

CS FOR HOUSE BILL NO. 255(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/19/08

Referred: Rules

Sponsor(s): REPRESENTATIVE JOHNSON

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to dual sentencing of certain juvenile offenders and to detention of**
2 **those offenders; amending Rule 24.1, Alaska Delinquency Rules; and providing for an**
3 **effective date."**

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

5 *** Section 1.** AS 47.12.065(a) is amended to read:

6 (a) The department or the entity selected by it may refer to the appropriate
7 district attorney the circumstances involving a minor who is subject to the provisions
8 of this section because the minor is alleged to have violated a criminal law of the state.
9 Except as provided in (d) of this section, the department or the entity selected by it
10 may make the referral if the minor was 16 years of age or older at the time of the
11 offense, and

12 **(1)** the offense is

13 **(A) a class B felony crime against a person;**

14 **(B) misconduct involving weapons in the first or second**

1 degree;

2 (C) arson in the second degree; or

3 (D) [(1)] a class C felony [THAT IS A] crime against a person
 4 and the minor has previously been adjudicated a delinquent under the laws of
 5 this state or substantially similar laws of another jurisdiction for a felony
 6 offense that is a crime against a person; and [OR]

7 (2) the minor is not subject to prosecution as an adult under
 8 AS 47.12.030(a) [SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE].

9 * **Sec. 2.** AS 47.12.120(j) is amended to read:

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

14 (1) enter one or more orders under (b) of this section and,
 15 notwithstanding the provisions of (b) of this section that restrict commitment or
 16 supervision beyond a certain age, commit, or require the department to retain
 17 supervision over, the minor until the day the minor becomes 20 years of age;
 18 [AND]

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

22 (3) retain jurisdiction over the minor until the day the minor
 23 becomes 20 years of age unless the court discharges the minor earlier under
 24 AS 47.12.160(a).

25 * **Sec. 3.** AS 47.12.160(a) is amended to read:

26 (a) Except as provided in (g) of this section, the court retains jurisdiction over
 27 the case and may at any time stay execution, modify, set aside, revoke, or enlarge a
 28 judgment or order, or grant a new hearing, in the exercise of its power of protection
 29 over the minor and for the minor's best interest, for a period of time not to exceed the
 30 maximum period otherwise permitted by law or in any event extend past the day the
 31 minor becomes 19, unless sooner discharged by the court, except that the department

1 may apply for and the court may grant an additional one-year period of supervision
 2 past age 19 if continued supervision is in the best interests of the person and the
 3 person consents to it. **The court retains jurisdiction over the case of a minor**
 4 **receiving a dual sentencing under AS 47.12.120(j) until the day the minor**
 5 **becomes 20 years of age and may, at any time, modify or enlarge a judgment or**
 6 **order, or discharge the minor, in the exercise of its power of protection over the**
 7 **minor and for the minor's best interest.** An application for any of these purposes
 8 may be made by the parent, guardian, or custodian acting in behalf of the minor, or the
 9 court may, on its own motion, and after reasonable notice to interested parties and the
 10 appropriate department, take action that it considers appropriate.

11 * **Sec. 4.** AS 47.12.240(c) is amended to read:

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

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

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

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

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

25 (3) if the minor is at least 16 years of age and the court has entered an
 26 order under AS 47.12.160(e) imposing an adult sentence and transferring custody of
 27 the minor to the Department of Corrections; **or**

28 **(4) if**

29 **(A) a petition has been filed under AS 47.12.160(d) to**
 30 **impose an adult sentence;**

31 **(B) a court, at a hearing held within 48 hours of the filing of**

1 **the petition, finds that there is probable cause to support the allegations in**
2 **the petition; and**

3 **(C) the department transfers custody of the minor to the**
4 **Department of Corrections pending the resolution of the petition.**

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

7 INDIRECT COURT RULE AMENDMENT. This Act has the effect of amending
8 Rule 24.1, Alaska Delinquency Rules, relating to dual sentencing of minors by changing the
9 procedure for imposing dual sentences on minors.

10 * **Sec. 6.** This Act takes effect July 1, 2008.