

HOUSE BILL NO. 487

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/16/04

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the detention of delinquent minors in correctional facilities; relating**
2 **to emergency detention of minors for evaluation for involuntary admission for mental**
3 **health treatment; relating to detention of intoxicated minors and minors incapacitated**
4 **by alcohol or drugs; and providing for an effective date."**

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

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

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

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

13 (A) six hours, except under the criteria listed in (e) of this
14 section; or

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

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

6 (3) [IF THE INCARCERATION CONSTITUTES A PROTECTIVE
7 CUSTODY DETENTION OF THE MINOR THAT IS AUTHORIZED BY
8 AS 47.37.170(b); OR

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

12 * **Sec. 2.** AS 47.12.240(d) is amended to read:

13 (d) When a minor is detained under **(c)(1)** [(c)(1) OR (3)] of this section and
14 incarcerated in a correctional facility, the minor shall be

15 (1) assigned to quarters in the correctional facility that are separate
16 from quarters used to house adult prisoners so that the minor cannot communicate
17 with or view adults who are in official detention;

18 (2) provided admission, health care, hygiene, and food services and
19 recreation and visitation opportunities separate from services and opportunities
20 provided to adults who are in official detention.

21 * **Sec. 3.** AS 47.30.705 is amended to read:

22 **Sec. 47.30.705. Emergency detention for evaluation.** A peace officer, a
23 psychiatrist or physician who is licensed to practice in this state or employed by the
24 federal government, or a clinical psychologist licensed by the state Board of
25 Psychologist and Psychological Associate Examiners who has probable cause to
26 believe that a person is gravely disabled or is suffering from mental illness and is
27 likely to cause serious harm to self or others of such immediate nature that
28 considerations of safety do not allow initiation of involuntary commitment procedures
29 set out in AS 47.30.700, may cause the person to be taken into custody and delivered
30 to the nearest evaluation facility. A person take into custody for emergency evaluation
31 may not be placed in a jail or other correctional facility except for protective custody

1 purposes and only while awaiting transportation to a treatment facility. **However,**
 2 **emergency protective custody under this section may not include placement of a**
 3 **minor in a jail or secure facility.** The peace officer or mental health professional
 4 shall complete an application for examination of the person in custody and be
 5 interviewed by a mental health professional at the facility.

6 * **Sec. 4.** AS 47.30.705 is amended by adding a new subsection to read:

7 (b) In this section, "minor" means an individual who is under 18 years of age.

8 * **Sec. 5.** AS 47.37.170(a) is amended to read:

9 (a) An intoxicated person may come voluntarily to an approved public
 10 treatment facility for emergency treatment. A person who appears to be intoxicated in
 11 a public place and to be in need of help or a person who appears to be intoxicated in or
 12 upon a licensed **premises** [PREMISE] where intoxicating liquors are sold or
 13 consumed who refuses to leave upon being requested to leave by the owner, an
 14 employee or a peace officer, may be taken into protective custody and assisted by a
 15 peace officer or a member of the emergency service patrol to the person's home, an
 16 approved public treatment facility, an approved private treatment facility, or another
 17 appropriate health facility. If all of the preceding facilities, including the person's
 18 home, are determined to be unavailable, a person taken into protective custody and
 19 assisted under this subsection may be taken to a state or municipal detention facility in
 20 the area. **However, emergency protective custody under this section may not**
 21 **include placement of a minor in a jail or secure facility.**

22 * **Sec. 6.** AS 47.37.170(b) is amended to read:

23 (b) A person who appears to be incapacitated by alcohol or drugs in a public
 24 place shall be taken into protective custody by a peace officer or a member of the
 25 emergency service patrol and immediately brought to an approved public treatment
 26 facility, an approved private treatment facility, or another appropriate health facility or
 27 service for emergency medical treatment. If no treatment facility or emergency
 28 medical service is available, a person who appears to be incapacitated by alcohol or
 29 drugs in a public place shall be taken to a state or municipal detention facility in the
 30 area if that appears necessary for the protection of the person's health or safety.
 31 **However, emergency protective custody under this section may not include**

1 **placement of a minor in a jail or secure facility.**

2 * **Sec. 7.** AS 47.37.170 is amended by adding a new subsection to read:

3 (k) In this section, "minor" means an individual who is under 18 years of age.

4 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).