

SENATE CS FOR CS FOR HOUSE BILL NO. 202(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/1/96

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the participation and accountability of parents and
2 guardians and the enforcement of restitution orders entered in juvenile
3 delinquency proceedings; relating to claims on permanent fund dividends for
4 certain court-ordered treatment in juvenile delinquency proceedings; and
5 amending Alaska Delinquency Rules 3(b) and 8(b); and providing for an
6 effective date."

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

8 * **Section 1.** AS 43.23 is amended by adding a new section to read:

9 Sec. 43.23.066. CLAIMS ON REIMBURSEMENT FOR COURT-ORDERED
10 TREATMENT. (a) AS 09.38 does not apply to permanent fund dividends taken under
11 AS 47.10.079(c). Notwithstanding AS 09.35, execution on a dividend claimed under
12 AS 47.10.079(c) is accomplished by delivering a certified claim to the department
13 containing the following information:

1 (1) the name and social security number of the individual whose
2 dividend is being claimed;

3 (2) the amount the individual owes on the reimbursement claim; and

4 (3) a statement that

5 (A) the Department of Health and Social Services has notified
6 the individual that future permanent fund dividends of the individual will be
7 taken to satisfy the reimbursement claim;

8 (B) the individual was notified of the right to request a hearing
9 and allowed 30 days after the date of the notice described in (A) of this
10 paragraph to request the Department of Health and Social Services to hold a
11 hearing on the reimbursement claim;

12 (C) the reimbursement claim has not been contested, or, if
13 contested, that the issue has been resolved in favor of the Department of Health
14 and Social Services; and

15 (D) if the reimbursement claim has been contested and resolved
16 in favor of the Department of Health and Social Services, no appeal is pending,
17 the time limit for filing an appeal has expired, or the appeal has been resolved
18 in favor of the Department of Health and Social Services.

19 (b) The Department of Health and Social Services shall notify the individual
20 if a dividend is claimed under (a) of this section. The notice shall be sent to the
21 address provided in the individual's permanent fund dividend application and must
22 provide the following information:

23 (1) the amount of the reimbursement claim;

24 (2) notice that the permanent fund dividend, or that portion of the
25 permanent fund dividend that does not exceed the amount of the reimbursement claim,
26 shall be paid to the Department of Health and Social Services; and

27 (3) notification that the individual has a right to request a hearing and
28 has 30 days after the date the notice is mailed in which to file with the Department of
29 Health and Social Services an objection to the dividend claim if a mistake has been
30 made.

31 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual

1 under (b)(3) of this section.

2 * **Sec. 2.** AS 47.10 is amended by adding a new section to read:

3 Sec. 47.10.079. PARENTAL OR GUARDIAN ACCOUNTABILITY AND
4 PARTICIPATION. (a) The parent or guardian of a minor who is alleged to be a
5 delinquent under AS 47.10.010(a)(1) or found to be a delinquent under
6 AS 47.10.080(b) shall attend each hearing held during the delinquency proceedings
7 unless the court excuses the parent or guardian from attendance for good cause.

8 (b) If a minor is found to be a delinquent under AS 47.10.080(b), the court
9 may order that the minor's parent or guardian

10 (1) personally participate in treatment reasonably available in the
11 parent's or guardian's location as specified in a plan set out in the court order;

12 (2) notify the department if the minor violates a term or condition of
13 the court order; and

14 (3) comply with any other conditions set out in the court order.

15 (c) If a court orders a minor's parent or guardian to participate in treatment
16 under (b) of this section, the court also shall order the parent or guardian to use any
17 available insurance or another resource to cover the treatment, or to pay for the
18 treatment if other coverage is unavailable. If the court determines that the parent or
19 guardian is unable to pay for the treatment due to indigence and the department pays
20 for the treatment, the department may seek reimbursement only from the indigent
21 parent or guardian's permanent fund dividend.

22 (d) The permanent fund dividend of an indigent parent or guardian
23 participating in treatment ordered under (b) of this section may be taken under
24 AS 43.23.065(b)(6) and 43.23.066 to satisfy the balance due on a reimbursement claim
25 by the department under (c) of this section.

26 (e) If a parent or guardian fails to attend a hearing as required in (a) of this
27 section, the court shall hold the hearing without the attendance of the parent or
28 guardian.

29 * **Sec. 3.** AS 47.10.080(b) is amended to read:

30 (b) If the court finds that the minor is delinquent, it shall

31 (1) order the minor committed to the department for a period of time

1 not to exceed two years or in any event extend past the day the minor becomes 19,
2 except that the department may petition for and the court may grant in a hearing (A)
3 two-year extensions of commitment that do not extend beyond the child's 19th
4 birthday if the extension is in the best interests of the minor and the public; and (B)
5 an additional one-year period of supervision past age 19 if continued supervision is in
6 the best interests of the person and the person consents to it; the department shall place
7 the minor in the juvenile facility that the department considers appropriate and that
8 may include a juvenile correctional school, juvenile work camp, treatment facility,
9 detention home, or detention facility; the minor may be released from placement or
10 detention and placed on probation on order of the court and may also be released by
11 the department, in its discretion, under AS 47.10.200;

12 (2) order the minor placed on probation, to be supervised by the
13 department, and released to the minor's parents, guardian, or a suitable person; if the
14 court orders the minor placed on probation, it may specify the terms and conditions
15 of probation; the probation may be for a period of time, not to exceed two years and
16 in no event extend past the day the minor becomes 19, except that the department may
17 petition for and the court may grant in a hearing

18 (A) two-year extensions of supervision that do not extend
19 beyond the child's 19th birthday if the extension is in the best interests of the
20 minor and the public; and

21 (B) an additional one-year period of supervision past age 19 if
22 the continued supervision is in the best interests of the person and the person
23 consents to it;

24 (3) order the minor committed to the department and placed on
25 probation, to be supervised by the department, and released to the minor's parents,
26 guardian, other suitable person, or suitable nondetention setting such as a family home,
27 group care facility, or child care facility, whichever the department considers
28 appropriate to implement the treatment plan of the predisposition report; if the court
29 orders the minor placed on probation, it may specify the terms and conditions of
30 probation; the department may transfer the minor, in the minor's best interests, from
31 one of the probationary placement settings listed in this paragraph to another, and the

1 minor, the minor's parents or guardian, and the minor's attorney are entitled to
2 reasonable notice of the transfer; the probation may be for a period of time, not to
3 exceed two years and in no event extend past the day the minor becomes 19, except
4 that the department may petition for and the court may grant in a hearing

5 (A) two-year extensions of commitment that do not extend
6 beyond the child's 19th birthday if the extension is in the best interests of the
7 minor and the public; and

8 (B) an additional one-year period of supervision past age 19 if
9 the continued supervision is in the best interests of the person and the person
10 consents to it;

11 (4) order the minor **and the minor's parent** to make suitable
12 restitution in lieu of or in addition to the court's order under (1), (2), or (3) of this
13 subsection; **under this paragraph,**

14 (A) **except as provided in (B) of this paragraph,** the court
15 may not refuse to make an order of restitution [UNDER THIS PARAGRAPH]
16 to benefit the victim of the act of the minor that is the basis of the delinquency
17 adjudication; **and**

18 (B) **the court may not order payment of restitution by the**
19 **parent of a minor who is a runaway or missing minor for an act of the**
20 **minor that was committed by the minor after the parent has made a**
21 **report to a law enforcement agency, as authorized by AS 47.10.141(a), that**
22 **the minor has run away or is missing; for purposes of this subparagraph,**
23 **"runaway or missing minor" means a minor who a parent reasonably**
24 **believes is absent from the minor's residence for the purpose of evading**
25 **the parent or who is otherwise missing from the minor's usual place of**
26 **abode without the consent of the parent;**

27 (5) order the minor committed to the department for placement in an
28 adventure based education program established under AS 47.21.020 with conditions
29 the court considers appropriate concerning release upon satisfactory completion of the
30 program or commitment under (1) of this subsection if the program is not satisfactorily
31 completed; [OR]

1 (6) in addition to an order under (1) - (5) of this subsection, if the
2 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
3 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
4 purposes of this paragraph, "community service" includes work

5 (A) defined as community service under AS 33.30.901; or

6 (B) that, on the recommendation of the city council or
7 traditional village council, would benefit persons within the city or village who
8 are elderly or disabled; or

9 **(7) in addition to an order under (1) - (6) of this subsection, order**
10 **the minor's parent or guardian to comply with orders made under AS 47.10.079,**
11 **including participation in treatment under AS 47.10.079(b)(1).**

12 * **Sec. 4.** AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.086. ENFORCEMENT OF RESTITUTION. A person who is a
14 recipient of a restitution order involving a minor found delinquent under AS 47.10.080
15 may enforce an order for restitution under AS 47.10.080 against the minor and the
16 minor's parent under AS 09.35 as if the order were a civil judgment enforceable by
17 execution. This section does not limit the authority of the court to otherwise enforce
18 orders of payment for restitution. An order of restitution enforced under this section
19 does not limit under other law the civil liability of the minor or the minor's parent as
20 a result of the delinquent conduct.

21 * **Sec. 5.** Rule 3(b), Alaska Delinquency Rules, is amended to read:

22 (b) PRESENCE OF JUVENILE AND OTHER PARTIES. The presence of
23 the juvenile is required unless the juvenile:

24 (1) waives the right to be present and the juvenile's presence is excused
25 by the court; or

26 (2) engages in conduct which justifies exclusion from the courtroom.

27 The presence of the parent or guardian is **required** [PREFERRED, BUT NOT
28 **REQUIRED**] unless **excused by** the court **for good cause** [SO ORDERS].

29 * **Sec. 6.** Rule 8(b), Alaska Delinquency Rules, is amended to read:

30 (b) SUMMONS. Upon the filing of a petition for adjudication, the court shall
31 set a time for the arraignment on petition and shall, if the juvenile is not in custody,

1 issue a summons to be served with the petition compelling the attendance of the
2 juvenile. The court **shall** [MAY] issue a summons compelling the attendance of the
3 juvenile's parents or guardian at the hearing. If the summons and petition are not
4 contained in one document, the petition must be attached to and incorporated by
5 reference into the summons. The summons must contain a statement advising the
6 parties of their right to counsel.

7 * **Sec. 7.** Sections 5 and 6 of this Act take effect only if those sections receive the two-
8 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
9 Alaska.

10 * **Sec. 8.** Sections 1 - 4 of this Act take effect only if secs. 5 and 6 of this Act take effect.

11 * **Sec. 9.** If this Act takes effect, it takes effect immediately under AS 01.10.070(c).