government health or social services agency may seek the termination of parental rights, under AS 47.10.080(c)(3), it shall offer protective social services and pursue all other reasonable means of protecting the child.

Sec. 47.17.040. CENTRAL REGISTRY; CONFIDENTIALITY. (a) The department shall maintain a central registry of all investigation reports but not of the reports of harm.

(b) Investigation reports and reports of harm filed under this chapter are considered confidential and are

not subject to public inspection and copying under AS 09.-25.110 and 09.25.120. However, in accordance with department regulations, investigation reports may be used by appropriate governmental agencies with child-protection functions, inside and outside Alaska, in connection with investigations or judicial proceedings involving child abuse, neglect, or custody.

Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a report under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability which might otherwise be incurred or imposed.

Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. Neither the physician-patient nor the husband-wife privilege is a ground for excluding evidence regarding a child's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

Sec. 47.17.070. DEFINITIONS. In this chapter

(1) "abuse" means the infliction, by other than accidental means, of physical harm upon the body of a child;

(2) "child" means a person under 16 years of age;

(3) "department" means the Department of Health and Welfare;

(4) "institution" means a private or public hospital or other facility providing medical diagnosis, treatment, or care;

(5) "neglect" means the failure to provide necessary food, care, clothing, shelter, or medical attention for a child;

(6) "practitioner of the healing arts" includes chiropractors, dentists, health aides, nurses, optometrists, osteopaths, physical therapists, physicians, psychiatrists, psychologists, religious healing practitioners, and surgeons.

* Sec. 2. AS 47.10.140(a) is amended to read:

(a) A peace officer may arrest a minor who violates a law or ordinance in his presence, or who he reasonably believes is a fugitive from justice. A peace officer may continue a lawful arrest made by a citizen. He may have the minor detained in a juvenile detention facility if in his opinion it is necessary to do so to protect the minor or the community.

* Sec. 3. AS 47.10 is amended by adding a new section to read:

Sec. 47.10.142. EMERGENCY CUSTODY AND TEMPORARY PLACEMENT HEARING. (a) The Department of Health and

Welfare may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;

(3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child and the court of the action and file with the court a petition alleging dependency.

(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if his health permits, and his parents or guardian, if they can be found, shall be permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a dependent minor, as defined in sec. 290(3) of this chapter. The court shall inform the minor, and his parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing his temporary placement.

(e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order him returned to the custody of his parents or guardian subject to the department's supervision of his care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of his parents or guardian.

* Sec. 4. AS 47.10.160(1) is amended to read:

(1) accept all minors committed to the custody of the department and all minors who are involved in a written agreement under sec. 230(c) of this chapter, and

provide for the welfare, control, care, custody, and placement of these children in accordance with the provisions of this chapter;

* Sec. 5. AS 47.10.230 is amended by adding a new subsection to read:

(c) The department may receive, care for, and make appropriate placement of minors accepted for care for a period of up to six months on the basis of an individual voluntary written agreement between the minor's parent, legal guardian, or other person having legal custody and the department. The agreement may include provisions for payment, in whole or in part, to the department for the minor's care and treatment. The agreement entered into shall not operate to prohibit a minor's parent, legal guardian, or other person who had legal custody from regaining care of the minor at any time.

* Sec. 6. AS 11.67.005 - 11.67.070 are repealed.