

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 27, 2025

3:21 p.m.

MEMBERS PRESENT

Representative Genevieve Mina, Chair
Representative Andrew Gray
Representative Zack Fields
Representative Donna Mears
Representative Mike Prax
Representative Justin Ruffridge
Representative Rebecca Schwanke

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 36

"An Act relating to the placement of foster children in psychiatric hospitals; relating to the care of children in state custody placed in residential facilities outside the state; and amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure."

- MOVED HB 36 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 36

SHORT TITLE: FOSTER CHILDREN PSYCHIATRIC TREATMENT

SPONSOR(S): REPRESENTATIVE(S) GRAY

01/22/25	(H)	PREFILE RELEASED 1/10/25
01/22/25	(H)	READ THE FIRST TIME - REFERRALS
01/22/25	(H)	HSS, FIN
02/27/25	(H)	HSS AT 3:15 PM DAVIS 106

WITNESS REGISTER

KYLE JOHANSEN, Staff
Representative Andrew Gray
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 36 on behalf of Representative Gray, prime sponsor.

NANCY MEADE, General Counsel
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions on HB 36.

AMANDA METIVIER, Co-Founder
Facing Foster Care
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 36.

SARAH LEWIS, Project Coordinator
Facing Foster Care
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 36.

KXLO STONE, Youth Leadership Board Member
Facing Foster Care
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 36.

ACTION NARRATIVE

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CHAIR GENEVIEVE MINA called the House Health and Social Services Standing Committee meeting to order at 3:21 p.m. Representatives Gray, Fields, Schwanke, and Mina were present at the call to order. Representatives Mears, Prax, and Ruffridge arrived as the meeting was in progress.

HB 36-FOSTER CHILDREN PSYCHIATRIC TREATMENT

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CHAIR MINA announced that the only order of business would be HOUSE BILL NO. 36, "An Act relating to the placement of foster children in psychiatric hospitals; relating to the care of children in state custody placed in residential facilities outside the state; and amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure."

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REPRESENTATIVE GRAY, as prime sponsor, presented HB 36. He paraphrased the sponsor statement [included in the committee file], which read as follows [original punctuation provided]:

Due process is a basic constitutional right of every person in Alaska: adults, children, even children in the custody of the state.

HB 36 would require a judicial hearing within seven days of admission of a foster child to an acute psychiatric hospital with the possibility of an additional seven-day extension. HB 36 also allows parties to appear remotely thus reducing cost and protecting expedient due process.

In 2015 an Alaska Superior court deliberated the case of a foster child admitted to an acute psychiatric hospital. After the child had been stabilized, the child was not discharged to a less restrictive environment, but instead remained hospitalized unnecessarily without any judicial review process in statute.

The case, *Hooper Bay v. Lawton*, recognized an absence of statutory guidance regarding children in the custody of the state. The findings in that case led to an injunction requiring a court hearing to be held within 30 days for children admitted to acute psychiatric facilities while in the custody of the Office of Children's Services (OCS).

In the 2024 Alaska Supreme Court case *Kwinkagak v. State* the court found that the lack of statutory guidance evident in *Hooper Bay* had not been ameliorated, and that 30 days was too long. In this case a child was held for 46 days without a judicial review. The Alaska Supreme Court concluded in its decision:

"There is no doubt that children in OCS custody are at substantial risk of being hospitalized for longer than they need, or when they do not need to be hospitalized at all." And further, "Clarifying the legal protections for a vulnerable population of children in state custody is of utmost importance."

House Bill 36 provides the necessary statutory guidance asked for in the *Kwinkagak* decision.

I appreciate your support.

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KYLE JOHANSEN, Staff, Representative Andrew Gray, Alaska State Legislature, on behalf of Representative Gray, prime sponsor, presented the sectional analysis for HB 36 [included in the committee file], which read as follows [original punctuation provided]:

Section 1

Non substantive statutory construction

Section 2

Defines "acute psychiatric hospital" as suggested in *Kwinkagak v State of Alaska*

Defines "contemporaneous two-way video conference" to expedite due process

Section 3

New subsection

e) Allows the State to place child in an acute hospital if it's the least restrictive option, the child is gravely disabled/mentally ill and placement would improve the condition of the child with treatment or deteriorate the condition of the child without treatment.

f) Requires all parties of the case to be notified of placement within 24 hours

g) Requires a court review of placement within 7 days. Gives the court the option

to extend the court review up to 14 days if necessary to secure attendance of case participants. Allows for contemporaneous two-way video conferencing.

h) Requires case review each 30 days or by a "good-cause" request by the child or interested party.

Section 4

Adds "The number of children placed in residential facilities providing care for children outside the

state' to the required annual report to the Legislature on employee recruitment and retention, including a five year plan, for the division.

Section 5

Amends Court Rule 12.1 (b) Alaska Child in Need of Aid Rules of Procedure to mandate the court appointment of an attorney for a child who has been placed in an acute psychiatric hospital.

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CHAIR MINA asked the committee for any questions regarding the Alaska Court System.

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REPRESENTATIVE GRAY, in response to a question from Representative Prax, explained that a court rule change requires a two-thirds vote in both bodies. He said that if a two-thirds vote is not achieved in both bodies, then the proposed change of the bill would not pass, but the rest of the bill would pass. He clarified that if part of a bill fails to pass with a two-third vote from both bodies, then that part is severed from the bill automatically.

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REPRESENTATIVE FIELDS asked if seven days is too long for foster children to wait for a hearing on their hospitalization and if that time period should be shortened to seventy-two hours.

REPRESENTATIVE GRAY responded that seventy-two hours may be too short of a period given the number of parties that must be present for a hearing of this kind. He explained that HB 36 would allow parties to attend a hearing virtually. He emphasized that seven days is much shorter than the current thirty-day wait foster children experience in acute psychiatric hospitals.

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CHAIR MINA asked Ms. Meade to describe the logistics required for a court hearing regarding foster children in an acute psychiatric hospital to occur, from an Alaska Court System perspective.

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NANCY MEADE, General Counsel, Alaska Court System (ACS), stated that the Alaska Court System is neutral on HB 36. She explained that according to the [Alaska] Supreme Court and some trial courts, a 72-hour time frame would be impossible to fulfill. She said that a seven-day time frame would still be difficult but reasonable given the interests at stake. She said that according to HB 36, the Office of Children's Services (OCS) would need to notify all parties of the Child in Need of Aid (CINA) case within 24 hours of their hospitalization. After receiving that notice, the court would need to schedule a hearing within seven days of the child's hospitalization. She confirmed that a three-day requirement is difficult due to the large number of parties required to attend a hearing regarding a CINA case. This number may be as large as 10 or 12 parties. She added that the absence of any of these parties would cause an absence of due process. Ms. Meade added that seven days strikes a balance, as the period would allow doctors at a facility the time to complete a thorough enough analysis of the child to provide meaningful evidence at a hearing.

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CHAIR MINA announced the committee would hear invited testimony.

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AMANDA METIVIER, Co-Founder, Facing Foster Care, described her lived experience with the foster care system as a foster child, foster parent, and social worker. She explained that HB 36 came after a request by foster youth to ensure that foster youth are not forgotten in acute care settings. She said that a hearing within seven days would weed out youth who do not need this level of care and would begin the process of identifying a more appropriate placement setting in a timely fashion. She said that HB 36 would create a sense of urgency and would enhance the rights of youth in the foster care system. She emphasized that shortening the requirement of a hearing from the current 30 days to 7 days would not be burdensome as ACS often makes early hearings happen in CINA cases where constitutional rights are at stake. She asked the committee for their support of HB 36.

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SARAH LEWIS, Project Coordinator, Facing Foster Care, described her personal experience with the foster care system as a sister, a caregiver, a mother, and a peer of youth who have been placed in these hospitals. She explained that youth are placed in such facilities even when the placement is unnecessary. She exemplified this with an anecdote about her brother who was placed in an acute psychiatric hospital due to false accusations from his foster parents at the time. His court hearing was scheduled for the twenty-ninth day of his hospitalization, during which the judge determined that Ms. Lewis' brother did not meet the criteria for placement in an acute psychiatric hospital and needed to be released immediately. Ms. Lewis also shared her experience of witnessing another sibling of hers being placed in an acute psychiatric hospital. She recounted watching a nurse at this facility taunt another patient with the use of "booty juice," which Ms. Lewis defined as the "IM shot that chemically sedates a child." Ms. Lewis also explained how heavily medicated her sister was while placed at this acute psychiatric hospital, describing her sister "like a zombie." Ms. Lewis said that she is sharing her story now to help those who do not have a voice when being placed in an acute psychiatric hospital. She said that 30 days is too long for a child to be in an acute psychiatric hospital before they receive a court hearing to determine if the criteria are met for them to be placed in that acute psychiatric hospital. She encouraged the committee to support HB 36.

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KXLO STONE, Youth Leadership Board Member, Facing Foster Care, described her personal experience with the foster care system in Alaska. She explained that the challenges her mother faced with finding stable housing, navigating the legal system, and maintaining relationships with her children with little to no support, prevented her mother from being able to advocate for her sister when placed in acute psychiatric hospitals. Ms. Stone said that her sister was often hospitalized "for normal behavioral issues for a child experiencing the pain, confusion, and instability of her situation." She said that her sister was often left in psychiatric facilities for endless months, with no visits, no communication, or updates to the family, and that these hospitals were used in lieu of finding an appropriate placement for her sister. Ms. Stone asked the committee to not view the placement of youth in these facilities as a one-size-fits-all solution. She said that psychiatric hospitals should be places where youth can find a path forward to recovery, rather than feeling trapped or punished by their circumstances.

She emphasized that the decision to place a child in an acute psychiatric hospital should not be taken lightly, and that the decision on whether the youth needs placement in that facility needs to happen sooner than later. She explained that foster children, and their communities, need more than a system that merely provides shelter, but a system that cares, supports, and prioritizes their overall well-being. She emphasized the vulnerability of foster children and requested that the committee advocate for this vulnerable population.

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The committee took an at-ease from 3:53 p.m. to 3:54 p.m.

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REPRESENTATIVE PRAX asked where foster children would be placed, if not in psychiatric hospitals, when there is no other foster placement for the child.

REPRESENTATIVE GRAY responded that if there is not a placement for the child outside of the facility, that is a problem for OCS, not the facility itself. He described examples of OCS placing a child in a hotel room and hiring somebody to monitor the floor of the hotel where foster children are staying. He explained that, although not ideal, this situation would still be a less restrictive environment than a hospital would be for the child, and that a hotel room costs less per night than an acute psychiatric hospital. He emphasized that moving HB 36 should not be paused because of concerns that there are not enough placement sites for foster children in Alaska, given that there exist options that could be utilized that would be in better interest of foster children than leaving them in a psychiatric facility.

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REPRESENTATIVE FIELDS said that building out a continuum of care is necessary, which would include complex care residential homes, outpatient behavioral health services, preventative care for kids, and early intervention.

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The committee took a brief at-ease at 3:57 p.m.

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REPRESENTATIVE FIELDS moved to report HB 36 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 36 was reported out of the House Health and Social Services Standing Committee.

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The committee took a brief at-ease at 3:57 p.m.

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CHAIR MINA confirmed that the committee had passed HB 36.

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The committee took a brief at-ease at 3:59 p.m.

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ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:59 p.m.