

HOUSE BILL NO. 370

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MARTIN AND PORTER, Toohey

Introduced: 12/29/95

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the provision of legal services to criminal defendants."**

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

3 * **Section 1.** AS 18.85.100(a) is amended to read:

4 (a) An indigent person who is [BEING DETAINED BY A LAW
5 ENFORCEMENT OFFICER IN CONNECTION WITH A SERIOUS CRIME, OR IS]
6 under formal charge of having committed **a serious crime and the crime has been**
7 **the subject of an initial appearance or subsequent proceeding**, or is being detained
8 under a conviction of a serious crime, or is on probation or parole, or is entitled to
9 representation under the Supreme Court Delinquency or Child in Need of Aid Rules,
10 or is detained under an order issued under AS 18.15.120 - 18.15.149, or against whom
11 commitment proceedings for mental illness have been initiated, is entitled

12 (1) to be represented, **in connection with the crime or proceeding**,
13 by an attorney to the same extent as a person retaining an attorney is entitled; and

14 (2) to be provided with the necessary services and facilities of this
15 representation, including investigation and other preparation.

1 * **Sec. 2.** AS 18.85.110(a) is amended to read:

2 (a) If a person having a right to representation under AS 18.85.100 is not
3 represented by an attorney, [THE LAW ENFORCEMENT OFFICERS CONCERNED,
4 UPON COMMENCEMENT OF DETENTION, OR THE AGENCY, OR] the court [,
5 AS THE CASE MAY BE,] shall, **at the time of the person's appearance before the**
6 **court,**

7 [(1)] clearly inform the person of the right of an indigent person to be
8 represented by an attorney at public expense [; AND

9 (2) IF THE PERSON DETAINED OR CHARGED DOES NOT HAVE
10 AN ATTORNEY, NOTIFY THE AGENCY OR THE COURT, AS APPROPRIATE,
11 THAT THE PERSON IS NOT SO REPRESENTED].

12 * **Sec. 3.** AS 18.85.110(d) is amended to read:

13 (d) If a court determines **under AS 18.85.120** that **an indigent** [THE] person
14 is entitled to be represented by an attorney at public expense, **the court** [IT] shall
15 promptly notify the agency or the office of public advocacy.

16 * **Sec. 4.** AS 18.85.120(a) is amended to read:

17 (a) The determination of a person's indigency shall be made by the court in
18 which an action against the person is pending. **The determination shall be made by**
19 **the court on the record and shall set out the basis for the finding that the person**
20 **is indigent.**

21 * **Sec. 5.** AS 18.85.110(b), 18.85.110(c), and 18.85.110(f) are repealed.