

CS FOR HOUSE BILL NO. 172(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 4/6/01

Offered: 4/6/01

Sponsor(s): REPRESENTATIVES PORTER, Murkowski, Rokeberg, Foster, Halcro, McGuire, Hayes, James, Meyer, Croft, Williams, Cissna, Kapsner, Kerttula

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to therapeutic courts for offenders and to the authorized number of**
2 **superior court judges."**

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE PURPOSE; THERAPEUTIC COURTS FOR ALCOHOL- AND
7 DRUG-ADDICTED OFFENDERS. (a) The purposes of therapeutic courts are lasting
8 sobriety of offenders, protection of society from alcohol-related and drug-related crime,
9 prompt payment of restitution to victims of crimes, effective interaction and use of resources
10 among criminal justice and community agencies, and long-term reduction of costs relating to
11 arrest, trial, and incarceration. The pilot therapeutic courts established in (b) of this section
12 will focus on defendants charged with multiple driving while intoxicated offenses and shall
13 serve as working models for the development of other similar courts in other areas of the
14 state. It is the intent of the legislature that the additional superior court judge authorized for

1 the Fourth Judicial District by sec. 2 of this Act be assigned to Bethel and that the additional
2 superior court judge authorized for the Third Judicial District be assigned to Anchorage. In
3 addition, the legislature recognizes that district courts are currently experimenting with and
4 using therapeutic concepts such as those contained in this Act. The legislature acknowledges
5 these efforts, encourages their continuation in the district courts, and does not intend by this
6 Act the extinguishment of these efforts.

7 (b) The Alaska Court System shall establish two pilot sites for therapeutic courts for
8 alcohol- and drug-addicted offenders in Anchorage and Bethel; the Anchorage therapeutic
9 court shall commence on the effective date of this Act; the Bethel therapeutic court shall
10 commence on January 2, 2002; the pilot programs shall end three years after the date each
11 court commences. The Alaska Court System will designate one superior court judge in
12 Anchorage and one superior court judge in Bethel to preside over the therapeutic courts.
13 Under the leadership of these judges, all parties involved in the implementation of the
14 therapeutic court process shall regularly meet to consult about the conduct and improvement
15 of the process. The pilot programs shall be implemented by the joint efforts of the Alaska
16 Court System, the Department of Law, the Public Defender Agency, the Department of
17 Corrections, the Department of Health and Social Services, and other agencies in accordance
18 with a mutually agreed-upon plan. To the extent feasible, the therapeutic courts shall use
19 existing public agencies, medical and treatment services, housing, and other public, private,
20 and nonprofit community services; the pilot program in Bethel shall also consult and
21 coordinate services with municipal and other local entities to facilitate the successful
22 reintegration of offenders into municipalities and other locales outside of Bethel. Each
23 therapeutic court shall be adapted to fit the available local resources and cultural traditions.

24 (c) Nothing in this Act is intended to place additional requirements on or make
25 changes to other existing specialized or general state courts.

26 (d) In addition to any authorized sentence under AS 12.55, a therapeutic court shall,
27 to the extent feasible, consider or require

- 28 (1) early intervention to plan and begin treatment for recovery from alcohol or
29 drug addiction;
30 (2) emphasis on personal responsibility;
31 (3) frequent appearances before the same judge to provide in-court recognition

1 of progress and quick sanctions for relapses;

2 (4) in-court recognition of progress and quick sanctions for relapses;

3 (5) if the offender is living in a municipality or an area of the state without a
4 judge, frequent appearances before a person or persons designated by the judge who will
5 report progress and relapses to the judge;

6 (6) prompt payment of restitution for victims;

7 (7) completion of community work service as appropriate for restoration of
8 the community;

9 (8) pharmaceutical treatment of the physical addiction to alcohol or drugs, as
10 approved and prescribed by a physician;

11 (9) treatment addressing the psychosocial bases of the addiction;

12 (10) a strong monitoring program to enforce long-term abstinence;

13 (11) appropriate physical placement or housing;

14 (12) assistance in obtaining a constructive alcohol- and drug-free occupation
15 and lifestyle;

16 (13) assistance from supportive friends and relatives;

17 (14) payment for all or a portion of treatment costs;

18 (15) adherence to all probation conditions;

19 (16) collection of data about and evaluation of the effectiveness of the
20 program;

21 (17) the defendant to execute releases to provide information and reports to
22 the court, the prosecutor, and all agencies involved in the defendant's therapeutic court plan;
23 and

24 (18) case coordination in planning for and assisting offenders in
25 accomplishing the conditions set out in (1) - (17) of this subsection.

26 (e) The state, publicly appointed counsel, and court shall develop a list of sanctions to
27 be imposed in the event that a defendant violates conditions imposed by a therapeutic court.
28 This list shall be provided to all defendants who request referral to a therapeutic court.

29 (f) With the consent of the state or municipal prosecutor and the defendant, a criminal
30 case, including the case of a defendant charged with violating the terms of probation, may be
31 referred to a therapeutic court upon the request of the prosecutor, the defendant, or the court.

1 The court may accept a defendant into the therapeutic court if the defendant is not charged
2 with an unclassified felony, a class A felony, or an offense under AS 11.41.410 - 11.41.470,
3 or with violating probation for one of those offenses.

4 (g) Upon acceptance into the therapeutic court, the defendant shall enter a no contest
5 or guilty plea to an offense or shall admit to a probation violation, as appropriate. The state
6 and the defendant may enter into a plea agreement to determine the offense or offenses to
7 which the defendant is required to plead. If the court accepts the agreement, the court shall
8 enforce the terms of the agreement.

9 (h) The court shall enter a judgment of conviction for the offense or offenses for
10 which the defendant has pleaded or an order finding that the defendant has violated probation,
11 as appropriate. A judgment of conviction or an order finding a probation violation must set a
12 schedule for payment of restitution owed by the defendant. In a judgment of conviction and
13 upon probation conditions that the court considers appropriate, the court may withhold
14 pronouncement of a period of imprisonment or a fine to provide an incentive for the defendant
15 to complete recommended treatment successfully. Imprisonment or a fine imposed by a
16 therapeutic court shall comply with AS 12.55 or any mandatory minimum or other sentencing
17 provision applicable to the offense. However, notwithstanding any other provision of law, the
18 entire period of imprisonment or amount of fine, including a presumptive or mandatory
19 minimum sentence, may be suspended if the defendant has successfully completed court-
20 ordered treatment, is current with restitution payments, and has substantially complied with
21 sobriety and other conditions imposed by the court. A court entering an order finding the
22 defendant has violated probation may withhold pronouncement of disposition to provide an
23 incentive for the defendant to complete recommended treatment successfully.

24 (i) If the defendant is terminated from therapeutic court, the defendant's no contest or
25 guilty plea or admission to a probation violation to the court shall stand, and the sentence
26 previously imposed shall be executed or, if sentence has not yet been imposed, imposition of
27 sentence shall be scheduled in a nontherapeutic court.

28 (j) Notwithstanding any other provision of law to the contrary, the judge, the state, the
29 defendant, and the agencies involved in the defendant's treatment plan are entitled to
30 information and reports bearing on the defendant's assessment, treatment, and progress.

31 (k) The Alaska Judicial Council will develop a uniform data collection form for use

1 by the therapeutic courts. The Council shall evaluate the effectiveness of the pilot therapeutic
 2 court programs by developing baseline information and comparing that data with ongoing
 3 program results as reported by the therapeutic courts and prepare a report to the legislature,
 4 courts, and affected agencies. The report shall be disseminated no later than July 1, 2005.

5 (l) In addition to other conditions authorized under AS 12.30 or AS 12.55, a
 6 therapeutic court may impose the following conditions of bail or probation:

7 (1) require the defendant to submit to electronic monitoring if the
 8 commissioner of corrections agrees to this condition;

9 (2) require the defendant to submit to house arrest.

10 (m) A defendant who is subject to a condition set out in (l) of this section is not
 11 entitled to credit for time served.

12 (n) In addition to other conditions authorized under AS 12.30, a therapeutic court may
 13 require the defendant to take a drug or combination of drugs intended to prevent the
 14 consumption of alcoholic beverages.

15 (o) The Department of Health and Social Services may require treatment providers to
 16 make advances to a defendant accepted to the therapeutic court to cover the initial costs
 17 related to the use of Naltrexone if the defendant is otherwise without resources to pay those
 18 costs. The court shall require as a condition of probation that the defendant repay the
 19 treatment provider.

20 (p) In this section, "sentence" or "sentencing" includes a suspended imposition of
 21 sentence as authorized under AS 12.55.085.

22 * **Sec. 2.** AS 22.10.120 is amended to read:

23 **Sec. 22.10.120. Number of judges.** The superior court consists of **34** [32]
 24 judges, five of whom shall be judges in the first judicial district, three of whom shall
 25 be judges in the second judicial district, **19** [18] of whom shall be judges in the third
 26 judicial district, and **seven** [SIX] of whom shall be judges in the fourth judicial
 27 district. At the time of submitting the names of nominees to the governor to fill a
 28 vacancy on the superior court bench, the judicial council shall also designate the
 29 district in which the appointee is to reside and serve.