

Introduced: 2/9/76
Referred: Judiciary

BY THE RULES COMMITTEE BY REQUEST
OF THE LEGISLATIVE COUNCIL
CHILDREN'S CODE REVISION TASK
FORCE

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 572

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 children's court proceeding;
7 changing Children's Rules 2(a); 12(a), (b); 17(a);
8 21(a), (c), (d); 22(e), (g); 23; 31(b), (c); and
9 changing the court's responsibilities and authority
10 under Children's Rule 12(a), 21 and 23, and Rule of
11 Civil Procedure 17(b)."

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

13 * Section 1. AS 09. 65.130(a) is amended to read:

14 (a) The court may, upon the motion of either party or upon its own
15 motion, appoint an attorney [OR GUARDIAN AD LITEM] to represent the
16 [INTERESTS OF A] minor [OR DEPENDENT CHILD] with respect to his custody,
17 support, and visitation or in any other legal proceeding involving his
18 welfare. When custody, support, or visitation are at issue in a di-
19 vorce, it is the responsibility of the parties or their counsel to
20 notify the court that those matters are at issue. Upon notification,
21 the court shall determine whether the child should have legal repre-
22 sentation [ASSISTANCE] or other services and shall make a finding on the
23 record before trial. The court shall enter an order for costs, fees,
24 and disbursements in favor of the child's attorney [OR GUARDIAN AD
25 LITEM] and may further order that other services be provided for the
26 protection of the child.

27 * Sec. 2. AS 09.65.130 is amended by adding a new subsection to read:

28 (c) The court may, upon the motion of either party or upon its own
29 motion, appoint an attorney or other person to serve as guardian ad

1 litem to represent the best interests of a minor in any legal proceeding
2 involving his welfare. The court shall appoint a guardian ad litem
3 where, in the opinion of the court, representation of the child's best
4 interests, to be distinguished from his preferences, would serve the
5 welfare of the child. The court in its order appointing a guardian ad
6 litem shall limit the duration of the appointment of the guardian ad
7 litem to the pendency of the legal proceeding affecting his interests,
8 and shall outline the guardian ad litem's responsibilities and limit his
9 authority to those matters related to his effective representation of
10 the child's best interests in the pending legal proceeding. The court
11 shall appoint a guardian ad litem from among persons in the community
12 where the child's parents or the person having legal custody or guard-
13 ianship of the child's person resides. When custody, support, or
14 visitation are at issue in a divorce, it is the responsibility of the
15 parties or their counsel to notify the court that these matters are at
16 issue. Upon notification, the court shall determine if the child's best
17 interests need representation or if the child needs other services and
18 shall make a finding on the record before trial. The court shall enter
19 an order for costs, fees, and disbursements in favor of the child's
20 guardian ad litem and may further order that other services be provided
21 for the protection of the child.

22 * Sec. 3. AS 20.15.100(j) is amended to read:

23 (j) Appointment of an attorney to represent the minor or an
24 attorney or other person to serve as guardian ad litem [A GUARDIAN AD
25 LITEM OR ATTORNEY] for a person to be adopted who is a minor shall be
26 made under the terms of AS 09.65.130.

27 * Sec. 4. AS 47.10.010(a) is repealed and re-enacted to read:

28 (a) Proceedings relating to a minor under 18 years of age residing
29 or found in the state are governed by this chapter, except as otherwise

1 provided in this chapter, when the court finds the minor

2 (1) to be a delinquent minor as a result of violating a law
3 of the state, or an ordinance or regulation of a political subdivision
4 of the state; or

5 (2) to be a child in need of aid as a result of the child

6 (A) having no caring adult available and willing to care
7 for him;

8 (B) having suffered or being likely to imminently suffer
9 a physical injury, inflicted upon him by other than accidental
10 means;

11 (C) being in need of medical treatment to cure, allevi-
12 ate, or prevent his suffering a serious physical injury and his
13 parents are unwilling to provide the medical treatment;

14 (D) having suffered physical injury or if there is a
15 substantial risk that the child imminently will suffer physical
16 injury as a result of conditions created by his parent, guardian or
17 custodian or the failure of his parent, guardian or custodian
18 adequately to supervise him;

19 (E) suffering serious emotional damage, evidenced by
20 failure to thrive, severe anxiety, depression, or withdrawal or
21 untoward aggressive behavior or hostility toward others, or is in
22 need of medical treatment to cure, alleviate, or prevent his
23 suffering that serious emotional damage;

24 (F) having been sexually abused by his parent, guardian,
25 or custodian or as a result of conditions created by his parent,
26 guardian, or custodian or by the failure of his parent, guardian or
27 custodian to adequately supervise him;

28 (G) committing delinquent acts as a result of pressure,
29 guidance, or approval from parents, guardian or custodian;

1 (H) being habitually truant from school or home; or
2 (I) having been released by his parent or parents, or
3 guardian, to the department for adoptive purposes.

4 * Sec. 5. AS 47.10.010 is amended by adding a new subsection to read:

5 (d) If the minor exhibits behavior which indicates that he may be
6 suffering from mental illness and is otherwise within the jurisdiction
7 of this chapter under (a) of this section, the court shall appoint a
8 licensed medical, psychiatric, or psychological practitioner to examine
9 the minor to determine whether, in the practitioner's opinion, the minor
10 is mentally ill, or has symptoms of mental illness, and because of his
11 illness is (1) likely to injure himself or others if allowed to remain
12 at liberty, or (2) is in need of care or treatment in a hospital. For
13 the purpose of this examination the court may order the minor to be
14 committed to a hospital or other suitable facility for not more than 30
15 days, subject to AS 47.30.040(b). If the appointed practitioner certi-
16 fies in writing that the minor is mentally ill or has symptoms of mental
17 illness and because of his illness is likely to injure himself or others
18 if allowed to remain at liberty or is in need of care or treatment in a
19 hospital, the procedure prescribed in secs. 20 - 90 of this chapter may
20 not be followed and appropriate proceedings may be instituted under
21 AS 47.30.026, 47.30.030 and 47.30.070.

22 * Sec. 6. AS 47.10.050 is amended to read:

23 Sec. 47.10.050. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY.
24 Whenever in the course of proceedings instituted under this chapter it
25 appears to the court that the welfare of a minor will be promoted by the
26 appointment of an attorney to represent the minor or an attorney or
27 other person to serve as guardian ad litem [A GUARDIAN AD LITEM OR
28 ATTORNEY], the court may make the appointment. Appointment of a guard-
29 ian ad litem or attorney shall be made under the terms of AS 09.65.130.

1 * Sec. 7. AS 47.30.040(b) is amended to read:

2 (b) At the end of the 48 hours, a patient admitted under sec. 20
3 or 30 of this chapter, or AS 47.10.010(d), shall be discharged without
4 application if a preliminary examination has not been held or if, upon
5 examination, the designated examiner refuses or fails to certify to the
6 head of the designated hospital that in his opinion the patient is
7 mentally ill and is either likely to injure himself or others if allowed
8 at liberty, or in need of care or treatment in a hospital and because of
9 his illness lacks sufficient insight or capacity to make responsible
10 decisions concerning it. All other patients shall be discharged when,
11 in the opinion of the head of the designated hospital, there is no
12 further need for their hospitalization. Notice of discharge shall be
13 given to the department and the court or person responsible for the
14 order of hospitalization, who shall have an additional 48 hours within
15 which to make other arrangements under sec. 70 of this chapter or
16 otherwise.

17 * Sec. 8. AS 47.10.080(a) is amended to read:

18 (a) The court, at the conclusion of the hearing, or thereafter as
19 the circumstances of the case may require, shall find and enter a judg-
20 ment that the minor is or is not a delinquent [,] or a child in need of
21 aid [SUPERVISION, OR DEPENDENT MINOR]. After that judgment is entered,
22 the department shall present its recommendations concerning dispositions
23 available to the court under this section relative to placement in a
24 juvenile detention home, juvenile detention facility, or other place-
25 ment, probation, or supervision; and the court shall consider these
26 recommendations in selecting dispositions under this section. The
27 department shall send a written treatment plan and statement of goals to
28 the court, the child, and his parents within 30 days of the adjournment
29 of the minor's disposition hearing; if the department fails to send

1 this plan and statement, the court shall hold a hearing under sec. 80(f)
2 of this chapter to determine if continued supervision or commitment is
3 in the best interests of the minor and may take action it considers
4 appropriate under sec. 100(a) and (b) of this chapter.

5 * Sec. 9. AS 47.10.080(b)(1) is amended to read:

6 (1) order the minor committed to the Department of Health and
7 Social Services for a [AN INDETERMINATE] period of time not to exceed
8 two years [EXTEND PAST A SPECIFIED DATE] or in any event extend past the
9 day the minor becomes 19, except that

10 (A) the department may apply for and the court may grant
11 one-year extensions of supervision which do not extend beyond the
12 child's 19th birthday, if the extension is in the best interests of
13 the minor and the public; or

14 (B) the department may apply for and the court may grant
15 an additional one-year period of supervision past age 19, if con-
16 tinued supervision is in the best interests of the person and the
17 person consents to it [PETITION THE COURT FOR CONTINUED SUPERVISION
18 FOR AN ADDITIONAL ONE-YEAR PERIOD FOR MINORS WHO HAVE NOT RESPONDED
19 TO TREATMENT]; the department shall place the minor in the juvenile
20 facility which the department considers appropriate and which may
21 include a juvenile correctional school, detention home, or deten-
22 tion facility; the minor may be released from placement or deten-
23 tion and placed on probation on order of the court and may also be
24 released by the department, in its discretion, under sec. 200 of
25 this chapter; or

26 * Sec. 10. AS 47.10.080(b)(2) is amended to read:

27 (2) order the minor placed on probation, to be supervised by
28 the department, and release him to his parents, guardian, or a suitable
29 person; if the court orders the minor placed on probation, it may

1 specify the terms and conditions of probation; the probation may be for
2 a [AN INDETERMINATE] period of time, not to exceed two years [EXTEND
3 PAST A SPECIFIED DATE] and in no event extend past the day the minor
4 becomes 19, except that

5 (A) the department may apply for and the court may grant
6 one-year extensions of supervision which do not extend beyond the
7 child's 19th birthday if the extension is in the best interests of
8 the minor and the public; or

9 (B) the department may apply for and the court may grant
10 an additional one-year period of supervision past age 19, if con-
11 tinued supervision is in the best interests of the person and the
12 person consents to it [PETITION THE COURT FOR CONTINUED SUPERVISION
13 FOR AN ADDITIONAL ONE-YEAR PERIOD FOR MINORS WHO HAVE NOT RESPONDED
14 TO TREATMENT].

15 * Sec. 11. AS 47.10.080(c) is amended to read:

16 (c) If the court finds that the minor is a child in need of aid
17 [DEPENDENT], it shall

18 (1) order the minor committed to the department for a [AN
19 INDETERMINATE] period of time not to exceed two years or in any event
20 past the date the minor becomes 19 years of age, except that

21 (A) the department may apply for and the court may grant
22 one-year extensions of supervision which do not extend beyond the
23 child's 19th birthday if the extension is in the best interests of
24 the minor and the public; or

25 (B) the department may apply for and the court may grant
26 an additional one-year period of supervision past age 19, if the
27 continued supervision is in the best interests of the person and
28 the person consents to it [PETITION THE COURT FOR CONTINUED SUPER-
29 VISION FOR AN ADDITIONAL ONE-YEAR PERIOD FOR MINORS WHO HAVE NOT

1 RESPONDED TO TREATMENT];

2 (2) order the minor released to his parents, guardian, or
3 some other suitable person, and, in appropriate cases, order the parents,
4 guardian, or other person to provide medical or other care and treat-
5 ment; if the court releases the minor, it shall direct the department to
6 supervise the care and treatment given to the minor; the department's
7 supervision may not exceed two years or in any event extend past the
8 date the minor reaches age 19 [MAJORITY], except that

9 (A) the department may apply for and the court may grant
10 one-year extensions of supervision which do not extend beyond the
11 child's 19th birthday if the extension is in the best interests of
12 the minor and the public; or

13 (B) the department may apply for and the court may grant
14 an additional one-year period of supervision past age 19, if the
15 continued supervision is in the best interests of the person and
16 the person consents to it [PETITION THE COURT FOR CONTINUED SUPER-
17 VISION FOR AN ADDITIONAL ONE-YEAR PERIOD FOR MINORS WHO HAVE NOT
18 RESPONDED TO TREATMENT]; or

19 * Sec. 12. AS 47.10.080(f) is amended to read:

20 (f) A minor found to be delinquent or a child in need of aid
21 [, A CHILD IN NEED OF SUPERVISION, OR DEPENDENT] is a ward of the state
22 as long as he is committed to the department or the department has the
23 power to supervise his actions. The court shall review an order made
24 under (b) or (c)(1) or (2) [OR (j)] of this section annually, and may
25 review the order more frequently to determine if continued placement,
26 probation, or supervision, as it is being provided, is in the best
27 interest of the minor and the public [, AND TO DETERMINE IF THE MINOR IS
28 BEING TREATED FAIRLY]. The department, the minor, [OR] the minor's
29 parents, [OR] guardian, or custodian are [IS] entitled to a review on

1 application. The court shall afford these parties and their counsel
2 reasonable notice in advance of the review and hold a hearing where these
3 parties and their counsel shall be afforded an opportunity to be heard.

4 The minor shall be afforded the opportunity to be present at the review.

5 * Sec. 13. AS 47.10.290(2) is repealed and re-enacted to read:

6 (2) "delinquent minor" means a minor found to be within the
7 jurisdiction of the court under sec. 10(a)(1) of this chapter.

8 * Sec. 14. AS 47.10.080(j) and 47.10.290(3) and (7) are repealed.

9 * Sec. 15. AS 47.10.290 is amended by adding a new paragraph to read:

10 (8) "child in need of aid" means a minor found to be within
11 the jurisdiction of the court under sec. 10(a)(2) of this chapter.

12 * Sec. 16. AS 47.10.080(e) is amended to read:

13 (e) If the court finds that the minor is not delinquent or [,] a
14 child in need of aid [SUPERVISION, OR DEPENDENT], it shall immediately
15 order his release from its custody and his return to his parents,
16 guardian, or custodian, and close the case.

17 * Sec. 17. AS 47.10.085 is amended to read:

18 Sec. 47.10.085. CHILD IN NEED OF AID [DEPENDENT MINOR]; RELIGIOUS
19 TREATMENT. In a case in which the minor's status as a child in need of
20 aid [DEPENDENT MINOR] is sought to be based on his need for medical
21 care, the court may, upon consideration of the health of the minor and
22 the fact, if it is a fact, that the minor is being provided treatment by
23 spiritual means through prayer in accordance with the tenets and prac-
24 tices of a recognized church or religious denomination by an accredited
25 practitioner of the church or denomination, dismiss the proceedings and
26 thereby close the matter. This may be done, in the interests of justice
27 and religious freedom, on the court's own motion or upon the application
28 of a party to the proceedings, at any stage of the proceedings after
29 information is given to the court under sec. 20(a) of this chapter.

1 * Sec. 18. AS 47.10.090(b) is amended to read:

2 (b) The name or picture of a minor under the jurisdiction of the
3 court may not be made public in connection with the minor's status as a
4 delinquent [OR DEPENDENT] child or a child in need of aid unless autho-
5 rized by order of the court, except that the name of a minor who is
6 found for the second time to have violated a law, which if committed by
7 an adult would be a felony, shall be made public unless the court, for
8 good cause, in certain individual cases, enters an order prohibiting the
9 disclosure.

10 * Sec. 19. AS 47.10.100(a) and (c) are amended to read:

11 (a) The court retains jurisdiction over the case and may at any
12 time stay execution, modify, set aside, revoke, or enlarge a judgment or
13 order, or grant a new hearing, in the exercise of its power of pro-
14 tection over the minor and for his best interest, for a period of time
15 not to exceed two years or in any event extend past the day the minor
16 becomes 19 [UNTIL HE BECOMES 19 YEARS OF AGE], unless sooner discharged
17 by the court, except that the department may apply for and the court may
18 grant an additional one-year period of supervision past age 19 if con-
19 tinued supervision is in the best interests of the minor and the minor
20 consents to it [PETITION THE COURT FOR CONTINUED SUPERVISION FOR AN
21 ADDITIONAL ONE-YEAR PERIOD FOR MINORS WHO HAVE NOT RESPONDED TO TREAT-
22 MENT]. An application for any of these purposes may be made by the
23 parent, guardian, or custodian acting in behalf of the minor, or the
24 court may, on its own motion, and after reasonable notice to interested
25 parties and the appropriate department, take action which it considers
26 appropriate.

27 (c) If a minor is adjudicated a delinquent or [,] a child in need
28 of aid [SUPERVISION, OR A DEPENDENT] before his 18th birthday, the court
29 may retain jurisdiction over him after his 18th birthday for the purpose

1 of supervising his rehabilitation, but the court's jurisdiction over him
2 under this chapter never extends beyond his 19th birthday, except that
3 the department may apply for and the court may grant an additional one-
4 year period of supervision past age 19, if continued supervision is in
5 the best interests of the minor and the minor consents to it [PETITION
6 THE COURT FOR CONTINUED SUPERVISION FOR AN ADDITIONAL ONE-YEAR PERIOD
7 FOR MINORS WHO HAVE NOT RESPONDED TO TREATMENT]. The department may
8 retain jurisdiction over a child between his 18th and 19th birthdays for
9 the purpose of supervising his rehabilitation, if he is committed to the
10 custody of the department before his 18th birthday, except that the
11 department may apply for and the court may grant an additional one-year
12 period of supervision past age 19, if continued supervision is in the
13 best interests of the minor and the minor consents to it [PETITION THE
14 COURT FOR CONTINUED SUPERVISION FOR AN ADDITIONAL ONE-YEAR PERIOD FOR
15 MINORS WHO HAVE NOT RESPONDED TO TREATMENT].

16 * Sec. 20. AS 47.10.120(a) is amended to read:

17 (a) When a child in need of aid [DEPENDENT MINOR] is committed
18 under this chapter the court may, after giving the parent a reasonable
19 opportunity to be heard, adjudge that the parent shall pay in a manner
20 which the court directs a sum which will cover in full or in part the
21 support of the child in need of aid [DEPENDENT MINOR]. When a delin-
22 quent minor is committed under this chapter the court shall order that
23 the parent of the minor pay in a manner which the court directs a sum
24 which will cover in full or in part the support of the delinquent minor.

25 * Sec. 21. AS 47.10.142(c) and (d) are amended to read:

26 (c) When a child is taken into custody under (a) or (b) of this
27 section, the department shall immediately, and in no event more than 12
28 hours later unless prevented by lack of communication facilities,
29 notify the parents or the person or persons having custody of the child

1 and the court of the action and file with the court a petition alleging
2 that there is a child in need of aid [DEPENDENCY].

3 (d) The court shall immediately, and in no event more than 48
4 hours after being notified unless prevented by lack of transportation,
5 hold a hearing at which the minor, if his health permits, and his
6 parents or guardian, if they can be found, shall be permitted to be
7 present. The court shall determine whether probable cause exists for
8 believing the minor to be a child in need of aid [DEPENDENT MINOR], as
9 defined in sec. 290(8) [290(3)] of this chapter. The court shall inform
10 the minor, and his parents or guardian if they can be found, of the
11 reasons given as constituting probable cause and the reasons given as
12 authorizing his temporary placement.

13 * Sec. 22. AS 47.10.150(1) is amended to read:

14 (1) purchase, lease or construct buildings or other facili-
15 ties for the care, detention, rehabilitation and education of children
16 in need of aid [DEPENDENT] or delinquent minors;

17 * Sec. 23. Children's Rule 2(a)(1) and (2) are amended to read:

18 (1) Primary Responsibility of the Superior Court. The pri-
19 mary responsibility for hearing, adjudicating and disposing of children's
20 cases involving delinquency or [DEPENDENCY OR] children in need of aid
21 [SUPERVISION] rests on the superior court. Such responsibilities shall
22 be delegated to a master under this rule only in those instances where
23 it is totally impracticable for the superior court to act.

24 (2) Authority of Master. A master, when appointed in accord-
25 ance with Civil Rule 53, to hear, adjudicate or dispose of children's
26 cases involving delinquency [, DEPENDENCY] or need of aid [SUPERVISION]
27 shall have authority on his own initiative to receive reports bringing a
28 child within the provisions of Title 47, chapter 10, Alaska Statutes
29 and, in accordance with said statute and with Rule 9 of these rules,

1 cause the filing of petitions or receive petitions for adjudication. The
2 master shall make appointments for preliminary inquiry reports, take
3 required action thereon, initiate and conduct detention hearings, and
4 conduct all hearings and proceedings, and otherwise exercise all the
5 authority of the superior court conferred upon him by his order of
6 appointment. In all proceedings arising under Title 47, chapter 10,
7 Alaska Statutes and these rules the authority of the master shall be
8 exercised in the manner provided under such statute and rules, unless
9 specifically limited by special or general orders of appointment in any
10 such proceedings.

11 * Sec. 24. Children's Rule 12 is amended to read:

12 RULE 12. THE CHILD HEARING - DELINQUENCY [, DE-
13 PENDENCY] OR NEED OF AID [SUPERVISION] - PARTIES TO BE
14 PRESENT - PLACE AND CONDUCT OF HEARING - ELECTRONIC
15 RECORDING REQUIRED.

16 (a) PHASES OF HEARING. The child hearing consists of two phases-
17 the adjudicative phase and the dispositive phase.

18 (1) Adjudicative Phase. The adjudicative phase determines
19 the issue of delinquency or child in need of aid [DEPENDENCY], or both,
20 [OR NEED OF SUPERVISION,] according to allegations of the petition for
21 adjudication. These issues may be determined either by the admission
22 or confession of the party or by the taking of evidence.

23 (2) Dispositive Phase. The dispositive phase consists of the
24 measures taken and the orders issued by the court with respect to the
25 child or his parents, guardian, or custodian, designed to correct any
26 undesirable situation found in the adjudicative phase.

27 (b) DELINQUENCY [, DEPENDENCY] OR NEED OF AID [SUPERVISION]. The
28 subject of inquiry at the child hearing will be whether the child is
29 delinquent, in need of aid, or [DEPENDENT], delinquent and [DEPENDENT OR]

1 in need of aid [SUPERVISION].

2 A minor under the age of 18 years who [(1)] is habitually truant
3 from school or home [, OR HABITUALLY SO CONDUCTS HIMSELF AS TO INJURE OR
4 ENDANGER THE MORALS OR HEALTH OF HIMSELF OR OTHERS; OR (2) BY REASON OF
5 BEING WAYWARD OR HABITUALLY DISOBEDIENT IS UNCONTROLLED BY HIS PARENT,
6 GUARDIAN OR CUSTODIAN] may be designated as a child in need of aid
7 [SUPERVISION] and the procedure provided under these rules for the
8 determination and disposition of a child in need of aid [DEPENDENCY]
9 shall apply to him.

10 * Sec. 25. Children's Rule 17(a) is amended to read:

11 (a) ADJUDICATIVE PHASE. Hearsay evidence is not competent to
12 establish the act of delinquency or the condition of a child in need of
13 aid [DEPENDENCY] in the adjudicative phase of the hearing unless ad-
14 missible under a recognized exception to the hearsay rule. Written
15 social agency reports and police reports are hearsay and shall not be
16 admitted or submitted prior to the judge's written finding of the act of
17 delinquency or condition of a child in need of aid [DEPENDENCY].

18 * Sec. 26. Children's Rule 21 is amended to read:

19 RULE 21. STANDARD OF PROOF - ORDERS ON ADJUDICATION
20 OF DELINQUENCY, CHILD IN NEED OF AID [DEPENDENCY],
21 AND FAILURE OF PROOF.

22 (a) STANDARD OF PROOF. In determining the issues of delinquency
23 [, DEPENDENCY] or need of aid [SUPERVISION] in the adjudicatory phase of
24 a children's proceeding, the standard of proof shall be as follows:

25 (1) If a child is charged with any act which may result in
26 his incarceration, there must be proof beyond a reasonable doubt.

27 (2) In other cases, the proof shall be by a preponderance of
28 the evidence.

29 (c) CHILD IN NEED OF AID [DEPENDENCY]. Where, after hearing, the

1 court finds the child to be in need of aid [DEPENDENT], it shall issue
2 a judgment of child in need of aid [DEPENDENCY] based upon and accom-
3 panied by written findings of fact.

4 (d) FAILURE OF PROOF. Where, after hearing, the court finds that
5 the allegations of the petition alleging delinquency [, DEPENDENCY] or
6 need of aid [SUPERVISION] have not been proved as required under (a) of
7 this rule, the court shall dismiss the case, seal all files and records
8 thereof, delete all reference to the case from any docket, register, or
9 index, and forward by certified or registered mail such sealed files and
10 records to the presiding judge of the superior court for the appropriate
11 judicial district. Thereafter no person or agency shall have access to
12 such sealed files or records, or names connected therewith, except upon
13 the order of the presiding judge upon good and sufficient cause shown
14 upon a hearing on the record. (Rescinded and repromulgated by Supreme
15 Court Order No. 110 effective October 14, 1970)

16 * Sec. 27. Children's Rule 22(e) and (g) are amended to read:

17 (e) MEDICAL, PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. If, after
18 an adjudication of delinquency or child in need of aid [DEPENDENCY] it
19 appears necessary to the court, in determining a proper disposition, to
20 have before it the findings or reports of a qualified medical, psychia-
21 tric, or psychological practitioner, the court may order the required
22 examination of the child and may also order the examination of any non-
23 child party to the proceeding consenting thereto.

24 (g) EXPENSE OF DISPOSITION. Every commitment or placement of a
25 child delinquent or in need of aid [DEPENDENT] shall, where practicable,
26 be at the expense of the parent, guardian, or custodian of the child
27 according to the ability of such persons to assume said expense. The
28 court shall by order provide for the payment of such expense and where
29 feasible obtain a written recognition of this obligation from said

1 persons.

2 * Sec. 28. Children's Rule 31(b) and (c) are amended to read:

3 (b) BOARD'S FUNCTION. The board shall serve as friend of the
4 children's court in making studies of individual or group cases of anti-
5 social behavior referred to it by the children's judge and shall de-
6 termine in such cases what factors produced the attitudes, conduct, or
7 behavior complained of. It shall give its advice on plans or programs
8 to curb delinquency [OR DEPENDENCY] of children or children in need of
9 aid and to train children in good citizenship.

10 (c) CHILDREN'S JUDGE TO WORK WITH BOARD. The judge shall work
11 with the board in the study, development, and guidance of appropriate
12 public programs to prevent the existence of factors creating delinquency
13 or conditions of children in need of aid [DEPENDENCY] among children.

14 * Sec. 29. Section 2 of this Act has the effect of limiting the discre-
15 tionary authority of the court to appoint a guardian ad litem under Rule
16 17(b), Alaska Rules of Civil Procedure, and Rules 11(a) and 15, Alaska Rules
17 of Children's Procedure, by requiring as a condition of appointment that the
18 court find that the best interests of the child need articulation. Further,
19 this Act requires limitation of the duration of the appointment, limits the
20 scope of the guardian ad litem's authority, and establishes the geographical
21 area from which the guardian ad litem may be selected.

22 * Sec. 30. Section 5 of this Act has the effect of restricting the dis-
23 positive phase of children's hearings held under Rule 12, Alaska Children's
24 Rules to instances where the court does not find the minor's behavior to be
25 indicative of mental illness or where a practitioner does not certify that
26 the minor is mentally ill.

27 * Sec. 31. Section 12 of this Act has the effect of adding to the court's
28 responsibilities when holding a review under Rule 28, Alaska Rules of Chil-
29 dren's Procedure, by requiring the court to give notice, hold a hearing,

1 and afford an opportunity to be heard. Also, sec. 5 of this Act has the
2 effect of eliminating the requirement that good cause be shown before a
3 child, his parents, guardian, or custodian is entitled to a review.

4 * Sec. 32. The portions of AS 43.10.080(b) and (c) in secs. 9 - 11 of
5 this Act which specify the length of commitment to the department are appli-
6 cable to those minors committed to the department under former AS 47.10.-
7 080(b), (c) and (j) before the effective date of this Act so that the com-
8 mitment of minors to the department before the effective date of this Act
9 shall continue, but may not exceed two years from the effective date of this
10 Act unless one-year extensions have been granted by the court under this Act.
11 The commitment of minors with pending judicial actions under AS 47.10.010(a)
12 on the effective date of this Act may not exceed two years unless one-year
13 extensions have been granted by the court under this Act.
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