

Original Sponsors: Ray and Miller

Offered: 2/16/76
Referred: Rules

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 336 am H

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to treatment and services for intoxi-
7 cated persons and persons incapacitated by alcohol;
8 and to the presence of intoxicated persons in licensed
9 premises."

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

11 * Section 1. AS 47.37.170(a) is amended to read:

12 (a) An intoxicated person may come voluntarily to an approved
13 public treatment facility for emergency treatment. A person who appears
14 to be intoxicated in a public place and to be in need of help or a
15 person who appears to be intoxicated in or upon a licensed premise where
16 intoxicating liquors are sold or consumed who refuses to leave upon
17 being requested to leave by the owner, an employee or a peace officer
18 [, IF HE CONSENTS,] may be taken into protective custody and assisted by
19 a peace officer or a member of the emergency service patrol to his home,
20 an approved public treatment facility, an approved private treatment
21 facility, or another appropriate health facility. If all of the pre-
22 ceding facilities, including the person's home, are determined to be
23 unavailable, a person taken into protective custody and assisted under
24 this subsection may be taken to a state or municipal detention facility
25 in the area.

26 * Sec. 2. AS 47.37.170(b) is amended to read:

27 (b) A person who appears to be incapacitated by alcohol in a
28 public place shall be taken into protective custody by a peace officer
29 or a member of the emergency service patrol and immediately brought to

1 an approved public treatment facility, an approved private treatment
2 facility, or another appropriate health facility or service for
3 emergency medical treatment. If no [APPROVED PUBLIC] treatment facility
4 or emergency medical service is available, a person who appears to be
5 incapacitated by alcohol in a public place shall be taken to a state or
6 municipal detention facility in the area, if that appears necessary for
7 the protection of the person's health or safety [IS READILY AVAILABLE
8 HE SHALL BE TAKEN TO AN EMERGENCY MEDICAL SERVICE CUSTOMARILY USED FOR
9 INCAPACITATED PERSONS. THE PEACE OFFICER OR A MEMBER OF THE EMERGENCY
10 SERVICE PATROL, IN DETAINING THE PERSON AND IN TAKING HIM TO AN APPROVED
11 PUBLIC TREATMENT FACILITY, IS TAKING HIM INTO PROTECTIVE CUSTODY AND HE
12 SHALL MAKE EVERY REASONABLE EFFORT TO PROTECT HIS HEALTH AND SAFETY.
13 IN TAKING THE PERSON INTO PROTECTIVE CUSTODY, THE DETAINING OFFICER MAY
14 TAKE REASONABLE STEPS TO PROTECT HIMSELF. PROTECTIVE CUSTODY DOES NOT
15 CONSTITUTE AN ARREST UNDER THIS SECTION AND NO ENTRY OR OTHER RECORD
16 SHALL BE MADE TO INDICATE THAT THE PERSON HAS BEEN ARRESTED OR CHARGED
17 WITH A CRIME].

18 * Sec. 3. AS 47.37.170 is amended by adding a new subsection to read:

19 (i) A person taken to a detention facility under (a) or (b) of
20 this section may be detained only (1) until a treatment facility or
21 emergency medical service is made available, or (2) until he is no
22 longer intoxicated or incapacitated by alcohol, or (3) for a maximum
23 period of 12 hours, whichever occurs first. A detaining officer or a
24 detention facility official may release a person who is detained under
25 (a) or (b) of this section at any time to the custody of a responsible
26 adult. A peace officer or a member of the emergency service patrol,
27 in detaining a person under (a) or (b) of this section and in taking
28 him to a treatment facility, an emergency medical service or a detention
29 facility, is taking him into protective custody and he shall make

1 reasonable efforts to provide for and protect the health and safety of
2 the detainee. In taking a person into protective custody under (a) and
3 (b) of this section, a detaining officer, a member of the emergency
4 service patrol or a detention facility official may take reasonable
5 steps to protect himself, including a full protective search of the
6 person of a detainee. Protective custody under (a) and (b) of this
7 section does not constitute an arrest and no entry or other record may
8 be made to indicate that the person detained has been arrested or
9 charged with a crime, except that a confidential record may be made
10 which is necessary for the administrative purposes of the facility to
11 which the person has been taken or which is necessary for statistical
12 purposes where the person's name may not be disclosed.

13 * Sec. 4. AS 47.37.170 is amended by adding a new subsection to read:

14 (j) For purposes of (b) of this section, "incapacitated by alcohol"
15 means a person who, as the result of consumption of alcohol, is rendered
16 unconscious or has his judgment or physical mobility so impaired that he
17 cannot readily recognize or extricate himself from conditions of apparent
18 or imminent danger to his health or safety. The definition in AS 47.37.
19 270(8) applies to other portions of this chapter.

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