

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 255

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to juveniles; amending Secs.
7 6 and 10(2), Art. I, Ch. 145, SLA 1957."

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

9 Section 1. Sec. 6, Art. I, Ch. 145, SLA 1957 is amended to
10 read as follows:

11 Sec. 6. SUMMONS: NOTICE: SUBPOENAS: CUSTODY OF MINOR.

12 After a petition has been filed and after such further in-
13 vestigation as the court may direct, and if the person or
14 persons having custody or control of the minor have not ap-
15 peared voluntarily, the court shall issue a summons reciting
16 briefly, the substance of the petition and clearly stating
17 that at the hearing it is possible that parental rights and
18 responsibilities may be terminated forever and that the minor
19 may at said hearing be committed to the Department of Health
20 and Welfare for possible adoption and directing the person or
21 persons having custody or control of the minor to appear
22 personally in court with the minor at such place and at such
23 time as may be set forth in the summons. If any person so
24 summoned shall be other than the parent or guardian of the
25 minor, the court shall also give the parent or guardian notice
26 of the place, date and time of the hearing. The court may
27 also subpoena the parent of the minor, or any other person
28 whose testimony may be necessary at the hearing. A summons,
29 subpoena or any other process may be served by any person

1 authorized under Alaska law to make such service. Where
2 personal service cannot be effected, the court may direct
3 that service of process be made by registered mail.

4 If it appears that the minor is in such condition or
5 surroundings that his welfare requires the immediate assump-
6 tion of his custody by the court, the court may order, by
7 endorsement upon the summons, that the officer serving the
8 same shall at once take the minor into custody and make such
9 temporary placement as the court may direct.

10 Sec. 2. Sec. 10(2), Art. I, Ch. 145, SLA 1957 is amended to
11 read as follows:

12 (2) JUDGMENTS AND ORDERS; APPEAL. The court,
13 upon the conclusion of the hearing, shall make a determina-
14 tion and enter a judgment either finding that the minor does
15 not fall within the purview of this Act, or that he falls
16 within a provision or provisions of Section 4 of this
17 Article. If the minor is found not to fall within the pur-
18 view of this Act, the court shall forthwith order his re-
19 lease from its custody and his return to his parents,
20 guardian or custodian, and the case shall thereafter be
21 closed by the court. If the court shall find that the minor
22 falls within the purview of this Act, the court may enter
23 any one of the following orders:

24 (a) If the child is found by the court to be
25 a "delinquent minor" as defined in Section 1(d) of this
26 Article, the court may

27 1. commit the minor to the custody of
28 the Department of Health and Welfare [JUVENILE
29 INSTITUTIONS] for a specified period, not to exceed

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three years, and direct his detention in such juvenile correctional school, detention home, or detention facility as the Department may designate; or

2. release the minor to the custody of his parents, guardian or any other suitable person; provided that said minor so released be subject to the general supervision of the Department of Health and Welfare.

(b) If the child is found by the court to be a "dependent minor" as defined in Section 1(e) of this Article, the court may

1. commit the child to the Department of Health and Welfare [PUBLIC WELFARE] for a specified period not exceeding three years; or

2. release the minor to the custody of his parents, guardian or any other suitable person; provided that said minor so released be subject to the general supervision of the Department of Health and Welfare; or

3. by order, terminate parental rights and responsibilities of one or both parents and commit the child to the Department of Health and Welfare or to a legally appointed guardian of the person of the child; provided that one of the following conditions exists:

1. each parent, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights,

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wishes to relinquish the child to the Department of Health and Welfare or to a legally appointed guardian of the person of the child for adoptive purposes, and the relinquishment is in writing, signed and acknowledged before the court or duly authorized representative of the Department and filed with the court; or

ii. the child has been abandoned by both parents, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights, for a period of not less than six months; or

iii. each parent, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights, has been judicially determined to be of unsound mind and the disability has not been removed or the parents, or said parent, have been hospitalized for reasons of mental illness diagnosed as permanent or of long duration; or

iv. each parent, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights, has demonstrated by his conduct, proven by clear and convincing proof amounting to more than a preponderance of the evidence, that he is unfit to continue to exercise his parental rights and responsibilities.

Such order shall authorize the commis-

1 sioner of Health and Welfare or his designee, or
2 the guardian of the person of the child to consent
3 to the adoption of the child.

4 [(C) IN EVERY CASE WHERE THE MINOR IS FOUND
5 EITHER DELINQUENT OR DEPENDENT, AS DEFINED IN THIS
6 ARTICLE, THE COURT MAY RELEASE THE MINOR TO THE CUSTODY
7 OF HIS PARENTS, GUARDIAN OR ANY OTHER SUITABLE PERSON.
8 A DELINQUENT MINOR SO RELEASED SHALL BE SUBJECT TO THE
9 GENERAL SUPERVISION OF THE DEPARTMENT OF JUVENILE
10 INSTITUTIONS, AND A DEPENDENT CHILD SO RELEASED SHALL BE
11 SUBJECT TO THE GENERAL SUPERVISION OF THE DEPARTMENT OF
12 PUBLIC WELFARE.]

13 Upon entering an order of commitment, the court
14 shall transmit a copy of its information and findings, to-
15 gether with the order of commitment, to the appropriate state
16 [TERRITORIAL] department. A report as to the disposition
17 and progress of the case shall be made to the court committing
18 [COMMITTING] the minor by the agency or person to whom the
19 minor is committed, at such times as the court may require.
20 The [EITHER] Department may petition the court for final
21 release of a minor from its custody.

22 No adjudication upon the status of any child shall
23 operate to impose any of the civil disabilities ordinarily
24 imposed by conviction upon a criminal charge, nor shall any
25 minor be thereafter deemed a criminal by such adjudication,
26 nor shall such adjudication be thereafter deemed a convic-
27 tion, nor shall any minor be charged with or convicted of a
28 crime in any court, except as provided in this Act. The
29 commitment and placement of a child or any evidence given in

1 the court shall not be admissible as evidence against the
2 minor in any subsequent case or proceedings in any other
3 court, nor shall such commitment and placement or evidence
4 operate to disqualify a minor in any future civil service
5 examination or appointment in the state [TERRITORY].

6 The Department of Health and Welfare [JUVENILE
7 INSTITUTIONS] shall pay all court costs incurred in all pro-
8 ceedings in connection with the adjudication of delinquency
9 under this Act, including hearings which result in the re-
10 lease of the minor.

11 Appeal may be taken to the superior court from the
12 judgments and orders entered pursuant to this section and
13 hearing on appeal may be de novo in whole or in part in the
14 discretion of the court.