

CS FOR SENATE BILL NO. 289(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/3/96
Referred: Rules

Sponsor(s): SENATORS FRANK, Miller, Phillips, Halford, Green, Taylor, Leman, Kelly, Torgerson, Hoffman, Pearce, Rieger

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to runaways, other minors, and their families or legal
2 custodians; and amending Rule 7, Alaska Delinquency Rules."

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

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

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

9 (2) some adults who harbor runaway minors do not serve the best interests of
10 the minors, particularly when they encourage them to be absent from school and to remain
11 away from the custody of their parents, and current laws have been largely unenforceable
12 against these adults because of the broadly worded exceptions they contain;

13 (3) even many licensed facilities for runaway minors have been unable to serve
14 their intended purpose of protecting the minors and facilitating family reunification because

1 they lack the security measures that would keep the minors in the facilities long enough to
2 assess their needs and the needs of their families;

3 (4) a short period of secure detention before a court hearing for a runaway
4 minor who has previously fled from a licensed runaway program would enable the Department
5 of Health and Social Services to better protect and assist the minor while imposing only a very
6 limited loss of liberty; and

7 (5) in most circumstances, runaway minors would be best cared for by their
8 parents and other family members.

9 (b) The purpose of this Act is to address the problem of runaway minors by tightening
10 up the laws designed to penalize the adults who inappropriately harbor runaways so that those
11 laws are more enforceable, to require facilities for runaway minors to be more secure, and to
12 require facilities for runaway minors to more promptly assess the minors' needs and notify
13 the minors' parents of their presence in the facility. It is also the purpose of this Act to
14 authorize temporary secure detention of a minor who has previously left a semi-secure
15 program without permission. The legislature intends, through this Act, to better fulfill its
16 responsibility to protect runaway minors and to meet its goal of returning them as quickly as
17 possible to the custody and control of their parents in all appropriate circumstances.

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

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

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

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

29 (3) under 16 years of age to be repeatedly absent from school, without
30 **the permission of the child's parent, guardian, or custodian** [JUST CAUSE]; or

31 (4) under 18 years of age to be absent from the custody of a parent,

1 guardian, or custodian without **the permission of the parent, guardian, or custodian**
2 [JUST CAUSE], unless the child's disabilities of minority have been removed for
3 general purposes under AS 09.55.590 or the person has immunity under AS 47.10.350
4 or 47.10.398(a); **it is an affirmative defense to a prosecution under this paragraph**
5 **that, at the time of the alleged offense, the defendant**

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

8 **(B) within 12 hours after taking the actions comprising the**
9 **alleged offense, notified a peace officer, a law enforcement agency, or the**
10 **Department of Health and Social Services of the name of the child and the**
11 **child's location.**

12 * **Sec. 3.** AS 47.10.140(a) is amended to read:

13 (a) A peace officer may arrest a minor who violates a law or ordinance in the
14 officer's presence, or whom the officer reasonably believes is a fugitive from justice,
15 **or whom the officer reasonably believes has violated AS 47.10.141(g).** A peace
16 officer may continue a lawful arrest made by a citizen. The officer may have the
17 minor detained in a juvenile detention facility if in the officer's opinion it is necessary
18 to do so to protect the minor or the community. **The officer may have the minor**
19 **detained in a juvenile secure facility if the arrest was made at least in part**
20 **because the officer reasonably believed the minor had violated AS 47.10.141(g).**
21 **In this subsection, "juvenile secure facility" means a facility operated according**
22 **to standards that may be established by the department in regulations that are**
23 **designed to require a level of security that will reasonably ensure that a minor**
24 **will not be able to leave without permission.**

25 * **Sec. 4.** AS 47.10.140(b) is amended to read:

26 (b) A peace officer who has a minor detained under (a) of this section shall
27 immediately, and in no event more than 12 hours later, notify the court and make
28 reasonable efforts to notify the minor's parents or guardian, and the department of the
29 officer's action. The department may file with the court a petition alleging
30 delinquency **or alleging that the minor is a child in need of aid** before the detention
31 hearing.

1 * **Sec. 5.** AS 47.10.140(c) is amended to read:

2 (c) The court shall immediately, and in no event more than 48 hours later, hold
3 a hearing at which the minor and the minor’s parents or guardian if they can be found
4 shall be present. The court shall determine whether probable cause exists for believing
5 the minor to be delinquent **or a child in need of aid**. The court shall inform the
6 minor of the reasons alleged to constitute probable cause and the reasons alleged to
7 authorize the minor’s detention. The minor is entitled to counsel and to confrontation
8 of adverse witnesses.

9 * **Sec. 6.** AS 47.10.140(d) is amended to read:

10 (d) If the court finds that probable cause exists **for believing the minor to be**
11 **a delinquent or for believing that the minor is a child in need of aid, the court**
12 [, IT] shall determine whether the minor should be detained pending the hearing on the
13 **delinquency or child-in-need-of-aid** petition or released. It may either order the
14 minor held in detention or released to the custody of **the department or other** [A]
15 suitable person pending the hearing on the petition. If the court finds no probable
16 cause **for believing the minor to be a delinquent or for believing that the minor**
17 **is a child in need of aid**, it shall order the minor released **to the minor’s legal**
18 **custodian** and close the case. **If the court orders release of a minor who was**
19 **arrested under (a) of this section based on an alleged violation of AS 47.10.141(g),**
20 **the court shall advise the minor and the minor’s legal custodian of available**
21 **mediation services and of the right to social services under AS 47.10.142(b).**

22 * **Sec. 7.** AS 47.10.141(b) is amended to read:

23 (b) A peace officer shall take into protective custody a minor described in (a)
24 of this section if the minor is not otherwise subject to arrest or detention. Unless (c)
25 of this section applies, the peace officer shall [EXERCISE THE OFFICER’S
26 DISCRETION AND] (1) return the minor to the legal custodian **at the legal**
27 **custodian’s residence** if the legal custodian consents to the return except that the
28 officer may not use this option if the officer has reasonable cause to **believe**
29 [SUSPECT] that the minor has experienced physical or sexual abuse in the legal
30 custodian’s household; (2) take the minor to a nearby location agreed to by [THE
31 MINOR AND] the legal custodian **if the legal custodian does not consent to return**

1 of the minor under (1) of this subsection or the officer is precluded from using
2 that option because of a reasonable cause to believe that the minor has
3 experienced physical or sexual abuse in the legal custodian's household; or (3) if
4 disposition of the minor is not made under (1) or (2) of this subsection, take the
5 minor to an office specified by the Department of Health and Social Services, a
6 program for runaway minors licensed by the department under AS 47.10.310, a shelter
7 for runaways that has a permit from the department under AS 47.35.085 that agrees
8 to shelter the minor, or a facility or contract agency of the department. If the peace
9 officer plans to take the minor to an office, program, shelter, or facility under (3)
10 of this subsection, the peace officer shall give the highest priority to taking the
11 minor to an office, program, shelter, or facility that is semi-secure. If an office
12 specified by the department, a licensed program for runaway minors, a shelter for
13 runaways that will accept the minor, or a facility or contract agency of the department
14 does not exist in the community, the officer shall take the minor to another suitable
15 location and promptly notify the department. A minor under protective custody may
16 not be housed in a jail or other detention facility but may be housed in a semi-secure
17 portion of an office, program, shelter, or other facility under (3) of this
18 subsection. Immediately upon taking a minor into protective custody, the officer shall
19 advise the minor of available mediation services and [ORALLY AND IN WRITING]
20 of the right to social services under AS 47.10.142(b), and, if known, the officer shall
21 advise the legal custodian that the minor has been taken into protective custody and
22 that counseling services for the custodian and the minor's household may be available
23 under AS 47.10.142(b). If the officer takes the minor to a semi-secure office,
24 program, shelter, or other facility under (3) of this subsection, the officer shall
25 also advise the minor and, if known, the minor's legal custodian, that the minor
26 will be in violation of (g) of this section and subject to arrest and temporary
27 detention under AS 47.10.140 if the minor leaves the office, program, shelter, or
28 other facility without permission either from the minor's legal custodian or from
29 an appropriate employee or administrator of the office, program, shelter, or other
30 facility, unless the minor, upon leaving the office, program, shelter, or other
31 facility, promptly returns to the immediate presence of the minor's legal custodian

1 or to the legal custodian's residence.

2 * **Sec. 8.** AS 47.10.141(e) is amended to read:

3 (e) In this section,

4 (1) "law enforcement agency" has the meaning given in AS 12.36.090;

5 (2) "semi-secure" means operated according to standards that may
6 be established by the department in regulations that are designed to require a
7 level of security that will reasonably ensure that, if a minor leaves without
8 permission, the minor's act of leaving will be immediately noticed.

9 * **Sec. 9.** AS 47.10.141 is amended by adding new subsections to read:

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

18 (g) A minor who has been taken by a peace officer to a semi-secure office,
19 program, shelter, or facility under (b)(3) of this section may not leave the office,
20 program, shelter, or facility without permission either from the minor's legal custodian
21 or from an appropriate employee or administrator of the office, program, shelter, or
22 other facility, unless the minor, upon leaving the office, program, shelter, or facility
23 promptly returns to the immediate presence of the minor's legal custodian or to the
24 legal custodian's residence. Violation of this subsection is grounds for arrest and
25 temporary detention under AS 47.10.140(a) but may not be the sole grounds for a
26 delinquency petition or for proceedings under any other law.

27 (h) An office, program, shelter, or facility that a minor has allegedly left in
28 violation of (g) of this section shall immediately notify the department and the nearest
29 law enforcement agency of the identity of the minor and the alleged violation.

30 * **Sec. 10.** AS 47.10.310(c) is amended to read:

31 (c) A program for runaway minors shall

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

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

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

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

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

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

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

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

23 (6) maintain adequate staffing and accommodations to ensure physical
24 security and to provide crisis services to minors residing in a facility operated by the
25 program; **a program shall maintain semi-secure portions of its facilities in a**
26 **proportion that meets regulations established by the department**; residents under
27 18 years of age shall be segregated from residents who are 18 years of age or older.

28 * **Sec. 11.** AS 47.10.390 is amended by adding a new paragraph to read:

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

30 * **Sec. 12.** AS 47.10.394(b) is amended to read:

31 (b) The provider of a shelter for runaways shall promptly, but within **one state**

1 working day [48 HOURS], inform the department of a runaway minor in the shelter
2 (1) who claims to be the victim of child abuse or neglect, as defined
3 in AS 47.17.290;
4 (2) whom the provider has reasonable cause to suspect has been a
5 victim of child abuse or neglect; or
6 (3) whom the provider has reason to believe is evading the supervision
7 of the department, the person to whom the department has entrusted supervision, or the
8 minor's legal guardian.

9 * **Sec. 13.** AS 47.10.140, as amended by secs. 3 - 6 of this Act, and AS 47.10.141(g),
10 added by sec. 9 of this Act, have the effect of amending Rule 7, Alaska Delinquency Rules,
11 by authorizing arrest of a juvenile without a warrant if the juvenile has allegedly violated
12 AS 47.10.141(g).