



LAWS OF ALASKA

1996

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HCS CSSB 289(FIN) am H

Chapter No.

120

AN ACT

Relating to runaways, other minors, and their families or legal custodians.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 29, 1996

Actual Effective Date: September 27, 1996

AN ACT

1 Relating to runaways, other minors, and their families or legal custodians.

2

3 * Section 1. FINDINGS; PURPOSE. (a) The legislature finds that

4 (1) the number of runaway minors in this state is a significant problem that is a
5 threat to the public health and safety as well as to the individual health and safety of the minors
6 who, because of their runaway status, are without the care and protection of their families;

7 (2) some adults who harbor runaway minors do not serve the best interests of the
8 minors, particularly when they encourage them to remain away from the custody of their parents,
9 and the current law that prohibits adults from encouraging minors to remain away from their
10 parents has been largely unenforceable against these adults because of the broadly worded
11 exception it contains;

12 (3) even many licensed facilities for runaway minors have been unable to serve
13 their intended purpose of protecting the minors and facilitating family reunification because they
14 lack the security measures that would keep the minors in the facilities long enough to assess their
15 needs and the needs of their families;

16 (4) in most circumstances, runaway minors would be best cared for by their

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1 parents and other family members.

2 (b) The purpose of this Act is to address the problem of runaway minors by tightening
3 up the law designed to penalize the adults who inappropriately harbor runaways so that the law
4 is more enforceable, to require facilities for runaway minors to be more secure, and to require
5 facilities for runaway minors to more promptly assess the minors' needs and notify the minors'
6 parents of their presence in the facility. The legislature intends, through this Act, to better fulfill
7 its responsibility to protect runaway minors and to meet its goal of returning them as quickly as
8 possible to the custody and control of their parents in all appropriate circumstances.

9 * Sec. 2. AS 11.51.130(a) is amended to read:

10 (a) A person commits the crime of contributing to the delinquency of a minor if,
11 being 19 years of age or older or being under 19 years of age and having the disabilities
12 of minority removed for general purposes under AS 09.55.590, the person aids, induces,
13 causes, or encourages a child

14 (1) under 18 years of age to do any act prohibited by state law unless the
15 child's disabilities of minority have been removed for general purposes under
16 AS 09.55.590;

17 (2) under 18 years of age to enter or remain in the same room in a
18 building where the unlawful sale of a drug occurs unless the child's disabilities of
19 minority have been removed for general purposes under AS 09.55.590;

20 (3) under 16 years of age to be repeatedly absent from school, without
21 just cause; or

22 (4) under 18 years of age to be absent from the custody of a parent,
23 guardian, or custodian without **the permission of the parent, guardian, or custodian**
24 **or without the knowledge of the parent, guardian, or custodian [JUST CAUSE]**,
25 unless the child's disabilities of minority have been removed for general purposes under
26 AS 09.55.590 or the person has immunity under AS 47.10.350 or 47.10.398(a); **it is an**
27 **affirmative defense to a prosecution under this paragraph that, at the time of the**
28 **alleged offense, the defendant**

29 **(A) reasonably believed that the child was in danger of**
30 **physical injury or in need of temporary shelter; and**

31 **(B) within 12 hours after taking the actions comprising the**

1 alleged offense, notified a peace officer, a law enforcement agency, or the
2 Department of Health and Social Services of the name of the child and the
3 child's location.

4 * Sec. 3. AS 47.10.141(b) is amended to read:

5 (b) A peace officer shall take into protective custody a minor described in (a) of
6 this section if the minor is not otherwise subject to arrest or detention. Unless (c) of this
7 section applies, the peace officer shall [EXERCISE THE OFFICER'S DISCRETION
8 AND] (1) return the minor to the legal custodian at the legal custodian's residence if
9 the residence is in the same community where the minor was found and if the legal
10 custodian consents to the return except that the officer may not use this option if the
11 officer has reasonable cause to believe [SUSPECT] that the minor has experienced
12 physical or sexual abuse in the legal custodian's household; (2) take the minor to a nearby
13 location agreed to by [THE MINOR AND] the legal custodian if the legal custodian
14 does not consent to return of the minor under (1) of this subsection and the officer
15 does not have reasonable cause to believe that the minor has experienced physical
16 or sexual abuse in the legal custodian's household; or (3) if disposition of the minor
17 is not made under (1) or (2) of this subsection, take the minor to an office specified by
18 the Department of Health and Social Services, a program for runaway minors licensed
19 by the department under AS 47.10.310, a shelter for runaways that has a permit from the
20 department under AS 47.35.085 that agrees to shelter the minor, or a facility or contract
21 agency of the department. If the peace officer plans to take the minor to an office,
22 program, shelter, or facility under (3) of this subsection, the peace officer shall give
23 the highest priority to taking the minor to an office, program, shelter, or facility
24 that is semi-secure. If an office specified by the department, a licensed program for
25 runaway minors, a shelter for runaways that will accept the minor, or a facility or contract
26 agency of the department does not exist in the community, the officer shall take the minor
27 to another suitable location and promptly notify the department. A minor under
28 protective custody may not be housed in a jail or other detention facility but may be
29 housed in a semi-secure portion of an office, program, shelter, or other facility
30 under (3) of this subsection. Immediately upon taking a minor into protective custody,

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1 the officer shall advise the minor **of available mediation services and** [ORALLY AND
2 IN WRITING] of the right to social services under AS 47.10.142(b), and, if known, the
3 officer shall advise the legal custodian that the minor has been taken into protective
4 custody and that counseling services for the custodian and the minor's household may be
5 available under AS 47.10.142(b).

6 * Sec. 4. AS 47.10.141(c) is amended to read:

7 (c) A minor may be taken into emergency protective custody by a peace officer
8 and placed into temporary detention in a juvenile detention home in the local community
9 if there has been an order issued by a court under a finding of probable cause that (1) the
10 minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080
11 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the
12 minor's life or safety, and (3) no reasonable placement alternative exists within the
13 community. [FOR THE PURPOSES OF THIS SUBSECTION, A RISK MAY NOT BE
14 CONSIDERED SEVERE AND IMMINENT SOLELY BECAUSE OF THE GENERAL
15 CONDITIONS FOR RUNAWAY MINORS IN THE COMMUNITY, BUT SHALL BE
16 ASSESSED IN VIEW OF THE SPECIFIC BEHAVIOR AND SITUATION OF THE
17 MINOR.] A minor detained under this subsection shall be brought before a court on the
18 day the minor is detained, or if that is not possible, within 24 hours after the detention for
19 a hearing to determine the most appropriate placement in the best interests of the minor.
20 A minor taken into emergency protective custody under this subsection may not be
21 detained for more than 24 hours, except as provided under AS 47.10.140. Emergency
22 protective custody may not include placement of a minor in a jail or secure facility other
23 than a juvenile detention home, nor may an order for protective custody be enforced
24 against a minor who is residing in a licensed program for runaway minors, as defined in
25 AS 47.10.390.

26 * Sec. 5. AS 47.10.141(e) is amended to read:

27 (e) In this section,
28 (1) "law enforcement agency" has the meaning given in AS 12.36.090;
29 (2) "**semi-secure" means operated according to standards that may**
30 **be established by the department in regulations that are designed to require a level**
31 **of security that will reasonably ensure that, if a minor leaves without permission,**

1 **the minor's act of leaving will be immediately noticed.**

2 * Sec. 6. AS 47.10.141 is amended by adding new subsections to read:

3 (f) In the absence of gross negligence or intentional misconduct, an office,
4 program, shelter, or facility, or an employee of an office, program, shelter, or facility, to
5 which a minor is taken by a peace officer for semi-secure custody is not subject to civil
6 or criminal liability based on the minor's leaving the office, program, shelter, or facility
7 without permission unless the office, program, shelter, or facility is not in compliance
8 with the department's regulations that set standards for semi-security and the lack of
9 compliance was a material factor in the minor's being able to leave without permission.

10 (g) If a minor, without permission, leaves the semi-secure portion of an office,
11 program, shelter, or facility to which the minor was taken by a peace officer under (b)(3)
12 of this section, the office, program, shelter, or facility shall immediately notify the
13 department and the nearest law enforcement agency of the identity of the minor and the
14 minor's absence. If the same minor is again taken into protective custody under (b) of
15 this section and the peace officer knows that the minor has previously been reported
16 under this subsection as missing from a semi-secure placement, the peace officer, in
17 addition to taking the appropriate action under (b) of this section, shall report the
18 circumstances and the identity of the minor to the department. Within 48 hours after
19 receiving this report, the department shall determine whether to file a petition alleging
20 that the minor is a child in need of aid under AS 47.10.010(a)(2)(A). If the department
21 decides not to file a petition alleging that the minor is a child in need of aid, the
22 department shall, within seven state working days after receiving the report from the
23 peace officer under this subsection, send to the minor's parents or guardian, as applicable,
24 written notice of its determination not to proceed with the petition, including the reasons
25 on which the determination was based. If the department is unable to obtain a reasonably
26 reliable address for a parent or guardian, the department shall keep a copy of the notice
27 on file and, notwithstanding AS 47.10.093, release the notice to the minor's parent or
28 guardian on request of the parent or guardian. If the department files a petition alleging
29 that the minor is a child in need of aid, the court shall proceed under AS 47.10.142(d).

30 (h) If the department files a petition alleging the minor is a child in need of aid
31 under AS 47.10.010(a)(2)(A) because the minor is habitually absent from home or

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1 refuses available care, the minor's parent or guardian shall attend each hearing held
2 during the child-in-need-of-aid proceedings unless the court excuses the parent or
3 guardian from attendance for good cause. If the minor is found to be a child in need of
4 aid, the court may order that the minor's parent or guardian

5 (1) personally participate in treatment reasonably available in the parent
6 or guardian's community as specified in a plan set out in the court order; and

7 (2) comply with other conditions set out in the court order.

8 (i) If the court orders a minor's parent or guardian to participate in the treatment
9 under (h) of this section, the court may also order the parent or guardian to use available
10 insurance or another resource to cover the treatment, or to pay for the treatment if other
11 coverage is unavailable.

12 (j) If the parent or guardian fails to attend a hearing as required by the court
13 under (h) of this section, the hearing shall proceed without the presence of the parent.

14 * Sec. 7. AS 47.10.142(f) is amended to read:

15 (f) When a minor is committed to the department for temporary placement under
16 (e) of this section, the court order shall specify the terms, conditions, and duration of
17 placement. **If the court orders the minor returned to the custody of the minor's**
18 **parents or guardian under (e) of this section after a hearing held on a petition filed**
19 **under AS 47.10.141(g), the court shall specify the terms and conditions that must**
20 **be followed by the minor and the minor's parents or guardian.** The court shall
21 [MAY] require the minor to remain in the placement provided by the department and
22 shall clearly state in the order the consequences of violating the order, including [THE
23 POSSIBILITY OF] detention under AS 47.10.141(c).

24 * Sec. 8. AS 47.10.310(c) is amended to read:

25 (c) A program for runaway minors shall

26 (1) explain to a minor who seeks assistance from the program the legal
27 rights and responsibilities of runaway minors and the services and assistance provided for
28 runaway minors by the program and by the state or local municipality;

29 (2) **upon admission of a minor to the program,** attempt to determine
30 why **the** [A] minor [IN THE PROGRAM] is a runaway **and what services may be**
31 **necessary or appropriate for reuniting the minor with the minor's family;**

1 (3) provide or help arrange for the provision of services necessary to
2 promote the health and welfare of a minor in the program and, if appropriate, members
3 of the minor's family; services may include, but are not limited to, the provision of food,
4 shelter, clothing, medical care, and individual, group, or family counseling;

5 (4) within one state working day after admission of a minor to the
6 program [PROMPTLY] inform the department of a minor in the program

7 (A) who claims to be the victim of child abuse or neglect, as
8 defined in AS 47.17.290;

9 (B) whom an employee of the program has cause to believe has
10 been a victim of child abuse or neglect; or

11 (C) whom an employee of the program has reason to believe is
12 evading the supervision of the department, the person to whom the department
13 has entrusted supervision, or the minor's legal guardian;

14 (5) be operated with the goal of reuniting runaway minors with their
15 families, except in cases in which reunification is clearly contrary to the best interest of
16 the minor; and

17 (6) maintain adequate staffing and accommodations to ensure physical
18 security and to provide crisis services to minors residing in a facility operated by the
19 program; a program that, as determined by the department, regularly receives state
20 money in an amount that exceeds one-fourth of the program's costs shall maintain
21 semi-secure portions of its facilities in a proportion that meets regulations
22 established by the department; residents under 18 years of age shall be segregated from
23 residents who are 18 years of age or older.

24 * Sec. 9. AS 47.10.390 is amended by adding a new paragraph to read:

25 (3) "semi-secure" has the meaning given in AS 47.10.141(e).

26 * Sec. 10. AS 47.10.394(b) is amended to read:

27 (b) The provider of a shelter for runaways shall promptly, but within one state
28 working day [48 HOURS], inform the department of a runaway minor in the shelter

29 (1) who claims to be the victim of child abuse or neglect, as defined in
30 AS 47.17.290;

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1 (2) whom the provider has reasonable cause to suspect has been a victim
2 of child abuse or neglect; or

3 (3) whom the provider has reason to believe is evading the supervision
4 of the department, the person to whom the department has entrusted supervision, or the
5 minor's legal guardian.

6 * **Sec. 11.** REVISOR'S INSTRUCTION. In the event SCS CSSSHB 387(JUD) and
7 SCS CSSSHB 104(FIN), passed by the Nineteenth Alaska State Legislature, both become law,
8 the amendment to AS 47.10.093(c) made in SCS CSSSHB 104(FIN) shall be treated as an
9 amendment to AS 47.12.310(c), as enacted in SCS CSSSHB 387(JUD).