

**HOUSE BILL NO. 172**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 4/12/21

Referred: Judiciary, Health and Social Services, Finance

**A BILL**

**FOR AN ACT ENTITLED**

"An Act relating to admission to and detention at a subacute mental health facility; establishing a definition for 'subacute mental health facility'; establishing a definition for 'crisis residential center'; relating to the definitions for 'crisis stabilization center'; relating to the administration of psychotropic medication in a crisis situation; relating to licensed facilities; and providing for an effective date."

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

\* **Section 1.** AS 12.25.031(i)(1) is amended to read:

(1) "crisis stabilization center" means a facility licensed as a subacute mental health facility under AS 47.32 that has a maximum stay of 23 hours and 59 minutes [MEETS THE DEFINITION OF "CRISIS STABILIZATION CENTER" IN AS 47.32.900];

\* **Sec. 2.** AS 47.30.705(a) is amended to read:

(a) A peace officer, a mental health professional, or a physician assistant

1 **licensed by the State Medical Board to practice in this state,** [A PSYCHIATRIST  
 2 OR PHYSICIAN WHO IS LICENSED TO PRACTICE IN THIS STATE OR  
 3 EMPLOYED BY THE FEDERAL GOVERNMENT, OR A CLINICAL  
 4 PSYCHOLOGIST LICENSED BY THE STATE BOARD OF PSYCHOLOGIST  
 5 AND PSYCHOLOGICAL ASSOCIATE EXAMINERS] who has probable cause to  
 6 believe that a person is gravely disabled or is suffering from mental illness and is  
 7 likely to cause serious harm to self or others of such immediate nature that  
 8 considerations of safety do not allow initiation of involuntary commitment procedures  
 9 set out in AS 47.30.700, may cause the person to be taken into custody **by a peace**  
 10 **officer** and delivered to the nearest crisis stabilization center [AS DEFINED IN  
 11 AS 47.32.900] or the nearest evaluation facility. A person taken into custody [FOR  
 12 EMERGENCY EVALUATION] may not be placed in a jail or other correctional  
 13 facility except for protective custody purposes and only while awaiting transportation  
 14 to a **subacute mental health facility, evaluation facility,** [CRISIS STABILIZATION  
 15 CENTER] or treatment facility. However, emergency protective custody under this  
 16 section may not include placement of a minor in a jail or secure facility. The peace  
 17 officer or mental health professional shall complete an application for examination of  
 18 the person in custody and be interviewed by a mental health professional at the  
 19 **subacute mental health facility** [CRISIS STABILIZATION CENTER], evaluation  
 20 facility, or treatment facility.

21 \* **Sec. 3.** AS 47.30.705 is amended by adding a new subsection to read:

22 (c) When delivering a person to the nearest crisis stabilization center or  
 23 evaluation facility under (a) of this section, a peace officer shall give priority to a  
 24 crisis stabilization center if one exists in the service area served by the peace officer.

25 \* **Sec. 4.** AS 47.30 is amended by adding a new section to read:

26 **Sec. 47.30.707. Admission to and detention at a subacute mental health**  
 27 **facility; psychotropic medication; rights; notification.** (a) Except as provided in (b)  
 28 of this section, when a crisis stabilization center admits a person on an emergency  
 29 basis under AS 47.30.705, the crisis stabilization center may hold the person at the  
 30 center for a period not to exceed 23 hours and 59 minutes. A respondent who is  
 31 delivered under AS 47.30.705 to a crisis stabilization center shall be examined by a

1 mental health professional as defined in AS 47.30.915 within three hours after arriving  
2 at the center.

3 (b) If the professional person in charge at the crisis stabilization center  
4 determines that there is probable cause to believe that the held person's acute  
5 behavioral health crisis will be resolved during admission to a crisis residential center  
6 and the person is not willing to remain at the crisis residential center on a voluntary  
7 basis, a mental health professional shall submit an ex parte application to the court for  
8 detention at the crisis residential center. Based on the application, the court shall either  
9 grant the application or order that the respondent may not be detained. If the court  
10 grants the application, the respondent shall be delivered to, admitted to, and detained  
11 at a crisis residential center for a period of not more than 120 hours for evaluation,  
12 stabilization, and treatment. The respondent shall remain at the crisis stabilization  
13 center until admission to a crisis residential center.

14 (c) If the professional person in charge at the crisis residential center  
15 determines that the respondent's acute behavioral health crisis requires hospitalization  
16 for evaluation, a mental health professional shall apply for an ex parte order  
17 authorizing hospitalization for evaluation. The respondent shall remain at the crisis  
18 residential center until admission to a hospital performing the evaluation.

19 (d) If at any time during detention at a subacute mental health facility the  
20 professional person in charge determines that the respondent does not meet the  
21 standard for a stabilization hold or detention, the respondent may no longer be held or  
22 detained. The court shall be notified if applicable and, if reasonably possible, the  
23 petitioner shall be notified.

24 (e) When detained at a subacute mental health facility, a respondent has the  
25 following rights:

- 26 (1) the rights identified in AS 47.30.725, as applicable;
- 27 (2) with the exception of AS 47.30.839 and 47.30.851, the rights  
28 identified under AS 47.30.817 - 47.30.865.

29 (f) A respondent subject to an involuntary stabilization hold or detention at a  
30 subacute mental health facility under this section may, at any time, convert to  
31 voluntary status if the professional person in charge agrees that

(1) the respondent is an appropriate patient for voluntary status; and

(2) the conversion is made in good faith.

(g) A subacute mental health facility may administer psychotropic medication or other treatment to an involuntarily detained respondent only in a manner that is consistent with AS 47.30.838.

(h) In this section, computations of a 23-hour, 59-minute holding period or a 120-hour detention period include Saturdays, Sundays, and legal holidays, but do not include any period of time necessary to transport the respondent to the subacute mental health facility.

\* **Sec. 5.** AS 47.30.710 is amended to read:

**Sec. 47.30.710. Examination; hospitalization; admission to crisis residential center.** A respondent who is delivered under AS 47.30.700 - 47.30.705 to an evaluation facility [, EXCEPT FOR DELIVERY TO A CRISIS STABILIZATION CENTER AS DEFINED IN AS 47.32.900,] for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility. A respondent who is delivered under AS 47.30.705 to a crisis stabilization center shall be examined by a mental health professional as defined in AS 47.30.915 within three hours after arriving at the center.

(b) If the mental health professional who performs the emergency examination **under (a) of this section** has reason to believe that the respondent is

(1) mentally ill and that condition causes the respondent to be gravely disabled or to present a likelihood of serious harm to self or others; [,] and

(2) is in need of care or treatment, the mental health professional may

**(A) hold the respondent at a crisis stabilization center;**

**(B) admit the respondent to a crisis residential center;**

**(C) readmit the respondent to a crisis residential center; if the readmission occurs within 24 hours of an admission under this paragraph, the crisis residential center shall obtain prior authorization from the department;**

**(D) hospitalize the respondent; [,] or**

(E) arrange for hospitalization, on an emergency basis [. IF A JUDICIAL ORDER HAS NOT BEEN OBTAINED UNDER AS 47.30.700, THE MENTAL HEALTH PROFESSIONAL SHALL APPLY FOR AN EX PARTE ORDER AUTHORIZING HOSPITALIZATION FOR EVALUATION].

\* **Sec. 6.** AS 47.30.710 is amended by adding new subsections to read:

(c) If the mental health professional hospitalizes a respondent or arranges for the hospitalization of a respondent under (b) of this section and if a judicial order has not been obtained under AS 47.30.700, the mental health professional shall apply for an ex parte order authorizing the hospitalization for evaluation.

(d) If a mental health professional readmits a respondent to a crisis residential center under (b) of this section within 24 hours after a discharge from a crisis residential center, and the respondent is not willing to remain at the crisis residential center on a voluntary basis, the respondent may request a hearing in the superior court to challenge the readmission. If a respondent requests a hearing, the respondent may be represented at public expense by the Public Defender Agency. The court shall set a date, time, and place for the hearing, to be held within 48 hours after the respondent's arrival at the crisis residential center. The court shall notify the facility, the respondent, the respondent's attorney, and the prosecuting attorney of the hearing arrangements. Unless otherwise ordered by the court upon receipt of the hearing request, the respondent shall remain at the crisis residential center until the court issues a decision on the readmission, at which time the crisis residential center shall detain or release the respondent under AS 47.30.707.

\* **Sec. 7.** AS 47.30.715 is amended to read:

**Sec. 47.30.715. Procedure after order.** When an evaluation [A] facility receives a proper order for evaluation, it shall accept the order and, when it may safely do so, the respondent for an evaluation period not to exceed 72 hours. The facility shall promptly notify the court of the date and time of the respondent's arrival. The court shall set a date, time, and place for a 30-day commitment hearing, to be held if needed within 72 hours after the respondent's arrival, and the court shall notify the facility, the respondent, the respondent's attorney, and the prosecuting attorney of the

1 hearing arrangements. Evaluation personnel, when used, shall similarly notify the  
2 court of the date and time when they first met with the respondent.

3 \* **Sec. 8.** AS 47.30.805(a) is amended to read:

4 (a) Except as provided in (b) of this section,

5 (1) computations of a 72-hour evaluation period under AS 47.30.715,  
6 [OR] a 48-hour detention period under AS 47.30.685, **a 48-hour hearing deadline**  
7 **under AS 47.30.710, or a 24-hour readmission period under AS 47.30.710** do not  
8 include Saturdays, Sundays, legal holidays, or any period of time necessary to  
9 transport the respondent to the treatment facility **or crisis residential center**;

10 (2) a 30-day commitment period expires at the end of the 30th day  
11 after the 72 hours following initial acceptance;

12 (3) a 90-day commitment period expires at the end of the 90th day  
13 after the expiration of a 30-day period of treatment;

14 (4) a 180-day commitment period expires at the end of the 180th day,  
15 after the expiration of a 90-day period of treatment or previous 180-day period,  
16 whichever is applicable.

17 \* **Sec. 9.** AS 47.30.838(c) is amended to read:

18 (c) If crisis situations as described in (a)(1) of this section occur repeatedly, or  
19 if it appears that they may occur repeatedly, the evaluation facility, **subacute mental**  
20 **health facility**, or designated treatment facility may administer psychotropic  
21 medication during no more than three crisis periods without the patient's informed  
22 consent only with court approval under AS 47.30.839. **Regardless of whether the**  
23 **patient has executed advance an health care directive under AS 13.52 or has**  
24 **authorized an agent or surrogate under AS 13.52 to consent, if a patient is**  
25 **capable of giving informed consent and gives informed consent for more than**  
26 **three crisis periods, the evaluation facility, designated treatment facility, or**  
27 **subacute mental health facility may administer psychotropic medication based on**  
28 **that informed consent even if, at the time of the crisis period, the patient refuses**  
29 **crisis medication. After the crisis period is over, if the patient is capable of giving**  
30 **informed consent, the patient may withdraw consent for additional crisis**  
31 **medication.**

1 \* **Sec. 10.** AS 47.30 is amended by adding a new section to read:

2 **Sec. 47.30.912. Regulations.** The department shall adopt regulations to  
3 implement AS 47.30.700 - 47.30.915.

4 \* **Sec. 11.** AS 47.30.915(7) is amended to read:

5 (7) "evaluation facility" means a **hospital or crisis residential center**  
6 [HEALTH CARE FACILITY] that has been designated or is operated by the  
7 department to perform the evaluations described in AS 47.30.660 - 47.30.915 [, OR A  
8 MEDICAL FACILITY LICENSED UNDER AS 47.32 OR OPERATED BY THE  
9 FEDERAL GOVERNMENT];

10 \* **Sec. 12.** AS 47.30.915(15) is amended to read:

11 (15) "peace officer" includes a state police officer; [,] municipal or  
12 other local police officer; [,] state, municipal, or other local health officer; [,] public  
13 health nurse; [,] United States marshal or deputy United States marshal; [, OR A]  
14 person authorized by the court; **emergency medical technician; paramedic; or**  
15 **firefighter**;

16 \* **Sec. 13.** AS 47.30.915 is amended by adding new paragraphs to read:

17 (21) "subacute mental health facility" has the meaning given in  
18 AS 47.32.900;

19 (22) "crisis residential center" means a subacute mental health facility  
20 that has a maximum stay of 120 hours;

21 (23) "crisis stabilization center" means a subacute mental health  
22 facility that has a maximum stay of 23 hours and 59 minutes.

23 \* **Sec. 14.** AS 47.32.010(b) is amended to read:

24 (b) This chapter and regulations adopted under this chapter apply to the  
25 following entities:

- 26 (1) ambulatory surgical centers;
- 27 (2) assisted living homes;
- 28 (3) child care facilities;
- 29 (4) child placement agencies;
- 30 (5) foster homes;
- 31 (6) freestanding birth centers;

- 1 (7) home health agencies;
- 2 (8) hospices, or agencies providing hospice services or operating
- 3 hospice programs;
- 4 (9) hospitals;
- 5 (10) intermediate care facilities for individuals with an intellectual
- 6 disability or related condition;
- 7 (11) maternity homes;
- 8 (12) nursing facilities;
- 9 (13) residential child care facilities;
- 10 (14) residential psychiatric treatment centers;
- 11 (15) runaway shelters;
- 12 (16) rural health clinics;
- 13 (17) subacute mental health facilities [CRISIS STABILIZATION
- 14 CENTERS].

15 \* **Sec. 15.** AS 47.32.900 is amended by adding a new paragraph to read:

16 (23) "subacute mental health facility" means a facility, or a part or unit  
 17 of a facility, that has been designed to evaluate, stabilize, and treat, on a short-term,  
 18 intensive, and recover-oriented basis and without the use of inpatient hospitalization,  
 19 individuals experiencing an acute behavioral health crisis, including a

20 (A) crisis stabilization center, as defined in AS 47.30.915; and

21 (B) crisis residential center, as defined in AS 47.30.915.

22 \* **Sec. 16.** AS 47.32.900(5) is repealed.

23 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
 24 read:

25 TRANSITION: LICENSING. Notwithstanding AS 47.32.010(b), as amended by sec.  
 26 14 of this Act, the Department of Health and Social Services shall consider any license issued  
 27 to a facility with the facility type under AS 47.32.010 identified as a crisis stabilization center  
 28 that is issued before the effective date of this Act and that is valid on the effective date of this  
 29 Act, a license for a subacute mental health facility until that license is renewed, suspended, or  
 30 revoked.

31 \* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2       TRANSITION: REGULATIONS. The Department of Health and Social Services may  
3 adopt regulations to implement this Act. The regulations take effect under AS 44.62  
4 (Administrative Procedure Act) but not before the effective date of the law implemented by  
5 the regulation.

6       \* **Sec. 19.** Section 18 of this Act takes effect immediately under AS 01.10.070(c).