

1 IN THE HOUSE

BY RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 184

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending Chapter 87, SLA 1957,  
7 relating to mental health; and providing  
8 for an effective date."

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

10 Section 1. Section 101 (1) of Chapter 87, SLA 1957 is  
11 hereby amended to read as follows:

12 Sec. 101 (1) "Mentally ill individual" means an  
13 individual having a psychosis ~~PSYCHIATRIC OR OTHER~~  
14 ~~DISEASE~~ or senile changes which substantially impair his  
15 mental health to the degree that he is a danger to himself  
16 or others; excluding acute alcoholism or drug addiction.  
17 OR WHO IS MENTALLY DEFICIENT.

18 Sec. 2. Section 101 (o) of Chapter 87, SLA 1957 is hereby  
19 amended to read as follows:

20 Sec. 101 (o) "Resident of Alaska" means ~~(I)~~ a  
21 person who has been physically present and lived continu-  
22 ously in Alaska for one year and has not abandoned said  
23 residency. ~~IMMEDIATELY PRECEDING HIS ADMISSION AS A PATIENT~~  
24 ~~OR IMMEDIATELY PRECEDING HIS BECOMING A PROPOSED PATIENT, OR~~  
25 (II) A PERSON WHO HAS SHOWN AN INTENTION TO MAKE ALASKA HIS  
26 HOME FOR AN INDEFINITE PERIOD OF TIME AND HAS LIVED IN ALASKA.  
27 SUCH INTENTION MAY BE EVIDENCED BY PRIOR STATEMENTS OR IT MAY  
28 BE IMPLIED FROM FACTS WHICH SHOW THAT THE PERSON CONTINUES,  
29 IN FACT, TO MAKE ALASKA HIS PERMANENT HOME. A married woman

1 shall be capable of establishing a residence apart from her  
2 husband, and an unemancipated minor shall take the  
3 residence of the parent or guardian with whom actually  
4 living.

5 Sec. 3. Section 103 of Chapter 27, SLA 1957 is hereby  
6 amended to read as follows:

7 Sec. 103. AUTHORITY TO RECEIVE PATIENTS. The head  
8 of any designated hospital which has been designated by  
9 the Department pursuant to Section 102 is authorized to  
10 receive therein for observation, diagnosis, care, and  
11 treatment any individual whose admission is applied for by  
12 one of the following means:

13 (a) Any individual, including minors with consent  
14 of parent or guardian, may be admitted to a hospital for ob-  
15 servaion, care and treatment if necessary, upon applica-  
16 tion by the individual, himself or herself.

17 (b) Subject to the approval of the head of the  
18 hospital any individual, upon application by an interested  
19 party, by a peace officer, by the Department, or by the head  
20 of any institution in which the individual may be, if the  
21 application is accompanied by a certificate of a licensed  
22 physician stating that on a basis of an examination held  
23 in not more than fifteen days prior to the individual's  
24 admission, such individual is in his opinion mentally ill,  
25 or has symptoms of mental illness, and because of his ill-  
26 ness either (I) is likely to injure himself or others if  
27 allowed to remain at liberty, or (II) is in need of care  
28 or treatment in a hospital. /ANY INDIVIDUAL, INCLUDING  
29 MINORS, MAY BE ADMITTED TO A HOSPITAL FOR OBSERVATION, CARE

1 AND TREATMENT IF NECESSARY, UPON APPLICATION BY THE INDI-  
2 VIDUAL OR BY AN INTERESTED PARTY, BY A PEACE OFFICER, BY  
3 THE DEPARTMENT, OR BY THE HEAD OF ANY INSTITUTION IN WHICH  
4 THE INDIVIDUAL MAY BE, IF THE APPLICATION IS ACCOMPANIED  
5 BY A CERTIFICATE OF A LICENSED PHYSICIAN STATING THAT ON A  
6 BASIS OF AN EXAMINATION HELD IN NOT MORE THAN FIFTEEN DAYS  
7 PRIOR TO THE INDIVIDUAL'S ADMISSION, SUCH INDIVIDUAL IS IN  
8 HIS OPINION MENTALLY ILL, OR HAS SYMPTOMS OF MENTAL ILLNESS,  
9 AND BECAUSE OF HIS ILLNESS EITHER (I) IS LIKELY TO INJURE  
10 HIMSELF OR OTHERS IF ALLOWED TO REMAIN AT LIBERTY, OR (II)  
11 IS IN NEED OF CUSTODY AND CARE OR TREATMENT IN A HOSPITAL. ]

12 Sec. 4. Section 105 (b) of Chapter 87, SLA 1957 is hereby  
13 amended to read as follows:

14 Sec. 105 (b) At the end of the 48-hour period, any  
15 patient so admitted pursuant to Section 103 and 104, shall,  
16 without need of application therefor, be discharged if a  
17 preliminary examination has not been held or if, upon ex-  
18 amination, the designated examiner refuses or fails to  
19 certify to the head of the designated hospital that in his  
20 opinion the patient is mentally ill and either is likely  
21 to injure himself or others if allowed at liberty, or is  
22 in need of [CUSTODY AND] care or treatment in a hospital  
23 and because of his illness lacks sufficient insight or  
24 capacity to make responsible decision therefor. All other  
25 patients shall be discharged when, in the opinion of the  
26 head of the designated hospital, there is no further need  
27 for their hospitalization. Notice of discharge shall be  
28 given to (1) the Department, and (2) the Commissioner or  
29 person responsible for the order of hospitalization, who

1 shall have an additional 48 hours within which to make  
2 other arrangements under Section 108 or otherwise.

3 Sec. 5. Section 108 (a) of Chapter 87, SLA 1957 is hereby  
4 amended to read as follows:

5 Sec. 108 (a). An interested party, a licensed physi-  
6 cian, a peace officer or the head of an institution in  
7 which the individual may be hospitalized, or the Department  
8 may, by filing an application with a Commissioner, commence  
9 proceedings for the hospitalization of an individual by  
10 judicial commitment. [ ANY SUCH APPLICATION SHALL BE  
11 ACCOMPANIED BY A CERTIFICATE OF A LICENSED PHYSICIAN, STAT-  
12 ING THAT HE HAS EXAMINED THE INDIVIDUAL WITHIN THE PRECED-  
13 ING FIFTEEN (15) DAYS AND IS OF THE OPINION THAT THE INDI-  
14 VIDUAL IS MENTALLY ILL AND SHOULD BE HOSPITALIZED, OR BY A  
15 WRITTEN STATEMENT BY THE APPLICANT THAT THE INDIVIDUAL HAS  
16 REFUSED TO SUBMIT TO EXAMINATION BY A LICENSED PHYSICIAN;  
17 PROVIDED, THAT THE DEPARTMENT MAY AUTHORIZE A COMMISSIONER  
18 TO ACCEPT A WRITTEN STATEMENT BY THE APPLICANT THAT NO  
19 LICENSED PHYSICIAN IS REASONABLY AVAILABLE, IN LIEU OF ANY  
20 CERTIFICATE REQUIRED BY THIS SECTION.]

21 Sec. 6. Section 108 (b) of Chapter 87, SLA 1957 is hereby  
22 amended to read as follows:

23 Sec. 108 (b) Upon receipt of an application, the  
24 Commissioner shall give notice thereof to the proposed  
25 patient, to his legal guardian, if any, and to one or more  
26 of the other interested parties, if any. [ IF, HOWEVER,  
27 THE COMMISSIONER HAS REASON TO BELIEVE THAT NOTICE WOULD  
28 BE LIKELY TO BE INJURIOUS TO THE PROPOSED PATIENT, NOTICE  
29 TO HIM MAY BE OMITTED.]

1           Sec. 7. Section 108 (c) of Chapter 87, SLA 1957 is hereby  
2 amended to read as follows:

3           Sec. 108 (c) As soon as practicable after notice of  
4 the commencement of proceedings is given, [OR IT IS DETER-  
5 MINED THAT NOTICE TO THE PROPOSED PATIENT SHOULD BE  
6 OMITTED,] the Commissioner shall appoint one or more desig-  
7 nated examiners to examine the proposed patient and report  
8 within 48 hours to the Commissioner his or their findings  
9 as to the mental condition of the patient and his need for  
10 care or treatment in a hospital. The Commissioner may con-  
11 sider the choice of the patient in appointing an examiner.  
12 If the designated examiner reports that the proposed patient  
13 refuses to submit to an examination, the Commissioner shall  
14 give notice to the proposed patient and order him to submit  
15 to such examination. Such an order may direct that the  
16 proposed patient be taken into custody and detained pending  
17 a hearing.

18           Sec. 8. Section 113 of Chapter 87, SLA 1957 is hereby  
19 amended to read as follows:

20           Sec. 113 TRANSPORTATION. Whenever an individual is  
21 about to be hospitalized under the provisions of this Act,  
22 the Department shall arrange, upon the request of a person  
23 having a proper interest in the individual's hospitaliza-  
24 tion, and is authorized to pay for the individual's trans-  
25 portation to the designated hospital, with appropriate  
26 medical or nursing attendants and by such available means  
27 as may be appropriate and suitable. [; PROVIDED, THAT THE ]  
28 The Department is authorized to pay return transportation  
29 of an individual and appropriate medical and nursing

1 attendants after a finding within the provisions of this  
2 Act that such individual is not mentally ill. Whenever  
3 practicable, the individual to be hospitalized shall be  
4 permitted to be accompanied by one or more of his relatives  
5 or friends, who shall travel at their own expense. When  
6 necessary, the Department shall arrange for a peace officer  
7 or other suitable person to accompany the individual.

8 Sec. 9. Section 115 (b) of Chapter 87, SLA 1957 is hereby  
9 amended to read as follows:

10 Sec. 115 (b) Consent to surgery, such psychiatric  
11 therapies as the Department shall determine, and autopsies  
12 must be obtained for any patient prior to the undertaking  
13 of any such surgery, certain psychiatric therapies or  
14 autopsies from any one of the following persons: spouse,  
15 guardian, either parent or oldest adult child; provided,  
16 however, that if no such relative or guardian be found in  
17 Alaska within a reasonable time, or in the case of an emer-  
18 gency, the Commissioner of Health or his designee, upon  
19 being notified of all the pertinent facts pertaining to  
20 such medical action, may give such consent in lieu of any  
21 guardian or relative; provided, further, that when the  
22 head of the hospital is of the opinion that the patient has  
23 insight or capacity to make a responsible decision that the  
24 patient's consent shall be secured prior to any such sur-  
25 gery or psychiatric therapies, and such consent shall be  
26 determinative, and no further consent or denial thereof  
27 from any guardian or relative shall be necessary, provided  
28 further, however, that in the case of a minor consent shall  
29 also be obtained from the parent or guardian. Any person

1 giving such consent, or any person who acts after such  
2 consent has been given and is duly authorized to perform  
3 the act undertaken by him, shall not be liable civilly or  
4 criminally if said act was done by him in his official  
5 capacity or in the capacity set forth above.

6 Sec. 10. Section 118 (c) of Chapter 87, SLA 1957 is hereby  
7 amended to read as follows:

8 Sec. 118 (c) Whenever a patient is moved from one  
9 hospital to another, written notice thereof shall be given  
10 to the appropriate Commissioner if the patient was origi-  
11 nally hospitalized under Section 108, [ , IF ANY ] his  
12 legal guardian, if any, parent or parents, and spouse,  
13 or, if none be known, to any other interested party.

14 Sec. 11. Section 119 of Chapter 87, SLA 1957 is hereby  
15 amended by adding a new sub-section (e) as follows:

16 Sec. 119 (e) The State of Alaska hereby ratifies and  
17 adopts by reference "The Interstate Compact On Mental  
18 Health" consisting of 14 articles approved on September 30,  
19 1955 by the Northeast State Governments Conference On  
20 Mental Health. The Department is hereby designated as  
21 Compact Administrator with full power to effectuate the  
22 purpose of said Compact and to make all needful rules and  
23 regulations to implement the same.

24 Sec. 12. Section 123 of Chapter 87, SLA 1957 is hereby  
25 amended to read as follows:

26 Sec. 123. DISCHARGE UPON MEDICAL REVIEW. The head  
27 of a designated hospital shall cause the condition of  
28 every patient to be reviewed as frequently as is consistent  
29 with good medical practice, and whenever the head of a

1 designated hospital determines that the conditions justi--  
2 fying hospitalisation no longer exist, the patient shall  
3 be discharged, even if he was admitted on his own applica-  
4 tion and regardless of Section 106 subsection (a), clause (1)  
5 and the Department so notified immediately. If the patient  
6 was admitted on other than his own application, notice of  
7 such discharge shall also be given to any one of the follow-  
8 ing persons: the patient's legal guardian, parent or  
9 parents, spouse, or next-of-kin, if known, and, if the  
10 patient was hospitalized by judicial process, to the  
11 Commissioner who ordered him to be committed.

12 Sec. 13. Section 125 of Chapter 87, SLA 1957 is hereby  
13 amended to read as follows:

14 Sec. 125. DISPOSITION OF PERSONAL EFFECTS AND UN-  
15 CLAIMED FUNDS OF PATIENTS. All articles of personal prop-  
16 erty remaining in the custody of the head of the designated  
17 hospital and belonging to a patient who has died prior to  
18 his release on convalescent status or discharge, or who has  
19 departed therefrom without authority, if unclaimed by such  
20 patient, or his legal heirs or representatives, within the  
21 period of one year after the decease of such patient or the  
22 date of his leaving the hospital, shall be disposed of in  
23 such manner as the Department may prescribe, and any pro-  
24 ceeds resulting therefrom shall be covered into the Treas-  
25 ury of Alaska to the credit of the Department for expendi-  
26 ture by the Department for the administration of this Act  
27 [GENERAL FUND] without the necessity of legal action.  
28 Any monies remaining to the credit of such patient, if un-  
29 claimed by his legal heirs or representatives or by such

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Engrossed as amended in the Senate<sup>6</sup>

1 patient within the period of one year after the decease of  
2 such patient or the date of his leaving the hospital, shall  
3 be covered into the Treasury of Alaska to the credit of the  
4 Department, for expenditure by the Department for the  
5 administration of this Act [GENERAL FUND] without the  
6 necessity of legal action.

7 Sec. 14. Section 127 (b) of Chapter 87, SLA 1957 is hereby  
8 amended to read as follows:

9 Sec. 127 (b) Nothing in this section shall preclude  
10 disclosure, upon proper inquiry, of information concerning  
11 current medical condition to the members of the immediate  
12 family of a patient. [OR TO HIS RELATIVES OR FRIENDS.]

13 Sec. 15. Section 128 (c) of Chapter 87, SLA 1957 is hereby  
14 amended to read as follows:

15 Sec. 128 (c) The Department is authorized to charge,  
16 or accept from any person any monies or property, for the  
17 care or treatment of any in-patient or out-patient or for  
18 other purposes, even if such payment is not required by an  
19 order of the Department, so long as the total payments re-  
20 ceived under this subsection do not exceed the actual cost  
21 of care or treatment. [THE AMOUNT OF LIABILITY FOR SUCH  
22 CARE AND TREATMENT DETERMINED BY THE DEPARTMENT PURSUANT TO  
23 SUBSECTION (A) OF THIS SECTION NOT PAID FOR BY THE PATIENT  
24 OR BY SOMEONE IN HIS BEHALF, SHALL CONSTITUTE A LIEN IN  
25 FAVOR OF ALASKA AGAINST ALL PROPERTY OF THE PATIENT. SAID  
26 UNPAID AMOUNT OF LIABILITY SHALL ALSO BE AN INDEBTEDNESS  
27 OWING ALASKA BY THE PATIENT OR THOSE LIABLE FOR HIS CARE  
28 AND SHALL BE A FIRST, PRIOR AND PREFERRED CLAIM AGAINST THE  
29 ESTATE OF SUCH BENEFICIARY OR PERSON LIABLE FOR HIS CARE,

1 AFTER DEATH, AND AFTER EXPENSES OF ADMINISTRATION AND ALL  
2 JUST CLAIMS FOR MEDICAL CARE AND BURIAL EXPENSES HAVE BEEN  
3 PAID. SAID CLAIM BASED UPON INFORMATION SUBMITTED BY THE  
4 DEPARTMENT, SHALL BE PREPARED AND FILED BY THE ATTORNEY  
5 GENERAL'S OFFICE.7

6 Sec. 16. Section 128 (d) of Chapter 87, SLA 1957 is hereby  
7 amended to read as follows:

8 Sec. 128 (d) The amount of liability for care and  
9 treatment determined by the Department not paid for by the  
10 patient or by someone in his behalf, shall constitute a  
11 lien in favor of Alaska against all property of the patient.  
12 Said unpaid amount of liability shall also be an indebted-  
13 ness owing Alaska by the patient and shall be a first, prior  
14 and preferred claim against the estate of such patient after  
15 death, and after expenses of administration and all just  
16 claims for medical care of last illness and burial expenses  
17 have been paid. Said claim based upon information submitted  
18 by the Department, shall be prepared and filed by the Attorney  
19 General's office. [THE DEPARTMENT IS AUTHORIZED TO ACCEPT  
20 FROM ANY PERSON ANY MONIES OR PROPERTY FOR THE CARE OR  
21 TREATMENT OF ANY PATIENT OR FOR OTHER PURPOSES, EVEN IF SUCH  
22 PAYMENT IS NOT REQUIRED BY AN ORDER OF THE DEPARTMENT UNDER  
23 SUBSECTION (A), SO LONG AS THE TOTAL PAYMENTS RECEIVED UNDER  
24 SUBSECTION (A) AND THIS SUBSECTION DO NOT EXCEED THE ACTUAL  
25 COST OF CARE OR TREATMENT.]7

26 Sec. 17. This Act shall take effect immediately upon its  
27 passage and approval or its becoming law without such approval.  
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29