



LAWS OF ALASKA

2001

Source
SB 178

Chapter No.
79

AN ACT

Relating to the detention of delinquent minors and to temporary detention hearings; amending Rule 12, Alaska Delinquency Rules; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 3, 2001
Actual Effective Date: July 4, 2001

AN ACT

1 Relating to the detention of delinquent minors and to temporary detention hearings; amending
2 Rule 12, Alaska Delinquency Rules; and providing for an effective date.

3

4 * **Section 1.** AS 47.12.240(c) is amended to read:

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

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

11 (A) six hours, **except under the criteria listed in (e) of this**
12 **section;** or

13 (B) the time necessary to arrange the minor's transportation to a

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1 juvenile detention home or comparable facility for the detention of minors;

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

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

7 (4) if the minor is at least 16 years of age and the court has entered an
8 order under AS 47.12.160(e) imposing an adult sentence and transferring custody of
9 the minor to the Department of Corrections.

10 * Sec. 2. AS 47.12.240(e) is repealed and reenacted to read:

11 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section,
12 a minor whose detention is authorized by (c)(1) of this section may be detained in a
13 correctional facility for up to 24 hours when the authority having jurisdiction over the
14 minor under this chapter is outside a metropolitan statistical area under the current
15 designation of the United States Bureau of the Census and the authority has no
16 existing acceptable alternative placement available for the minor. The minor may be
17 held in secure custody beyond the 24-hour period if the criteria set out in this
18 subsection are met and if the correctional facility is located where conditions of

19 (1) distance to be traveled or the lack of highway, road, or other
20 ground transportation do not allow for court appearances within 24 hours, in which
21 case the minor may be held for up to an additional 48 hours at the correctional facility;
22 or

23 (2) lack of safety exist, such as severely adverse, life-threatening
24 weather conditions that do not allow for reasonably safe travel, in which case the time
25 for an appearance may be delayed until 24 hours after the time that the conditions
26 become safe.

27 * Sec. 3. AS 47.12.250(c) is amended to read:

28 (c) The court shall immediately, and in no event more than 48 hours later, hold
29 a hearing at which the minor and the minor's parents or guardian if they can be found
30 shall be present. **For those minors held securely in correctional facilities that**
31 **house adult prisoners, the court shall immediately, and in no event more than 24**

1 hours after the custody begins, hold a hearing at which the minor and the
2 minor's parents or guardian if they can be found shall be present. The court shall
3 determine whether probable cause exists for believing the minor to be delinquent. The
4 court shall inform the minor of the reasons alleged to constitute probable cause and the
5 reasons alleged to authorize the minor's detention. The minor is entitled to counsel.
6 The court shall give the minor's foster parent the opportunity to be heard at the
7 hearing.

8 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **INDIRECT COURT RULE CHANGE.** The provisions of sec. 3 of this Act have the
11 effect of amending Rule 12, Alaska Delinquency Rules, by requiring the court to conduct
12 temporary detention hearings within 24 hours if the minor is held securely in a correctional
13 facility.

14 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 **CONDITIONAL EFFECT.** Section 3 of this Act takes effect only if sec. 4 of this Act
17 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
18 of the State of Alaska.

19 * **Sec. 6.** This Act takes effect July 1, 2001.