

Introduced: 2/7/73
Referred: Health, Welfare &
Education and Judiciary

1 IN THE HOUSE

BY J. MILLER AND HARTIG

2 HOUSE BILL NO. 188

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act creating the Department of Corrections; and
7 providing for an effective date."

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

9 * Section 1. AS 12.70.220(b) and (c) are amended to read:

10 (b) When the return to this state is required of a person who
11 has been convicted of a crime in this state and has escaped from
12 confinement or broken the terms of his bail, probation, or parole,
13 the prosecuting attorney of the judicial district in which the offense
14 was committed, or the attorney general, the parole or probation
15 authority having jurisdiction over him, or the commissioner of the
16 Department of Corrections [HEALTH AND SOCIAL SERVICES] shall present
17 to the governor a written application for a requisition for the return
18 of that person. In the application there shall be stated the name of
19 the person, the crime for which he was convicted, the circumstances
20 of his escape from confinement or of the breach of the terms of his
21 bail, probation, or parole, and the state in which he is believed to
22 be, including the location of the person therein at the time the
23 application is made.

24 (c) The application shall be verified by affidavit, shall be
25 executed in duplicate and shall be accompanied by two certified copies
26 of the indictment returned, or information and affidavit filed, or
27 the complaint made to the superior court judge or district judge,
28 stating the offense with which the accused is charged, or of the
29 judgment of conviction or of the sentence. The attorney general or

1 the prosecuting attorney, the parole or probation authority, or the
2 commissioner of the Department of Corrections [HEALTH AND SOCIAL
3 SERVICES] may also attach further affidavits and other documents in
4 duplicate he deems proper to be submitted with the application. One
5 copy of the application, with the action of the governor indicated
6 by endorsement on the application, and one of the certified copies of
7 the indictment, complaint, information and affidavits, or judgment
8 of conviction or sentence shall be filed in the office of the governor
9 to remain of record in that office. The other copies of all papers
10 shall be forwarded with the governor's requisition.

11 * Sec. 2. AS 20.10.020(5) is amended to read:

12 (5) by the commissioner of corrections [HEALTH AND SOCIAL
13 SERVICES] in the case of (A) an orphan committed to the department;
14 (B) a child committed to the department where one or both parents
15 are living but both, or the surviving parent, have been declared insane
16 in the manner and over the period specified in sec. 40(1) of this
17 chapter and not subsequently declared sane by a competent authority;
18 (C) a child committed to the department who has been abandoned by
19 both parents or the surviving parent, as the case may be, and the
20 abandonment is adjudicated as specified in sec. 40(3) or (4) of this
21 chapter.

22 * Sec. 3. AS 20.10.070 is amended to read:

23 Sec. 20.10.070. NOTICE OF HEARING. Upon filing a petition and
24 consent the court shall by order fix the place and time of hearing,
25 which shall be not less than 30 days after the entry of the order.
26 Notice of the time and place of the hearing and a copy of the petition
27 shall be served on the custodian of the child not later than 20 days
28 before the date set for the hearing unless a consent to adoption is
29 filed before the hearing. Notice of the hearing shall also be mailed

1 to the Department of Corrections [HEALTH AND SOCIAL SERVICES] not later
2 than 30 days before the date set for the hearing, but the notice to
3 the department need be given only when the child has been committed
4 to the custody of the department as provided in sec. 20(5) of this
5 chapter. The notice of the hearing shall be accompanied by a copy of
6 the petition when service is made. Prior to hearing, a return by
7 affidavit as to personal service or mailing of notice, as the case may
8 be, shall be filed.

9 * Sec. 4. AS 20.10.100(b) is amended to read:

10 (b) Appeal may be taken as in other superior court cases, and
11 the Department of Corrections [HEALTH AND SOCIAL SERVICES] may exercise
12 the right of appeal in any case where the child has been previously
13 committed to its custody. The final decree granting adoption shall
14 contain an order granting custody of the child to the adoptive parent
15 and, if it has been requested, the issuance and filing of a substitute
16 birth certificate.

17 * Sec. 5. AS 33.05.080(2) is amended to read:

18 (2) "commissioner" means the commissioner of the Department
19 of Corrections [HEALTH AND SOCIAL SERVICES] or his designee.

20 * Sec. 6. AS 33.15.010 is amended to read:

21 Sec. 33.15.010. STATE BOARD OF PAROLE. There is in the depart-
22 ment a board of parole consisting of five members to be appointed by
23 the governor, subject to confirmation by a majority of the members
24 of the legislature in joint session. One of the members, who shall
25 be chairman of the board, shall be a person with training or experi-
26 ence in the field of probation and parole, and he may be an official
27 or employee of the department [BUT MAY NOT BE AN OFFICIAL OR EMPLOYEE
28 OF THE DIVISION OF CORRECTIONS]. The term of each of the other four
29 members of the board is four years and until his successor is appointed

1 and qualifies. Successors are appointed in the same manner as provided
2 for the board members first appointed. A vacancy shall be filled for
3 the unexpired term.

4 * Sec. 7. AS 33.15.260(2) is amended to read:

5 (2) "commissioner" means the commissioner of the Department
6 of Corrections [HEALTH AND SOCIAL SERVICES] or his designee;

7 * Sec. 8. AS 33.15.260(4) is amended to read:

8 (4) "department" means the Department of Corrections
9 [HEALTH AND SOCIAL SERVICES].

10 * Sec. 9. AS 33.20.020(a) is amended to read:

11 (a) A prisoner may, in the discretion of the commissioner of
12 corrections [HEALTH AND SOCIAL SERVICES] or his designee, be allowed
13 a deduction from his sentence of not to exceed three days for each
14 month of actual employment in a prison or camp project or activity
15 for the first year or any part of it, and not to exceed five days for
16 each month of any succeeding year or part of it.

17 * Sec. 10. AS 33.20 is amended by adding a new section to read:

18 Sec. 33.20.100. DEFINITIONS. In this chapter "commissioner"
19 means the commissioner of the Department of Corrections.

20 * Sec. 11. AS 33.25.050 is amended to read:

21 Sec. 33.25.050. IMPLEMENTATION OF COMPACT. The commissioner of
22 corrections [HEALTH AND SOCIAL SERVICES] may enter into such contracts
23 on behalf of the State of Alaska as may be appropriate to implement
24 the participation of this state in the Western Interstate Corrections
25 Compact under art. III of the compact. No contract is of any force
26 or effect until approved by the commissioner of administration.

27 * Sec. 12. AS 33.30.055 is amended to read:

28 Sec. 33.30.055. CONTRABAND ARTICLES INTO OR OUT OF PRISONS PRO-
29 HIBITED. A person who, contrary to a rule or regulation promulgated

1 by the commissioner of corrections [HEALTH AND SOCIAL SERVICES],
2 (1) introduces or attempts to introduce a contraband article, as
3 defined by the commissioner, into or upon the grounds of a state
4 prison or state correctional facility; or (2) takes or sends or
5 attempts to take or send from the grounds of a state prison or state
6 correctional facility a contraband article, as defined by the commis-
7 sioner, is punishable by imprisonment for not more than one year, or
8 by a fine of not more than \$500, or by both.

9 * Sec. 13. AS 33.30.130(a) is amended to read:

10 (a) The commissioner of public safety shall provide for the sub-
11 sistence, care and safekeeping in suitable quarters of a person arrested
12 or held under the authority of state law pending arraignment or commit-
13 ment by a court to the custody of the commissioner of corrections
14 [HEALTH AND SOCIAL SERVICES] or to the custody of the keeper or person
15 in charge of a prison facility designated in advance by the commis-
16 sioner of corrections [HEALTH AND SOCIAL SERVICES].

17 * Sec. 14. AS 33.30.200(1) is amended to read:

18 (1) "commissioner" means the commissioner of the Department
19 of Corrections [HEALTH AND SOCIAL SERVICES] or his designee;

20 * Sec. 15. AS 33.30.200(3) is amended to read:

21 (3) "department" means the Department of Corrections
22 [HEALTH AND SOCIAL SERVICES];

23 * Sec. 16. AS 44.29.020(9) is amended to read:

24 (9) management of state institutions, except juvenile and
25 correctional institutions;

26 * Sec. 17. AS 44 is amended by adding a new chapter to read:

27 CHAPTER 48. DEPARTMENT OF CORRECTIONS.

28 Sec. 44.48.010. COMMISSIONER OF CORRECTIONS. The principal
29 executive officer of the Department of Corrections is the commissioner

1 of corrections.

2 Sec. 44.48.020. DUTIES OF DEPARTMENT. The Department of Correc-
3 tions shall administer functions relative to corrections, including
4 probation and parole supervision, management of juvenile and correc-
5 tional institutions, care and supervision of delinquents and wards of
6 the court, and supervision of youthful and adult offenders.

7 * Sec. 18. AS 47.10.010(c) is amended to read:

8 (c) In a controversy concerning custody of a minor, the court
9 may appoint a guardian of the person and property of a minor and may
10 order support from either or both parents. Custody of a minor may
11 be given to the Department of Corrections [HEALTH AND SOCIAL SERVICES],
12 and payment of support money to the department may be ordered.

13 * Sec. 19. AS 47.10.030(a)(2) is amended to read:

14 (2) clearly states that at the hearing it is possible that
15 parental rights and responsibilities may be terminated forever and
16 that the minor may at the hearing be committed to the Department of
17 Corrections [HEALTH AND SOCIAL SERVICES] for possible adoption; and

18 * Sec. 20. AS 47.10.060(d) is amended to read:

19 (d) A minor is unamenable to treatment under this chapter if he
20 probably cannot be rehabilitated by treatment under this chapter before
21 he reaches 21 years of age. In determining whether a minor is unamen-
22 able to treatment, the court may consider the seriousness of the
23 offense the minor is alleged to have committed, the minor's history of
24 delinquency, the probable cause of the minor's delinquent behavior,
25 and the facilities available to the Department of Corrections [DIVISION
26 OF YOUTH AND ADULT AUTHORITY] for treating the minor.

27 * Sec. 21. AS 47.10.060(e) is amended to read:

28 (e) If a person who has been tried as an adult under this section
29 has completed his sentence and five years have elapsed, he may petition

1 (or the Department of Corrections [HEALTH AND SOCIAL SERVICES] may
2 petition for him) the superior court to seal the records of all
3 criminal proceedings against him and all punishments assessed against
4 him, except for traffic offenses, while he was a minor. If the
5 superior court finds that the punishment assessed against the person
6 has had its intended rehabilitative effect, the superior court shall
7 order the record of proceedings and the record of punishments sealed.
8 Sealing the records restores civil rights removed because of a con-
9 viction. No person may ever use records so sealed for any purpose.

10 * Sec. 22. AS 47.10.080(b)(1) is amended to read:

11 (1) order the minor committed to the Department of Correc-
12 tions [HEALTH AND SOCIAL SERVICES] for an indeterminate period of time
13 not to extend past a specified date or in any event past the day the
14 minor becomes 19, except that the department may petition the court
15 for continued supervision for an additional one-year period for minors
16 who have not responded to treatment, and may direct the minor's place-
17 ment in a juvenile correctional school, detention home, or detention
18 facility designated by the department; the minor may be released from
19 placement or detention and placed on probation on order of the court;
20 or

21 * Sec. 23. AS 47.10.080(d) is amended to read:

22 (d) An order issued under (c)(3) of this section authorizes the
23 commissioner of corrections [HEALTH AND SOCIAL SERVICES] or his desig-
24 nee or the guardian of the person of the child to consent to the
25 adoption of the child.

26 * Sec. 24. AS 47.10.110 is amended to read:

27 Sec. 47.10.110. APPOINTMENT OF GUARDIAN OR CUSTODIAN. When in
28 the course of a proceeding under this chapter, it appears to the court
29 that the welfare of a minor will be promoted by the appointment of a

1 guardian or custodian of his person, the court may make the appointment.
2 The court shall have a summons issued and served upon the parents of
3 the minor, if they can be found, in a manner and within a time before
4 the hearing which the court considers reasonable. The court may deter-
5 mine whether the father, mother, or the Department of Corrections
6 [HEALTH AND SOCIAL SERVICES] shall have the custody and control of the
7 minor. If the minor is over 14 years of age, his desires in the
8 matter shall be given consideration by the court.

9 * Sec. 25. AS 47.10.140(b) is amended to read:

10 (b) A peace officer who has a minor detained under (a) of this
11 section shall immediately, and in no event more than 12 hours later,
12 notify the court, the minor's parents or guardian, and the Department
13 of Corrections [HEALTH AND SOCIAL SERVICES] of the officer's action.
14 The department may file with the court a petition alleging delinquency
15 before the detention hearing.

16 * Sec. 26. AS 47.10.140(f) is amended to read:

17 (f) A peace officer may detain a minor who is evading the person
18 having legal custody of him if the minor is not otherwise subject to
19 arrest or detention under (a) of this section, for the sole purpose
20 of either (1) returning the minor to the person having legal custody
21 of him or (2) if the minor prefers, taking him to an office specified
22 by the Department of Corrections [HEALTH AND SOCIAL SERVICES], facility
23 or contract agency of the Department of Corrections [HEALTH AND SOCIAL
24 SERVICES], where such exists in the community. Immediately upon
25 detaining a minor under this provision, the peace officer shall advise
26 him of his right to social services under sec. 142(b) of this chapter,
27 and, if known, the peace officer shall advise the person having the
28 legal custody of the minor of his detention.

29 * Sec. 27. AS 47.10.140(g) is amended to read:

1 (g) No minor who is detained under (f) of this section may be
2 detained in a jail or other facility unless kept out of contact with
3 adult persons convicted or accused of a crime. No minor may be
4 detained in a jail or other detention facility which has not been
5 approved by the Department of Corrections [HEALTH AND SOCIAL SERVICES]
6 before detention of the minor.

7 * Sec. 28. AS 47.10.142(a) is amended to read:

8 (a) The Department of Corrections [HEALTH AND SOCIAL SERVICES]
9 may take emergency custody of a minor upon discovering any of the
10 following circumstances:

11 (1) the minor has been abandoned;

12 (2) the minor has been grossly neglected by his parents
13 or guardian, as "neglect" is defined in AS 47.17.070(5), so that
14 immediate removal from his surroundings is, in the determination of
15 the department, necessary to protect his life;

16 (3) the minor has been abused, as "abuse" is defined in
17 AS 47.17.070(1), so that immediate medical attention is necessary, in
18 the determination of the department.

19 * Sec. 29. AS 47.10.150 is amended to read:

20 Sec. 47.10.150. GENERAL POWERS OF DEPARTMENT OVER JUVENILE
21 INSTITUTIONS. The Department of Corrections [HEALTH AND SOCIAL SER-
22 VICES] may

23 (1) purchase, lease or construct buildings or other facili-
24 ties for the care, detention, rehabilitation and education of dependent
25 or delinquent minors;

26 (2) adopt plans for construction of juvenile homes, juvenile
27 detention facilities, and other juvenile institutions;

28 (3) adopt standards and regulations under this chapter for
29 the design, construction, repair, maintenance and operation of all

1 juvenile detention homes, facilities, and institutions;

2 (4) inspect periodically each juvenile detention home,
3 facility, or other institution to insure that the standards and regula-
4 tions adopted are being maintained;

5 (5) reimburse cities maintaining and operating juvenile
6 detention homes and facilities;

7 (6) enter into contracts and arrangements with cities and
8 state and federal agencies to carry out the purposes of this chapter;

9 (7) do all acts necessary to carry out the purposes of
10 this chapter;

11 (8) adopt the regulations necessary to carry out this
12 chapter;

13 (9) accept donations, gifts or bequests of money or other
14 property for use in construction of juvenile homes, institutions or
15 detention facilities;

16 (10) operate juvenile homes when municipalities are unable
17 to do so;

18 (11) receive, care for, and place in a juvenile detention
19 home, the minor's own home, a foster home, or correctional school or
20 treatment institution all minors committed to its custody under this
21 chapter.

22 * Sec. 30. AS 47.10.160 is amended to read:

23 Sec. 47.10.160. DUTIES OF DEPARTMENT. The Department of Correc-
24 tions [HEALTH AND SOCIAL SERVICES] shall

25 (1) accept all minors committed to the custody of the
26 department and all minors who are involved in a written agreement under
27 sec. 230(c) of this chapter, and provide for the welfare, control, care,
28 custody, and placement of these children in accordance with the provi-
29 sions of this chapter;

1 (2) require and collect statistics on juvenile offenses and
2 offenders in Alaska;

3 (3) conduct studies and prepare findings and recommendations
4 on the need, number, type, construction, maintenance, and operating
5 costs of juvenile homes, facilities and the other institutions, and
6 adopt and submit a plan for construction of the homes, facilities, and
7 institutions when needed, together with a plan for financing the con-
8 struction programs;

9 (4) examine, where possible, all facilities, institutions,
10 and places of juvenile detention in Alaska and inquire into their
11 methods and the management of juveniles in them.

12 * Sec. 31. AS 47.10.180(a) is amended to read:

13 (a) The Department of Corrections [HEALTH AND SOCIAL SERVICES]
14 shall adopt standards and regulations for the operation of juvenile
15 detention homes and juvenile detention facilities in the state.

16 * Sec. 32. AS 47.10.220 is amended to read:

17 Sec. 47.10.220. GRANTS-IN-AID. The Department of Corrections
18 [HEALTH AND SOCIAL SERVICES] may accept grants-in-aid from the federal
19 government or private foundations and may accept other gifts consistent
20 with the purposes of this chapter.

21 * Sec. 33. AS 47.10.230(a) is amended to read:

22 (a) The Department of Corrections [HEALTH AND SOCIAL SERVICES]
23 shall arrange for the care of every child committed to its custody by
24 placing him in a foster home or in the care of an agency or institution
25 providing care for children inside or outside the state. The depart-
26 ment may place a child in a suitable family home, with or without com-
27 pensation, and may place a child released to it, in writing verified
28 by the parent, or guardian or other person having legal custody, for
29 adoptive purposes, in a home for adoption in accordance with existing

1 law.

2 * Sec. 34. AS 47.10.250 is amended to read:

3 Sec. 47.10.250. STANDARDS OF CARE. The Department of Corrections
4 [HEALTH AND SOCIAL SERVICES] shall establish standards of care and
5 regulations desirable for the welfare of every child under its care.

6 * Sec. 35. AS 47.10.290 is amended by adding new paragraphs to read:

7 (8) "commissioner" means the commissioner of corrections;

8 (9) "department" means the Department of Corrections.

9 * Sec. 36. AS 47.17.070(3) is amended to read:

10 (3) "department" means the Department of Corrections

11 [HEALTH AND SOCIAL SERVICES];

12 * Sec. 37. AS 44.29.020(17) is repealed.

13 * Sec. 38. All litigation, hearings, investigations and other proceedings
14 pending under any law amended or functions which may be transferred by this
15 Act, continue in effect and may be continued and completed notwithstanding
16 any such transfer or amendment provided for in this Act. Certificates,
17 orders, rules or regulations issued or filed under authority of a law amended
18 by this Act or functions which may be transferred by this Act, remain in
19 effect for the term issued, unless or until revoked, vacated, or otherwise
20 modified under the provisions of this Act. All contracts or other obliga-
21 tions created by any law amended by this Act or by virtue of functions which
22 may be transferred by this Act, and in effect on the effective date of this
23 Act, remain in effect unless or until revoked, or modified under the provi-
24 sions of this Act.

25 * Sec. 39. This Act takes effect July 1, 1973.
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