

CS FOR HOUSE BILL NO. 370(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 1/26/96
Referred: Finance

Sponsor(s): REPRESENTATIVES MARTIN AND PORTER, Toohey

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the provision of legal services at public expense."

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 the**
7 **subject of an initial appearance or subsequent proceeding**, or is being detained under
8 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, or
10 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**, by
13 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 18.85.100 is amended by adding a new subsection to read:

2 (d) Notwithstanding (a) of this section, an indigent person is entitled to the
3 representation and necessary services and facilities of representation as provided in (a)
4 of this section when the prosecuting attorney requests the court to provide representation
5 to an indigent person under this section and the court finds that the provision of
6 representation is necessary in the interests of justice.

7 * **Sec. 3.** AS 18.85.110(a) is amended to read:

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

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

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

18 * **Sec. 4.** AS 18.85.110(d) is amended to read:

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

22 * **Sec. 5.** AS 18.85.120(a) is amended to read:

23 (a) The determination of a person's indigency shall be made by the court in
24 which an action against the person is pending. **The determination shall be made by**
25 **the court and shall set out the basis for the finding that the person is indigent.**

26 * **Sec. 6.** AS 18.85.110(b), 18.85.110(c), and 18.85.110(f) are repealed.