

C.S. Jd. Am

Original sponsor: Health, Welfare and Education Committee

Offered: 4/19/71
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 223

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the well-being and protection of
7 children."

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

9 * Section 1. AS 47 is amended by adding a new chapter to read:

10 CHAPTER 17. CHILD PROTECTION.

11 Sec. 47.17.010. PURPOSE. In order to protect children whose
12 health and well-being may be adversely affected through the infliction,
13 by other than accidental means, of harm through physical abuse or
14 neglect requiring the attention of a practitioner of the healing arts,
15 the legislature requires the reporting of these cases by practitioners
16 and others to the appropriate public authorities. It is the intent
17 of the legislature that, as a result of these reports, protective
18 services will be made available in an effort to prevent further harm
19 to the child, to safeguard and enhance the general well-being of the
20 children in this state, and to preserve family life whenever possible.

21 Sec. 47.17.020. PERSONS REQUIRED TO REPORT. (a) The following
22 persons who, in the performance of their professional duties, have
23 cause to believe that a child has suffered harm as a result of abuse
24 or neglect shall immediately report the harm to the nearest office of
25 the department:

- 26 (1) practitioners of the healing arts;
- 27 (2) school teachers;
- 28 (3) social workers;
- 29 (4) peace officers, and officers of the division of

C.S. Jd. Am

1 corrections;

2 (5) administrative officers of institutions.

3 (b) This section does not prohibit the named persons from report-
4 ing cases which have come to their attention in their nonprofessional
5 capacities nor does it prohibit any other person from reporting a
6 child's harm which he has cause to believe is a result of abuse or
7 neglect. These reports shall be made to the nearest office of the
8 department.

9 (c) If the person making a report of harm under this section
10 cannot reasonably contact the nearest office of the department, and
11 immediate action is necessary for the well-being of the child, the
12 person shall make the report to a peace officer. The peace officer
shall take immediate action to protect the child and shall, at the
4 earliest opportunity, notify the nearest office of the department.

15 Sec. 47.17.030. ACTION ON REPORTS; TERMINATION OF PARENTAL RIGHTS.

16 (a) If a child, concerning whom a report of harm is made, is believed
17 to reside within the boundaries of a local government exercising
18 health functions for the area in which the child is believed to reside,
19 the department may, upon receipt of the report, refer the matter to
20 the appropriate health or social services agency of that local govern-
21 ment. For cases not referred to an agency of a local government, the
22 department shall, for each report received, investigate and take action,
23 in accordance with law, which may be necessary to prevent further harm
24 to the child or to insure the proper care and protection of the child.

25 (b) A local government health or social services agency receiving
26 a report of harm shall, for each report received, investigate and take
27 action, in accordance with law, which may be necessary to prevent
28 further harm to the child or to insure the proper care and protection
29 of the child. In addition, the agency receiving a report of harm shall

1 forward a copy of its report of the investigation, including informa-
2 tion the department requires by regulation, to the department.

3 (c) Action shall be taken regardless of whether the identity of
4 the person making the report of harm is known.

5 (d) Before the department or a local government health or social
6 services agency may seek the termination of parental rights, under
7 AS 47.10.080(c)(3), it shall offer protective social services and
8 pursue all other reasonable means of protecting the child.

9 Sec. 47.17.040. CENTRAL REGISTRY; CONFIDENTIALITY. (a) The
10 department shall maintain a central registry of all investigation
11 reports but not of the reports of harm.

12 (b) Investigation reports and reports of harm filed under this
13 chapter are considered confidential and are not subject to public
14 inspection and copying under AS 09.25.110 and 09.25.120. However,
15 in accordance with department regulations, investigation reports may
16 be used by appropriate governmental agencies with child-protection
17 functions, within and outside Alaska, in connection with investigations
18 or judicial proceedings involving child abuse, neglect, or custody.

19 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes
20 a report under this chapter, or who participates in judicial proceed-
21 ings related to the submission of reports under this chapter, is immune
22 from any civil or criminal liability which might otherwise be incurred
23 or imposed.

24 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. Neither the physician-
25 patient nor the husband-wife privilege is a ground for excluding
26 evidence regarding a child's harm, or its cause, in a judicial proceed-
27 ing related to a report made under this chapter.

28 Sec. 47.17.070. DEFINITIONS. In this chapter

29 (1) "abuse" means the infliction, by other than accidental

1 means, of physical harm upon the body of a child;

2 (2) "child" means a person under 16 years of age;

3 (3) "department" means the Department of Health and Welfare;

4 (4) "institution" means a private or public hospital or
5 other facility providing medical diagnosis, treatment, or care;

6 (5) "neglect" means the failure to provide necessary food,
7 care, clothing, shelter, or medical attention for a child;

8 (6) "practitioner of the healing arts" includes chiropractors,
9 dentists, health aides, nurses, optometrists, osteopaths, physical
10 therapists, physicians, psychiatrists, psychologists, religious healing
11 practitioners, and surgeons.

12 * Sec. 2. AS 47.10.140(a) is amended to read:

13 (a) A peace officer may arrest a minor who violates a law or
14 ordinance in his presence, or who he reasonably believes is a fugitive
15 from justice [OR EVADING THE PERSON HAVING LEGAL CUSTODY OF HIM]. A
16 peace officer may continue a lawful arrest made by a citizen. He may
17 have the minor detained in a juvenile detention facility if in his
18 opinion it is necessary to do so to protect the minor or the community.

19 * Sec. 3. AS 47.10 is amended by adding a new section to read:

20 Sec. 47.10.142. EMERGENCY CUSTODY AND TEMPORARY PLACEMENT HEARING.

21 (a) The Department of Health and Welfare may take emergency custody
22 of a minor upon discovering any of the following circumstances:

23 (1) the minor has been abandoned;

24 (2) the minor has been grossly neglected by his parents or
25 guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate
26 removal from his surroundings is, in the determination of the depart-
27 ment, necessary to protect his life;

28 (3) the minor has been abused, as "abuse" is defined in
29 AS 47.17.070(1), so that immediate medical attention is necessary,

1 in the determination of the department.

2 (b) A minor who has left home and is evading the person having
3 legal custody of him may obtain the services of the department. The
4 department shall assess the situation and furnish the minor with the
5 social services it considers appropriate to protect the well-being of
6 the minor and to preserve his family life if preserving it is con-
7 sidered desirable under the circumstances. If, after assessing the
8 situation, considering the wishes of the minor, and furnishing appropri-
9 ate social services, the department considers it necessary, the depart-
10 ment may take emergency custody of the minor.

11 (c) When a child is taken into custody under (a) or (b) of this
12 section, the department shall immediately, and in no event more than
13 12 hours later unless prevented by lack of communication facilities,
14 notify the court of the action and file with the court a petition
15 alleging dependency.

16 (d) The court shall immediately, and in no event more than 48
17 hours after being notified unless prevented by lack of transportation,
18 hold a hearing at which the minor, if his health permits, and his
19 parents or guardian, if they can be found, shall be permitted to be
20 present. The court shall determine whether probable cause exists for
21 believing the minor to be a dependent minor, as defined in sec. 290(3)
22 of this chapter. The court shall inform the minor, and his parents
23 or guardian if they can be found, of the reasons given as constituting
24 probable cause and the reasons given as authorizing his temporary
25 placement.

26 (e) If the court finds that probable cause exists it shall order
27 the minor committed to the department for temporary placement, or
28 order him returned to the custody of his parents or guardian subject
29 to the department's supervision of his care and treatment. If the

1 court finds no probable cause it shall order the minor returned to
2 the custody of his parents or guardian.

3 * Sec. 4. AS 47.10.160(1) is amended to read:

4 (1) accept all minors committed to the custody of the
5 department and all minors who are involved in a written agreement
6 under sec. 230(c) of this chapter, and provide for the welfare,
7 control, care, custody, and placement of these children in accordance
8 with the provisions of this chapter;

9 * Sec. 5. AS 47.10.230 is amended by adding a new subsection to read:

10 (c) The department may receive, care for, and make appropriate
11 placement of minors accepted for care for a period of up to six months
12 on the basis of an individual voluntary written agreement between the
13 minor's parent, legal guardian, or other person having legal custody
14 and the department. The agreement may include provisions for payment,
15 in whole or in part, to the department for the minor's care and treat-
16 ment. The agreement entered into shall not operate to prohibit a
17 minor's parent, legal guardian, or other person who had legal custody
18 from regaining care of the minor at any time.

19 * Sec. 6. AS 11.67.005 - 11.67.070 are repealed.
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