

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 5, 2021

1:38 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Harriet Drummond
Representative Liz Snyder
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 105

"An Act relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 105

SHORT TITLE: DETENTION OF MINORS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/19/21	(H)	READ THE FIRST TIME - REFERRALS
02/19/21	(H)	JUD, HSS
03/05/21	(H)	JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

TRACY DOMPELING

Director, Division of Juvenile Justice
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 105

MATT DAVIDSON
Social Services Program Officer
Division of Juvenile Justice
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 105

AMY GORN,
Chair
Alaska Juvenile Justice Advisory Committee
Wasilla, Alaska

POSITION STATEMENT: Testified in support of HB 105

ACTION NARRATIVE

[1:38:50 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:38 p.m. Representatives Drummond, Kreiss-Tompkins (via teleconference), Eastman, Kurka, Vance, Snyder (via teleconference), and Claman were present at the call to order.

HB 105-DETENTION OF MINORS

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CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 105, "An Act relating to the duties of the commissioner of corrections; relating to the detention of minors; relating to minors subject to adult courts; relating to the placement of minors in adult correctional facilities; and providing for an effective date."

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TRACY DOMPELING, Director, Division of Juvenile Justice, Department of Health and Social Services, testified during the hearing on HB 105. She stated that the proposed bill would bring Alaska into compliance with recent changes to the Juvenile Justice and Delinquency Prevention Act (JJDPA), which had been enacted in 1974 and reauthorized in 2018. She informed the committee that the JJDPA is the primary federal legislation which governs juvenile justice practices nationwide. She emphasized that compliance with the JJDPA is mandatory to

maintain and avoid penalties to a major federal grant for the division.

MS. DOMPELING explained that the proposed legislation would make two changes to existing statute to bring the division into compliance with the JJDPa. She explained that the first change would be minors who have been waived into the adult criminal justice system be held in the juvenile justice system until they reach the age of eighteen. She added that current statute allows that minors who are subject to automatic waiver or discretionary waivers are held in adult jails and correctional facilities. She stated that the second change would expand the court findings necessary for non-delinquent minors to be held on a temporary basis in a secured juvenile justice facility.

MS. DOMPELING offered that HB 105 is limited in scope and would not have any impact on the crimes or sentences of minors who are subject to waiver into the adult criminal justice system, nor would there be any net fiscal impact.

MS. DOMPELING stated that, should the bill pass, it would improve the conditions of confinement for minors who are held in adult facilities. She stated that there exist difficulties in managing minors who are held in adult facilities, and minors are sometimes held in segregation units. She added that passage of the bill would require agreements between the Department of Corrections (DOC) and the Department of Health and Social Services (DHSS) pertaining to the holding of minors in DOC custody in the division's facilities. She added that DOC data made available revealed that there are currently six youths statewide that are held in its facilities.

MS. DOMPELING further explained that the second change proposed in the bill deals with the limited circumstances in which non-delinquent minors may be held temporarily in a secure juvenile detention facility pending another placement and added that this circumstance is very rare and most often pertains to minors who are in custody of the Office of Children's Services who may have run away or otherwise placed themselves in dangerous situations. She added that, under these circumstances, the state seeks court findings under Alaska Statute (AS) 47.10.141 allowing these youth to be held securely for a short period of time pending placement in a non-secure setting. She explained that the updates to the JJDPa expand the court findings necessary, where those minors can be held, and further limit the duration of time that they are securely held. She emphasized that this circumstance is rare; over the last three fiscal years, there

had been three instances each year in which a non-delinquent youth had been held. She applauded the support of the governor and the coordination between DOC and DHSS.

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REPRESENTATIVE EASTMAN asked whether a minor who may have been convicted of a particularly heinous or egregious crime, exemplified by a minor recently having killed their mother in Colorado, would be eligible for incarceration or, should the bill pass, would the status of that individual change.

MS. DOMPELING answered by explaining that the bill would lead to changes in the way the youth would be held. She said that the youth would still be tried as an adult if they fell under the automatic waiver statute; they would be held in the juvenile justice facility until they reached the age of eighteen. She added that there exist circumstances in which the division could request the court rule that a juvenile be held in an adult corrections facility after certain findings, such as in the case of a minor who is extremely difficult to manage, whether they meet the criteria for an automatic waiver or not. She stated that in that circumstance, the division would not be subject to a violation of the JJDP.A.

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REPRESENTATIVE EASTMAN asked for further clarification that, as in a hypothetical case of multiple homicide, whether that minor would be initially held with other minors until court proceedings determined it was not appropriate.

MS. DOMPELING confirmed this as correct and added that the automatic waiver statute pertains to youth aged sixteen and seventeen years of age and, unfortunately, there are youths of that age that do commit serious acts as described.

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CHAIR CLAMAN asked whether the practical effect of the changes proposed in the bill could be that a sixteen-year-old, who is tried as an adult and convicted of assault and sentenced to ten years would stay in a juvenile facility until that youth turned age eighteen, at which time they would be moved to an adult facility.

MS. DOMPELING confirmed this as correct.

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MATT DAVIDSON, Social Services Program Officer, Division of Juvenile Justice, Department of Health and Social Services, presented the sectional analysis on HB 105 as provided in the committee packet, which read as follows [original punctuation included]:

Section 1: Amends AS 33.30.011(a) Duties of commissioner to expand the duties of the Commissioner of the Department of Corrections to enter into agreements with the Department of Health and Social Services for the detention and care of minors who are waived into the adult criminal justice system.

Section 2: Amends AS 47.10.141(c) Runaway and missing minors to reference a new subsection that adds new requirements for court findings related to holding non-delinquent minors in secure juvenile facilities.

Section 3: Amends AS 47.10.141 Runaway and missing minors to add a new subsection to include expanded requirements for court findings before a non-delinquent minor can be held in a secure juvenile facility.

Section 4: Amends AS 47.12.020 Jurisdiction to add a new subsection related to the jurisdiction of the Division of Juvenile Justice to detain and care for minors under Department of Corrections custody.

Section 5: Amends AS 47.12.022 Applicability; inclusion of certain persons as minors to make conforming amendments to include minors subject to the adult court processes in the definition of "minor" in delinquency statute.

Section 6: Amends AS 47.12.030(a) Provisions inapplicable to add a reference to the "autowaiver" statute the new practice of holding minors subject to adult court proceedings in secure juvenile facilities. The section also includes the term "transported" to the adult processes that apply to waived minors to reflect current practices.

Section 7: Amends AS 47.12.100(a) Waiver of jurisdiction to add a reference to the "discretionary

waiver" statute the new practice of holding of minor offenders subject to adult court proceedings in secure juvenile facilities. The section also includes the list of adult court practices that apply to these offenders.

Section 8: Adds a new section 47.12.105 Minor offenders subject to adult court to describe the process, requirement, and exceptions for holding minor offenders in the custody of the Department of Corrections in secure Division of Juvenile Justice facilities until age 18. This section also describes the court process and findings that may allow for minors to be held in adult facilities in certain circumstances.

MR. DAVIDSON drew attention to Section 6 and informed the committee that AS 47.12.030(a) contains a list of offenses that would qualify a minor for an autowaiver. He also noted that Section 7 is the area of the bill that pertains to the line of inquiry posed by Representative Eastman, in the example of "particularly heinous" crimes, which occur very rarely. He also exemplified a waiver, or "exception" may be sought in a circumstance in which a minor is held in a community that does not have a juvenile facility but has a [local] court, or in which it would be inappropriate for a minor to be held in a juvenile facility, such as the minor is extremely violent or is very nearly 18 years of age.

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MR. DAVIDSON explained that the sectional analysis continuation read as follows [original punctuation included]:

Section 9: Amends AS 47.12.150(a) Legal custody, guardianship, and residual parental rights and responsibilities to make conforming changes to clarify that minors in the custody of the Department of Corrections detained in Division of Juvenile Justice facilities are subject to the same residual parental rights as other minor offenders.

Section 10: Amends AS 47.12.160(e) Retention of jurisdiction over minor to make conforming changes to the dual sentencing provisions.

Section 11: Amends AS 47.12.240(a) Detention of minors to make conforming changes.

Sections 12-13: Amends AS 47.12.250(a) Temporary Detention and Detention Hearing to make conforming changes.

Section 14: Amends AS 47.12.310(a) Agency Records to apply the same confidentiality requirements for information about waived minors as other minors served by the Division of Juvenile Justice, unless otherwise allowed by statute.

Section 15: Amends AS 47.12.310(b) Agency Records to specifically allow information sharing between the Division of Juvenile Justice and the Department of Corrections about former juvenile offenders and minors in DOC custody held in secure juvenile facilities until age 18.

Section 16: Repeals sections for conforming purposes.

Section 17: Applicability clause applies to minors in Department of Corrections custody on or after the effective date.

Section 18: Revisor's instructions.

Section 19: Special effective date clause. This Act takes effect on July 1, 2021.

MR. DAVIDSON added that Section 18 "Revisor's instructions" pertains to the governor's executive order to bifurcate DHSS and would update agency names and structures accordingly.

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REPRESENTATIVE EASTMAN referenced Section 8 of the analysis and asked how the process would work and on what timeline.

MR. DAVIDSON explained that the recent changes to the JJDPA provide for a new process to be developed that does not yet exist. He added that the timeline of determining a request of the court to allow juveniles to be held in adult facilities is quick and would pertain to very violent offenders. He added that, since the process was still in development, he was unable to answer specifically how long that process would take.

2:00:08 PM

REPRESENTATIVE VANCE referred to Section 18 of the analysis and asked, should the executive order to divide DHSS become enacted, whether there would be an impact on how the division deals with juveniles.

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MS. DOMPELING offered her understanding of Representative Vance's question to be whether, should the division be housed under a new department, there would be a change to how the division handles youths.

2:01:00 PM

REPRESENTATIVE VANCE stated that the legislature was considering the executive order and asked whether the division would be supported by the proposed changes.

MS. DOMPELING responded that, regardless of the department in which the division is housed, there should not be an impact on division staff, residents, or families which are served by the division.

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REPRESENTATIVE EASTMAN asked what facility is available for a very violent individual should the court not [find that a youth should be held in an adult facility].

MS. DOMPELING stated that there exist six detention facilities in the state including a secure treatment unit for severely violent juveniles, and the division does not typically hold detention-type youth or pre-conviction youth in that type of facility. She added that staff are trained in managing dangerous individuals with a possible course of action to include the secure treatment facility for an exceptionally violent individual. She added that there are many circumstances to contemplate in developing processes and the division strives to take as many of those into consideration as possible.

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CHAIR CLAMAN opened public testimony for HB 105.

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AMY GORN, Chair, Alaska Juvenile Justice Advisory Committee, testified in support of HB 105. She explained that the Alaska Juvenile Justice Advisory Committee (AJJAC) is a governor appointed committee which represents Alaska as a state advisory group funded by the U.S. Department of Justice Juvenile Justice Delinquency and Prevention Act, which funds the Alaska DHSS Division of Juvenile Justice (DJJ). She added that state advisory groups [such as AJJAC] guide compliance of the JJJPA and stated that DJJ is compliant with all four areas of the Act. She added that the JJJPA had been updated in 2018 when it was reauthorized, and changes were made to the sight and sound separation of adult and juvenile offenders. She stated the importance of DJJ to remain in compliance with the JJJPA. She suggested that the passage of HB 105 would improve the safety of minor offenders, would prevent the segregation of juveniles and possible isolation, and would positively impact recidivism through the coordination of DJJ and DOC.

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REPRESENTATIVE KURKA asked what the consequences brought about by noncompliance would be, should the bill not pass.

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MS. GORN answered that there could be financial penalties to funding received through Title II grant funds.

MS. DOMPELING added that should the state be noncompliant with a core requirement of the JJJPA there is an initial 20 percent reduction in funding; and, of the remaining funds received, fifty percent will be used to bring DJJ into compliance with the core requirement. She stated that many program areas use the Title II grant funds and the impact of penalties [as a result of noncompliance] would affect grant recipients who provide non-secure juvenile facilities. She noted that the funds are also used for the electronic monitoring program throughout the state.

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CHAIR CLAMAN asked how much of DJJ funds are state, and how much are federal, or what percentage is each.

MS. DOMPELING did not have the information readily available and agreed to provide it to the committee.

CHAIR CLAMAN stated that his reason for inquiry was to illustrate how much [funding] would be at risk should DJJ not maintain compliance with the JJDPA.

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CHAIR CLAMAN closed public testimony on HB 105.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:12 p.m.