

HOUSE CS FOR CS FOR SENATE BILL NO. 289(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/24/96
Referred: Finance

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

REPRESENTATIVES Kelly, Therriault

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to runaways, other minors, and their families or legal
2 custodians."

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; and

13 (3) in most circumstances, runaway minors would be best cared for by their
14 parents and other family members.

1 (b) The purpose of this Act is to address the problem of runaway minors by tightening
2 up the laws designed to penalize the adults who inappropriately harbor runaways so that those
3 laws are more enforceable, to require facilities for runaway minors to be more secure, and to
4 require facilities for runaway minors to more promptly assess the minors' needs and notify
5 the minors' parents of their presence in the facility. The legislature intends, through this Act,
6 to better fulfill its responsibility to protect runaway minors and to meet its goal of returning
7 them as quickly as possible to the custody and control of their parents in all appropriate
8 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
11 if, being 19 years of age or older or being under 19 years of age and having the
12 disabilities of minority removed for general purposes under AS 09.55.590, the person
13 aids, induces, causes, or encourages a child

14 (1) under 18 years of age to do any act prohibited by state law unless
15 the 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 knowledge or permission of the parent, guardian,**
24 **or custodian** [JUST CAUSE], unless the child's disabilities of minority have been
25 removed for general purposes under AS 09.55.590 or the person has immunity under
26 AS 47.10.350 or 47.10.398(a); **it is an affirmative defense to a prosecution under**
27 **this paragraph that, at the time of the alleged offense, the defendant**

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

30 **(B) within 12 hours after taking the actions comprising the**
31 **alleged offense, notified a peace officer, a law enforcement agency, or the**

1 **Department of Health and Social Services of the name of the child and the**
2 **child's location.**

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

4 (d) If the court finds that probable cause exists **for believing the minor to be**
5 **a delinquent, the court** [, IT] shall determine whether the minor should be detained
6 pending the hearing on the **delinquency** petition or released. It may either order the
7 minor held in detention or released to the custody of **the department or other** [A]
8 suitable person pending the hearing on the petition. If the court finds no probable
9 cause **for believing the minor to be a delinquent**, it shall order the minor released
10 **to the minor's legal custodian** and close the case.

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

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

1 specified by the department, a licensed program for runaway minors, a shelter for
2 runaways that will accept the minor, or a facility or contract agency of the department
3 does not exist in the community, the officer shall take the minor to another suitable
4 location and promptly notify the department. A minor under protective custody may
5 not be housed in a jail or other detention facility **but may be housed in a semi-secure**
6 **portion of an office, program, shelter, or other facility under (3) of this**
7 **subsection**. Immediately upon taking a minor into protective custody, the officer shall
8 advise the minor **of available mediation services and** [ORALLY AND IN WRITING]
9 of the right to social services under AS 47.10.142(b), and, if known, the officer shall
10 advise the legal custodian that the minor has been taken into protective custody and
11 that counseling services for the custodian and the minor's household may be available
12 under AS 47.10.142(b).

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

14 (e) In this section,

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

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

20 * **Sec. 6.** AS 47.10.141 is amended by adding a new subsection to read:

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

29 * **Sec. 7.** AS 47.10.310(c) is amended to read:

30 (c) A program for runaway minors shall

31 (1) explain to a minor who seeks assistance from the program the legal

1 rights and responsibilities of runaway minors and the services and assistance provided
2 for runaway minors by the program and by the state or local municipality;

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

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

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

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

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

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

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

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

27 * **Sec. 8.** AS 47.10.390 is amended by adding a new paragraph to read:

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

29 * **Sec. 9.** AS 47.10.394(b) is amended to read:

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

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

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

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