

CS FOR HOUSE BILL NO. 16(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/30/97

Referred: Judiciary

Sponsor(s): REPRESENTATIVE KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to delinquent minors, to the taking of action based on the
2 alleged criminal misconduct of certain minors, to the services to be provided to
3 the victims of criminal misconduct of minors, and to agency records involving
4 minors alleged to be delinquent based on their criminal misconduct; providing for
5 the dual sentencing of minors who commit certain felony offenses; relating to
6 violations of municipal ordinances by minors and to civil penalties for violation
7 of municipal ordinances by minors; amending the Interstate Compact on Juveniles
8 to which the state is a party; and amending Rules 3, 21, and 27 and repealing
9 Rules 6, 7, and 21(f), Alaska Delinquency Rules; and providing for an effective
10 date."

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

12 * **Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

1 (54) AS 29.25.070(e) (notices of certain civil actions).

2 * **Sec. 2.** AS 29.25.070(b) is amended to read:

3 (b) The municipality or an aggrieved person may institute a civil action against
4 a person, **including a minor as provided in AS 29.25.072**, who violates an ordinance.
5 In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000
6 may be imposed for each violation. An action to enjoin a violation may be brought
7 notwithstanding the availability of any other remedy. On application for injunctive
8 relief and a finding of a violation or a threatened violation, the superior court shall
9 grant the injunction. Each day that a violation of an ordinance continues constitutes
10 a separate violation.

11 * **Sec. 3.** AS 29.25.070 is amended by adding new subsections to read:

12 (e) The municipality shall provide written notice to the commissioner of health
13 and social services or to the commissioner's designee of the commencement of a civil
14 enforcement action for the violation of an ordinance under (b) of this section against
15 a minor. Unless the commissioner and the municipality have negotiated an agreement
16 making other arrangements for the municipality to provide the notice required by this
17 subsection, the municipality shall provide the notice by mailing a copy of the citation
18 or other document setting out the notice of the commencement of the civil enforcement
19 action. This subsection applies to home rule and general law municipalities.

20 (f) In this section, "minor" means a person under 18 years of age.

21 * **Sec. 4.** AS 29.25 is amended by adding a new section to read:

22 **Sec. 29.25.072. Civil penalties for violation of municipal ordinances by**
23 **minors.** (a) Except as otherwise provided in this section, the enforcement under
24 AS 29.25.070(b) of a civil penalty against a minor for violation of a municipal
25 ordinance shall be heard in the district court in the same manner as for similar
26 allegations brought against an adult, except that the minor's parent, guardian, or legal
27 custodian shall be present at all proceedings unless the court excuses the parent,
28 guardian, or legal custodian from attendance for good cause.

29 (b) If provision is made by ordinance for use of a hearing officer to decide
30 enforcement of a civil penalty under AS 29.25.070(b), allegations against a minor for
31 a civil penalty under a municipal ordinance may be assigned to a hearing officer for

1 the municipality for decision.

2 (c) An action for a civil penalty filed against a minor under this section does
3 not give rise to the right to a trial by jury or to counsel appointed at public expense.

4 * **Sec. 5.** AS 33.30.901(12) is amended to read:

5 (12) "prisoner"

6 (A) means a person held under authority of state law in official
7 detention as defined in AS 11.81.900(b);

8 (B) includes a **minor** [JUVENILE] committed to the custody
9 of the commissioner when,

10 **(i) under AS 47.12.030(a), 47.12.065, or 47.12.100, the**

11 **minor** [JUVENILE] has been charged, prosecuted, or convicted as an
12 adult; **or**

13 **(ii) under AS 47.12.160(e), the minor has been**

14 **ordered transferred to the custody of the commissioner;**

15 * **Sec. 6.** AS 44.23 is amended by adding a new section to read:

16 **Sec. 44.23.070. Victim/witness assistance program.** If the Department of
17 Law maintains a victim/witness assistance program, subject to sufficient appropriations
18 for the purpose, the services of that program shall be extended to victims of criminal
19 offenses committed by persons under 18 years of age so that victims of these offenses
20 may exercise the rights provided to them by law.

21 * **Sec. 7.** AS 47.10.092(a) is amended to read:

22 (a) Notwithstanding AS 47.10.090 and 47.10.093,

23 **(1)** a parent or legal guardian of a minor subject to a proceeding under
24 AS 47.10.010 - 47.10.142 may disclose confidential or privileged information about
25 the minor, including information that has been lawfully obtained from agency or court
26 files, to the governor, the lieutenant governor, a legislator, the ombudsman appointed
27 under AS 24.55, the attorney general, and the commissioners of health and social
28 services, administration, or public safety, or an employee of these persons, for review
29 or use in their official capacities;

30 **(2) the department may disclose confidential or privileged**
31 **information about the minor and make available for inspection documents about**

1 **the minor to the state officials or employees identified in (1) of this subsection for**
 2 **review or use in their official capacities; and**

3 (3) a [. A] person to whom disclosure is made under **(1) or (2) of this**
 4 **subsection** [SECTION] may not disclose confidential or privileged information about
 5 the minor to a person not authorized to receive it.

6 * **Sec. 8.** AS 47.10.092(b) is amended to read:

7 (b) The disclosure right under **(a)(1)** [(a)] of this section is in addition to, and
 8 not in derogation of, the rights of a parent or legal guardian of a minor.

9 * **Sec. 9.** AS 47.12.010 is repealed and reenacted to read:

10 **Sec. 47.12.010. Goal and purposes of chapter.** (a) The goal of this chapter
 11 is to promote a balanced juvenile justice system in the state to protect the community,
 12 impose accountability for violations of law, and equip juvenile offenders with the skills
 13 needed to live responsibly and productively.

14 (b) The purposes of this chapter are to

15 (1) respond to a juvenile offender's needs in a manner that is consistent
 16 with

17 (A) prevention of repeated criminal behavior;

18 (B) restoration of the community and victim;

19 (C) protection of the public; and

20 (D) development of the juvenile into a productive citizen;

21 (2) protect citizens from juvenile crime;

22 (3) hold each juvenile offender directly accountable for the offender's
 23 conduct;

24 (4) provide swift and consistent consequences for crimes committed by
 25 juveniles;

26 (5) make the juvenile justice system more open, accessible, and
 27 accountable to the public;

28 (6) require parental or guardian participation in the juvenile justice
 29 process;

30 (7) create an expectation that parents will be held responsible for the
 31 conduct and needs of their children;

1 (8) ensure that victims, witnesses, parents, guardians, juvenile offenders,
2 and all other interested parties are treated with dignity, respect, courtesy, and
3 sensitivity throughout all legal proceedings;

4 (9) provide due process through which juvenile offenders, victims,
5 parents, and guardians are assured fair legal proceedings during which constitutional
6 and other legal rights are recognized and enforced;

7 (10) divert juveniles from the formal juvenile justice process through
8 early intervention as warranted when consistent with the protection of the public;

9 (11) provide an early, individualized assessment and action plan for
10 each juvenile offender in order to prevent further criminal behavior through the
11 development of appropriate skills in the juvenile offender so that the juvenile is more
12 capable of living productively and responsibly in the community;

13 (12) ensure that victims and witnesses of crimes committed by juveniles
14 are afforded the same rights as victims and witnesses of crimes committed by adults;

15 (13) encourage and provide opportunities for local communities and
16 groups to play an active role in the juvenile justice process in ways that are culturally
17 relevant; and

18 (14) review and evaluate regularly and independently the effectiveness
19 of programs and services under this chapter.

20 * **Sec. 10.** AS 47.12.040(a) is amended to read:

21 (a) Whenever circumstances subject a minor to the jurisdiction of this chapter,
22 the court shall

23 (1) provide, under procedures adopted by court rule, that, for a minor
24 who is alleged to be a delinquent minor under AS 47.12.020, **the department or an**
25 **entity selected by it** [A STATE AGENCY] shall make a preliminary inquiry to
26 determine if any action is appropriate and may take appropriate action to adjust the
27 matter without a court hearing; if, under this paragraph,

28 (A) the **department or an entity selected by it** [STATE
29 AGENCY] makes a preliminary inquiry and takes appropriate action to adjust
30 the matter without a court hearing, the minor may not be detained or taken into
31 custody as a condition of the adjustment and, subject to AS 47.12.060, the

1 matter shall be closed by the **department or an entity selected by it**
 2 [AGENCY] if the minor successfully completes all that is required of the minor
 3 by the **department or an entity selected by it** [AGENCY] in the adjustment;
 4 in a municipality or municipalities in which a youth court has been established
 5 under AS 47.12.400, adjustment of the matter under this paragraph may include
 6 referral to the youth court;

7 (B) the **department or an entity selected by it**
 8 [AGENCY] concludes that the matter may not be adjusted without a court
 9 hearing, the **department or an entity selected by it** [AGENCY] may file a
 10 petition under (2) of this subsection setting out the facts; or

11 (2) appoint a competent person or agency to make a preliminary
 12 inquiry and report for the information of the court to determine whether the interests
 13 of the public or of the minor require that further action be taken; if, under this
 14 paragraph, the court appoints a person or agency to make a preliminary inquiry and
 15 to report to it, then upon the receipt of the report, the court may informally adjust the
 16 matter without a hearing, or it may authorize the person having knowledge of the facts
 17 of the case to file with the court a petition setting out the facts; if the court informally
 18 adjusts the matter, the minor may not be detained or taken into the custody of the
 19 court as a condition of the adjustment, and the matter shall be closed by the court upon
 20 adjustment.

21 * **Sec. 11.** AS 47.12.060 is amended to read:

22 **Sec. 47.12.060. Informal action [BY DEPARTMENT] to adjust matter.**

23 (a) The provisions of this section apply to a minor who is alleged to be a delinquent
 24 minor under AS 47.12.020 and for whom **the department or an entity selected by**
 25 **it** [AN AGENCY] has, under applicable court rule, made a preliminary inquiry
 26 [BEFORE TAKING APPROPRIATE ACTION] as authorized by **AS 47.12.040(a)(1)**
 27 [AS 47.12.040(a)]. Following the preliminary inquiry,

28 (1) [UNLESS] the **department or the entity selected by it may**
 29 **dismiss the matter with or without prejudice; or**

30 (2) [AGENCY DETERMINES THAT THE MATTER SHOULD BE
 31 DISMISSED,] the **department or the entity selected by it** [AGENCY] may take

1 informal action to adjust the matter.

2 (b) When the **department or the entity selected by it** [AGENCY] decides **to**
 3 **make** [THAT] an informal adjustment of a matter **under (a)(2) of this section**
 4 [SHOULD BE MADE], that informal adjustment may not be made without the
 5 agreement or consent of the minor and the minor's parents or **guardian**
 6 [GUARDIANS] to the terms and conditions of the adjustment. An informal action to
 7 adjust a matter is not successfully completed unless, among other factors that the
 8 **department or the entity selected by it** [AGENCY] considers, as to the victim of the
 9 act of the minor that is the basis of the delinquency allegation, the minor pays
 10 restitution in the amount set by the **department or the entity selected by it**
 11 [AGENCY] or agrees as a term or condition set by the **department or the entity**
 12 **selected by it** [AGENCY] to pay the restitution.

13 * **Sec. 12.** AS 47.12 is amended by adding a new section to read:

14 **Sec. 47.12.065. Dual sentencing provisions.** (a) The department or the entity
 15 selected by it shall refer to the appropriate district attorney the circumstances involving
 16 a minor who is subject to the provisions of this section because the minor is alleged
 17 to have violated a criminal law of the state. The department or the entity selected by
 18 it shall make the referral if the minor was

19 (1) at least 13 years of age but had not reached 16 years of age at the
 20 time of the offense, and the offense is

21 (A) an unclassified felony or a class A felony for which
 22 AS 47.12.030(a) would have made this chapter and the Alaska Delinquency
 23 Rules inapplicable if the minor had been at least 16 years of age at the time of
 24 the offense; or

25 (B) sexual assault in the second degree; or

26 (2) 16 years of age or older at the time of the offense, and the offense
 27 is

28 (A) a felony that is a crime against a person and the minor has
 29 previously been adjudicated a delinquent under the laws of this state or
 30 substantially similar laws of another jurisdiction for a felony offense that is a
 31 crime against a person; or

1 (B) sexual abuse of a minor in the second degree.

2 (b) If a referral is made under (a) of this section, the district attorney may elect
3 to seek imposition of a dual sentence in the case to further the goal and purposes of
4 this chapter as set out in AS 47.12.010. If the district attorney seeks imposition of a
5 dual sentence, the district attorney shall present the case to the grand jury for
6 indictment. If the grand jury returns an indictment, the district attorney shall file with
7 the court under AS 47.12.040(a) a petition seeking the minor's adjudication as a
8 delinquent.

9 (c) If the district attorney decides not to seek imposition of a dual sentence
10 under (b) of this section or if the grand jury does not return an indictment, the case
11 shall proceed under the remaining provisions of this chapter.

12 * **Sec. 13.** AS 47.12.110(b) is amended to read:

13 (b) Notwithstanding (a) of this section **or an order prohibiting or limiting**
14 **the public made under (d) of this section**, the victim of an offense that a minor is
15 alleged to have committed, or the designee of the victim, has a right to be present at
16 all hearings held under this section. If the minor is found to have committed the
17 offense, the victim may at the disposition hearing give sworn testimony or make an
18 unsworn oral presentation concerning the offense and its effect on the victim. If there
19 are numerous victims of a minor's offense, the court may limit the number of victims
20 who may give sworn testimony or make an unsworn oral presentation, but the court
21 may not limit the right of a victim to attend a hearing.

22 * **Sec. 14.** AS 47.12.110 is amended by adding a new subsection to read:

23 (d) Notwithstanding (a) of this section, a court proceeding shall be open to the
24 public, except as prohibited or limited by order of the court,

25 (1) when the district attorney has elected to seek imposition of a dual
26 sentence, and a petition has been filed under AS 47.12.065, or when a minor agrees
27 as part of a plea agreement to be subject to dual sentencing; or

28 (2) for a minor who is 16 years of age or older at the time of the
29 commission of the offense and who is found by the court to have committed a crime
30 against a person punishable as a felony or who, after having been previously
31 adjudicated a delinquent for an offense punishable as a felony, is found by the court

1 to have committed the offense of burglary in the first degree.

2 * **Sec. 15.** AS 47.12.120(b) is amended to read:

3 (b) If **the minor is not subject to (j) of this section and** the court finds that
4 the minor is delinquent, it shall

5 (1) order the minor committed to the department for a period of time
6 not to exceed two years or in any event extend past the day the minor becomes 19
7 **years of age**, except that the department may petition for and the court may grant in
8 a hearing (A) two-year extensions of commitment that do not extend beyond the
9 **minor's** [CHILD'S] 19th birthday if the extension is in the best interests of the minor
10 and the public; and (B) an additional one-year period of supervision past age 19 if
11 continued supervision is in the best interests of the person and the person consents to
12 it; the department shall place the minor in the juvenile facility that the department
13 considers appropriate and that may include a juvenile correctional school, juvenile
14 work camp, treatment facility, detention home, or detention facility; the minor may be
15 released from placement or detention and placed on probation on order of the court
16 and may also be released by the department, in its discretion, under **AS 47.12.260**
17 [AS 47.10.200];

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

24 (A) two-year extensions of supervision that do not extend
25 beyond the **minor's** [CHILD'S] 19th birthday if the extension is in the best
26 interests of the minor and the public; and

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

30 (3) order the minor committed to the department and placed on
31 probation, to be supervised by the department [,] and released to the minor's parents,

1 guardian, other suitable person, or suitable nondetention setting such as **with a relative**
 2 **or in a foster home or residential** [A FAMILY HOME, GROUP CARE FACILITY,
 3 OR] child care facility, whichever the department considers appropriate to implement
 4 the treatment plan of the predisposition report; if the court orders the minor placed on
 5 probation, it may specify the terms and conditions of probation; the department may
 6 transfer the minor, in the minor's best interests, from one of the probationary
 7 placement settings listed in this paragraph to another, and the minor, the minor's
 8 parents or guardian, and the minor's attorney are entitled to reasonable notice of the
 9 transfer; the probation may be for a period of time [,] not to exceed two years and in
 10 no event extend past the day the minor becomes 19 **years of age**, except that the
 11 department may petition for and the court may grant in a hearing

12 (A) two-year extensions of commitment that do not extend
 13 beyond the **minor's** [CHILD'S] 19th birthday if the extension is in the best
 14 interests of the minor and the public; and

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

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

21 (A) except as provided in (B) of this paragraph, the court may
 22 not refuse to make an order of restitution to benefit the victim of the act of the
 23 minor that is the basis of the delinquency adjudication; and

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

1 parent;

2 (5) order the minor committed to the department for placement in an
3 adventure based education program established under AS 47.21.020 with conditions
4 the court considers appropriate concerning release upon satisfactory completion of the
5 program or commitment under (1) of this subsection if the program is not satisfactorily
6 completed;

7 (6) in addition to an order under (1) - (5) of this subsection, [IF THE
8 DELINQUENCY FINDING IS BASED ON THE MINOR'S VIOLATION OF
9 AS 11.71.030(a)(3) OR 11.71.040(a)(4),] order the minor to perform [50 HOURS OF]
10 community service; for purposes of this paragraph, "community service" includes work

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

12 (B) that, on the recommendation of the city council or
13 traditional village council, would benefit persons within the city or village who
14 are elderly or disabled; or

15 (7) in addition to an order under (1) - (6) of this subsection, order the
16 minor's parent or guardian to comply with orders made under AS 47.12.155, including
17 participation in treatment under AS 47.12.155(b)(1).

18 * **Sec. 16.** AS 47.12.120(g) is amended to read:

19 (g) Within 18 months after the date a minor is **initially taken into**
20 [COMMITTED TO THE] custody **by** [OF] the department under (b)(3) of this section,
21 the court shall hold a hearing to review the placement and services provided and to
22 determine the future status of the minor. The court shall make appropriate written
23 findings, including findings related to the following:

24 (1) whether the minor should be returned to the parent;

25 (2) whether the minor should remain in out-of-home care for a
26 specified period;

27 (3) whether the minor should remain in out-of-home care on a
28 permanent or long-term basis because of special needs or circumstances;

29 (4) whether the minor should be placed for adoption or legal
30 guardianship.

31 * **Sec. 17.** AS 47.12.120 is amended by adding new subsections to read:

1 (i) When, under (a) of this section, the court enters judgment finding that a
 2 minor is delinquent, the court may order the minor temporarily detained pending entry
 3 of its dispositional order if the court finds that detention is necessary

4 (1) to protect the minor or the community; or

5 (2) to ensure the minor's appearance at a subsequent court hearing.

6 (j) If, in a case in which a district attorney has elected to seek imposition of
 7 a dual sentence under AS 47.12.065, the court finds that the minor is delinquent for
 8 committing an offense in the circumstances set out in AS 47.12.065, or if the minor
 9 agrees as part of a plea agreement to be subject to dual sentencing, the court shall

10 (1) enter one or more orders under (b) of this section; and

11 (2) pronounce a sentence for the offense in accordance with the
 12 provisions of AS 12.55; however, the sentence pronounced under this paragraph must
 13 include some period of imprisonment that is not suspended by the court.

14 * **Sec. 18.** AS 47.12.140 is amended to read:

15 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order
 16 under AS 47.12.120(b)(1) - (3) and (5) and (j), the court shall

17 (1) consider both the best interests of the minor and the interests of the
 18 public, and, in doing so, the court shall take into account

19 (A) the seriousness of the minor's delinquent act [,] and the
 20 attitude of the minor and the minor's parents toward that act;

21 (B) the minor's culpability as indicated by the circumstances of
 22 the particular case;

23 (C) the age of the minor;

24 (D) the minor's prior criminal or juvenile record [,] and the
 25 success or failure of any previous orders, dispositions, or placements imposed
 26 on the minor;

27 (E) the effect of the dispositional order to be imposed in
 28 deterring the minor [CHILD] from committing other delinquent acts;

29 (F) the need to commit the minor to the department's custody
 30 or to detain the minor in an institution or other suitable place in order to
 31 prevent further harm to the public;

1 (G) the interest of the public in securing the minor's
2 rehabilitation; and

3 (H) the ability of the state to take custody of and to care for the
4 minor; and

5 (2) order the least restrictive alternative disposition for the minor; for
6 purposes of this paragraph, the "least restrictive alternative disposition" means that
7 disposition that is no more restrictive than is, in the judgment of the court, most
8 conducive to the minor's rehabilitation taking into consideration the interests of the
9 public.

10 * **Sec. 19.** AS 47.12.160 is amended by adding new subsections to read:

11 (d) The department may petition the court for imposition of sentence
12 pronounced under AS 47.12.120(j)(2) if the offender is still subject to the jurisdiction
13 of the court and if the offender, after pronouncement of sentence under
14 AS 47.12.120(j)(2),

15 (1) commits a subsequent felony offense;

16 (2) commits a subsequent offense against a person that is a
17 misdemeanor and involves injury to a person or the use of a deadly weapon;

18 (3) fails to comply with the terms of a restitution order;

19 (4) fails to engage in or satisfactorily complete a rehabilitation program
20 ordered by a court or required by a facility or juvenile probation officer; or

21 (5) escapes from a juvenile correctional facility.

22 (e) If a petition is filed under (d) of this section and if the court finds by a
23 preponderance of the evidence that the minor has committed a subsequent felony
24 offense that is a crime against a person or is the crime of arson, the court shall impose
25 the adult sentence previously pronounced under AS 47.12.120(j) and transfer custody
26 of the minor to the Department of Corrections. If the court finds by a preponderance
27 of the evidence that any of the other circumstances set out in (d)(1) - (5) of this
28 section exist, the court shall impose the adult sentence previously pronounced and
29 transfer custody of the minor to the Department of Corrections unless the minor proves
30 by preponderance of the evidence that mitigating circumstances exist that justify a
31 continuance in the stay of the adult sentence and the minor is amenable to further

1 treatment under this chapter. The court shall make written findings to support its
2 order.

3 * **Sec. 20.** AS 47.12.180(a) is amended to read:

4 (a) Except as provided by **AS 47.12.160(d) and (e) and** AS 47.12.170, an
5 adjudication under this chapter upon the status of a minor

6 (1) may not operate to impose any of the civil disabilities ordinarily
7 imposed by conviction upon a criminal charge;

8 (2) does not operate to permit a minor afterward to be considered a
9 criminal by the adjudication; and

10 (3) does not operate to permit the adjudication to be afterward
11 **considered** [DEEMED] a conviction, nor may a minor be charged with or convicted
12 of a crime in a court [,] except as provided in this chapter.

13 * **Sec. 21.** AS 47.12.210(b) is amended to read:

14 (b) **Except as provided by AS 47.12.310(b)(1), fingerprint** [FINGERPRINT]
15 records taken under this section are not subject to AS 47.12.310.

16 * **Sec. 22.** AS 47.12.240(c) is amended to read:

17 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a
18 correctional facility

19 (1) if the minor is the subject of a petition filed with the court under
20 this chapter seeking adjudication of the minor as a delinquent minor or if the minor
21 is in official detention pending the filing of that petition; however, detention in a
22 correctional facility under this paragraph may not exceed the lesser of

23 (A) six hours; or

24 (B) the time necessary to arrange the minor's transportation to
25 a juvenile detention home or comparable facility for the detention of minors;

26 (2) if, in response to a petition of delinquency filed under this chapter,
27 the court has entered an order closing the case under AS 47.12.100(a), allowing the
28 minor to be prosecuted as an adult; [OR]

29 (3) if the incarceration constitutes a protective custody detention of the
30 minor that is authorized by AS 47.37.170(b); **or**

31 **(4) if, under AS 47.12.160(e), the court has entered an order**

1 **imposing an adult sentence and transferring custody of the minor to the**
 2 **Department of Corrections.**

3 * **Sec. 23.** AS 47.12 is amended by adding a new section to read:

4 **Sec. 47.12.245. Arrest.** A peace officer

5 (1) may arrest a minor

6 (A) for the commission of an act that subjects the minor to the
 7 provisions of this chapter under the same circumstances and in the same
 8 manner as would apply to the arrest of an adult for violation of a criminal law
 9 of the state or a municipality of the state;

10 (B) if the peace officer reasonably believes the minor is a
 11 fugitive from justice;

12 (C) if the peace officer has probable cause to believe that the
 13 minor has violated a condition of the minor's release or probation; or

14 (D) if the peace officer reasonably believes that the minor has
 15 been adjudicated a delinquent and has escaped from an institution or absconded
 16 from probation, parole, or the jurisdiction of a court;

17 (2) may continue the lawful arrest of a minor that is made by a citizen.

18 * **Sec. 24.** AS 47.12.300(c) is amended to read:

19 (c) **Except as provided in (g) of this section, the** [THE] name or picture of
 20 a minor under the jurisdiction of the court may not be made public in connection with
 21 the minor's status as a delinquent unless authorized by order of the court.

22 * **Sec. 25.** AS 47.12.300(d) is amended to read:

23 (d) **Except as provided in (f) of this section, within** [WITHIN] 30 days of
 24 the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past
 25 the minor's 18th birthday, within 30 days of the date on which the court releases
 26 jurisdiction over the minor, the court shall order all the court's official records
 27 pertaining to that minor in a proceeding under this chapter sealed, as well as records
 28 of all driver's license proceedings under AS 28.15.185, criminal proceedings against
 29 the minor, and punishments assessed against the minor. A person may not use these
 30 sealed records for any purpose except that the court may order their use for good cause
 31 shown or may order their use by an officer of the court in making a presentencing

1 report for the court. The provisions of this subsection relating to the sealing of records
2 do not apply to records of traffic offenses.

3 * **Sec. 26.** AS 47.12.300(e) is amended to read:

4 (e) The court's official records **prepared** under this chapter **and not made**
5 **public under this section are confidential and** may be inspected only with the
6 court's permission and only by persons having a legitimate interest in them. A person
7 with a legitimate interest in the inspection of **a confidential** [AN OFFICIAL] record
8 maintained by the court includes a victim who suffered physical injury or whose real
9 or personal property was damaged as a result of an offense that was the basis of an
10 adjudication or modification of disposition. If the victim knows the identity of the
11 minor, identifies the minor or the offense to the court, and certifies that the
12 information is being sought to consider or support a civil action against the minor or
13 against the minor's parents or **guardian** [GUARDIANS] under AS 34.50.020, the court
14 shall, subject to AS 12.61.110 and 12.61.140, allow the victim to inspect and use the
15 following records and information in connection with the civil action:

16 (1) a petition filed under AS 47.12.040(a) seeking to have the court
17 declare the minor a delinquent;

18 (2) a petition filed under AS 47.12.120 seeking to have the court
19 modify or revoke the minor's probation;

20 (3) a petition filed under AS 47.12.100 requesting the court to find that
21 a minor is not amenable to treatment under this chapter and that results in closure of
22 a case under AS 47.12.100(a); and

23 (4) a court judgment or order entered under this chapter that disposes
24 of a petition identified in (1) - (3) of this subsection.

25 * **Sec. 27.** AS 47.12.300(f) is amended to read:

26 (f) A person who has been tried as an adult under AS 47.12.100(a) **or a**
27 **person whose records have been made public under (g) of this section,** or the
28 department on the person's behalf, may petition the superior court to seal the records
29 of all criminal proceedings, except traffic offenses, initiated against the person, and all
30 punishments assessed against the person, while the person was a minor. A petition
31 under this subsection may not be filed until five years after the completion of the

1 sentence imposed for the offense for which the person was tried as an adult **or five**
 2 **years after a disposition was entered for an offense for which the records were**
 3 **made public under (g) of this section.** If the superior court finds that its order has
 4 had its intended rehabilitative effect and further finds that the person has fulfilled all
 5 orders of the court entered under AS 47.12.120, the superior court shall order the
 6 record of proceedings and the record of punishments sealed. Sealing the records
 7 restores civil rights removed because of a conviction. A person may not use these
 8 sealed records for any purpose except that the court may order their use for good cause
 9 shown or may order their use by an officer of the court in making a presentencing
 10 report for the court. The court may not, under this subsection, seal records of a
 11 criminal proceeding

12 (1) initiated against a person if the court finds that the person has not
 13 complied with a court order made under AS 47.12.120; or

14 (2) commenced under AS 47.12.030(a) unless the minor has been
 15 acquitted of all offenses with which the minor was charged or unless the most serious
 16 offense of which the minor was convicted was not an offense specified in
 17 AS 47.12.030(a).

18 * **Sec. 28.** AS 47.12.300 is amended by adding new subsections to read:

19 (g) When a district attorney has elected to seek imposition of a dual sentence
 20 and a petition has been filed under AS 47.12.065, or when a minor agrees as part of
 21 a plea agreement to be subject to dual sentencing, all court records shall be open to
 22 the public except for predisposition reports, psychiatric and psychological reports, and
 23 other documents that the court orders to be kept confidential because the release of the
 24 documents could be harmful to the minor or could violate the constitutional rights of
 25 the victim or other persons.

26 (h) A person who discloses confidential information in violation of this section
 27 is guilty of a class B misdemeanor.

28 * **Sec. 29.** AS 47.12.310(b) is amended to read:

29 (b) A state or municipal agency or employee

30 **(1) shall disclose information regarding a case to a state or**
 31 **municipal law enforcement agency for a specific investigation being conducted by**

1 **that agency; and**

2 (2) may disclose information regarding a case to

3 (A) [(1)] a guardian ad litem appointed by the court or to a
4 citizen review panel for permanency planning authorized by AS 47.14.200 -
5 47.14.220;

6 (B) [(2)] a person or an agency requested to provide
7 consultation or services for a minor who is subject to the jurisdiction of the
8 court under this chapter;

9 (C) [(3)] school officials as may be necessary to protect the
10 safety of school students and staff;

11 (D) [(4)] a governmental agency as may be necessary to obtain
12 that agency's assistance for the department in its investigation or to obtain
13 physical custody of a minor;

14 (E) [(5)] a state or municipal law enforcement agency as may
15 be necessary [FOR A SPECIFIC INVESTIGATION BEING CONDUCTED
16 BY THAT AGENCY OR] for disclosures by that agency to protect the public
17 safety; and

18 (F) [(6)] a victim **or to the victim's insurance company** as
19 may be necessary to inform the victim **or the insurance company** about **the**
20 **arrest of the minor, an investigation regarding a case involving the minor,**
21 **or** the disposition or resolution of a case involving a minor.

22 * **Sec. 30.** AS 47.12.310(g) is amended to read:

23 (g) The department and affected law enforcement agencies shall work with
24 school districts and private schools to develop procedures for the disclosure of
25 information to school officials under **(b)(2)(C)** [(b)(3)] and (c)(3) of this section. The
26 procedures must provide a method for informing the principal or the principal's
27 designee of the school the student attends as soon as it is reasonably practicable.

28 * **Sec. 31.** AS 47.12.320(a) is amended to read:

29 (a) Notwithstanding AS 47.12.300 and 47.12.310,

30 (1) a parent or legal guardian of a minor subject to a proceeding under
31 this chapter may disclose confidential or privileged information about the minor,

1 including information that has been lawfully obtained from agency or court files, to
 2 the governor, the lieutenant governor, a legislator, the ombudsman appointed under
 3 AS 24.55, the attorney general, and the commissioners of health and social services,
 4 administration, or public safety, or an employee of these persons, for review or use in
 5 their official capacities;

6 (2) the department may disclose confidential or privileged
 7 information about the minor and make available for inspection documents about
 8 the minor to the state officials or employees identified in (1) of this subsection for
 9 review or use in their official capacities; and

10 (3) a [. A] person to whom disclosure is made under (1) or (2) of this
 11 subsection [SECTION] may not disclose confidential or privileged information about
 12 the minor to a person not authorized to receive it.

13 * **Sec. 32.** AS 47.12.320(b) is amended to read:

14 (b) The disclosure right under (a)(1) [(a)] of this section is in addition to, and
 15 not in derogation of, the rights of a parent or legal guardian of a minor.

16 * **Sec. 33.** AS 47.15.010 is amended by adding a new article to read:

17 ARTICLE XVII

18 RENDITION

19 (a) This article shall provide additional remedies and shall be binding only
 20 between those party states which specifically execute it.

21 (b) All provisions and procedures of articles V and VI of the Interstate
 22 Compact on Juveniles shall be construed to apply to any juvenile charged with being
 23 a delinquent by reason of a violation of any criminal law. Any juvenile charged with
 24 being a delinquent by reason of violating any criminal law shall be returned to the
 25 requesting state upon a requisition to the state where the juvenile may be found. A
 26 petition in such a case shall be filed in a court of competent jurisdiction in the
 27 requesting state where the violation of criminal law is alleged to have been committed.
 28 The petition may be filed regardless of whether the juvenile has left the state before
 29 or after filing of the petition. The requisition described in article V of the compact
 30 shall be forwarded by the judge of the court in which the petition has been filed.

31 * **Sec. 34.** AS 47.12.110(d), added by sec. 14 of this Act, has the effect of changing

1 Rules 3 and 21, Alaska Delinquency Rules, by reversing the presumption that the public shall
2 be excluded from hearings involving minors.

3 * **Sec. 35.** The provisions of AS 47.12.300(g), added by sec. 28 of this Act, have the effect
4 of changing Rule 27, Alaska Delinquency Rules, by making court records for certain juvenile
5 proceedings public documents in specified circumstances.

6 * **Sec. 36.** Rules 6, 7, and 21(f), Alaska Delinquency Rules, are repealed.

7 * **Sec. 37.** AS 47.12.110(c) is repealed.

8 * **Sec. 38.** APPLICABILITY OF SECTIONS 1 - 32. Sections 1 - 32 of this Act apply to
9 all offenses committed on or after the effective date of this Act.

10 * **Sec. 39.** SCOPE AND APPLICABILITY OF SECTION 33. The juvenile rendition
11 amendment to the Interstate Compact on Juveniles is hereby enacted into law by sec. 33 of
12 this Act and entered into by this state with all other states legally joining therein in the form
13 substantially as set out in sec. 33 of this Act. Section 33 of this Act applies to offenses
14 committed before, on, or after the effective date of this Act.

15 * **Sec. 40.** This Act takes effect July 1, 1997.