

Introduced: 4/14/77
Referred: Health, Education &
Social Services and Finance

1 IN THE HOUSE

BY PARR, COTTEN AND GRUENING

2 CS HOUSE BILL NO. 472 (Rules)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to services and commitment procedures
7 for mentally ill persons; and providing for an effective
8 date."

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

10 * Section 1. AS 47.30.010 - 47.30.340 are repealed.

11 * Sec. 2. AS 47.30 is amended by adding new sections to read:

12 ARTICLE 1. MENTAL HEALTH PROGRAM.

13 Sec. 47.30.011. POWERS AND DUTIES OF DEPARTMENT. The department
14 is the mental health authority of the state and shall

15 (1) develop and submit to the surgeon general of the United
16 States Public Health Service and administer a complete comprehensive
17 program for the prevention of mental illness and the care and treatment
18 of the mentally ill, including inpatient and outpatient care and treat-
19 ment and the procurement of services of specialists or other persons on
20 a contractual or other basis;

21 (2) take the actions and undertake the obligations which are
22 necessary to participate in federal grants-in-aid programs and accept
23 federal or other financial aid from whatever sources for the study,
24 examination, care, and treatment of the mentally ill;

25 (3) administer secs. 11 - 256 of this chapter;

26 (4) designate, operate, and maintain treatment facilities
27 equipped and qualified to provide inpatient and outpatient care and
28 treatment for the mentally ill;

29 (5) provide for the placement of mentally ill patients in

1 designated treatment facilities;

2 (6) enter into arrangements with the surgeon general of the
3 public health service for the care or treatment of the mentally ill in
4 facilities of the public health service in the state or in another
5 state;

6 (7) enter into contracts with treatment facilities for the
7 custody and care or treatment of the mentally ill;

8 (8) enter into contracts which incorporate safeguards consis-
9 tent with secs. 11 - 256 of this chapter and the preservation of the
10 civil rights of the patients with another state for the custody and care
11 or treatment of patients previously committed from this state under 48
12 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
13 Stat. 709;

14 (9) prescribe the form of applications, records, reports,
15 requests for release, and consents to medical treatment required by
16 secs. 11 - 256 of this chapter;

17 (10) require reports from the head of a treatment facility
18 concerning the care of patients;

19 (11) visit each treatment facility to review methods of care
20 or treatment for patients;

21 (12) investigate complaints made by a patient or an interested
22 party on behalf of a patient;

23 (13) delegate upon mutual agreement to another officer or
24 agency of it, or a political subdivision of this state, or a treatment
25 facility designated, any of the duties and powers imposed upon it by
26 secs. 11 - 256 of this chapter; and

27 (14) adopt and promulgate regulations to implement the provi-
28 sions of secs. 11 - 256 of this chapter.

29 Sec. 47.30.016. PRAYER TREATMENT. The provisions of this chapter

1 shall not be construed to deny treatment by spiritual means through
2 prayer in accordance with the tenets and practices of a recognized
3 church or denomination to any person detained for evaluation or treatment
4 who desires that treatment, or to a minor if his parent, guardian or
5 conservator desires that treatment.

6 ARTICLE 1A. VOLUNTARY ADMISSION FOR TREATMENT.

7 Sec. 47.30.021. STANDARDS FOR VOLUNTARY ADMISSION. A person may
8 be voluntarily admitted to a treatment facility if he is suffering from
9 mental illness and he voluntarily signs the admission papers.

10 Sec. 47.30.026. NOTICE OF RIGHTS. Upon application for voluntary
11 admission a person shall be given a copy of the following documents
12 which shall be explained to him as necessary:

13 (1) notice of rights as set out in secs. 171 - 196 of this
14 chapter and an explanation of any document served upon him; and

15 (2) notice that should he desire to leave at a time when the
16 treatment facility determines that he is mentally ill and as a result is
17 likely to cause serious harm to himself or others or is gravely disabled,
18 the facility could initiate commitment proceedings against him.

19 Sec. 47.30.031. DISCHARGE OF VOLUNTARY PATIENTS. The professional
20 person in charge of the treatment facility or his designee shall dis-
21 charge any patient who no longer meets the standards established in sec.
22 21 of this chapter.

23 Sec. 47.30.036. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.
24 A voluntary patient who desires to leave a treatment facility must
25 submit to the facility a written notice of intent to leave on a form
26 provided to him by the facility. Upon immediate investigation, the
27 professional person in charge of the treatment facility or his designee
28 shall either discharge the patient immediately or inform him that in-
29 voluntary commitment proceedings will be initiated against him. The

1 treatment facility may detain the patient 48 hours after receipt of the
2 patient's notice of intent to leave in order to initiate involuntary
3 commitment proceedings.

4 Sec. 47.30.041. VOLUNTARY ADMISSION OF MINORS WITH MINOR AND
5 PARENT OR GUARDIAN CONSENT. A minor under 14 years of age may be ad-
6 mitted voluntarily if his parent or guardian signs the voluntary admis-
7 sion papers and the facility agrees that he is suffering from a mental
8 illness. A minor 14 years of age or older may be admitted voluntarily
9 if either he or his parent or guardian signs the voluntary admission
10 papers, and the facility agrees that he is suffering from a mental ill-
11 ness.

12 Sec. 47.30.046. NOTICE OF REQUEST FOR RELEASE OF MINORS: DETEN-
13 TION AND COMMITMENT. (a) The parent or guardian of any minor who is
14 less than 14 years of age, or a minor who is at least 14 years of age
15 and his parent or guardian, may request and obtain immediate release of
16 the minor at any time.

17 (b) Any minor may request release. Upon receipt of a request for
18 release, the professional person in charge of the treatment facility or
19 his designee shall immediately notify the minor's parent or guardian.
20 If the professional person in charge of the treatment facility or his
21 designee, or the parent or guardian, of the minor does not petition for
22 involuntary commitment within 48 hours of receipt of the request for
23 release made by the minor, the minor shall be released.

24 ARTICLE 1B. INVOLUNTARY ADMISSION FOR TREATMENT.

25 Sec. 47.30.051. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

26 (a) Upon petition of any adult person, a judge may issue an ex parte
27 order orally, or in writing, within 48 hours of the petition stating
28 that there is probable cause to believe a person is mentally ill and
29 that condition causes the person to be gravely disabled or to present a

1 likelihood of serious harm to himself or others. The court shall pro-
2 vide findings on which the conclusion is based, appoint an attorney to
3 represent the respondent, and may direct that a peace officer take the
4 person into custody and deliver him to the nearest appropriate facility
5 for emergency examination and treatment. The ex parte order shall be
6 provided to the patient and made a part of the patient's clinical
7 record.

8 (b) The application required in (a) of this section shall allege
9 that the respondent is reasonably believed to present a likelihood of
10 serious harm to himself or others or is gravely disabled as a result of
11 mental illness and shall specify the factual information on which that
12 belief is based including the names and addresses of all persons known
13 to the petitioner who have knowledge of those facts through personal
14 observation.

15 Sec. 47.30.056. EMERGENCY DETENTION FOR EVALUATION. A peace
16 officer who has reasonable cause to believe that a person is gravely
17 disabled or is suffering from mental illness and is likely to cause
18 serious harm to himself or others of such an immediate nature that
19 considerations of safety do not allow initiation of involuntary commit-
20 ment procedures pursuant to sec. 51 of this chapter, may cause the
21 person to be taken into custody and delivered to a treatment facility.
22 Upon arrival at the treatment facility, the peace officer shall complete
23 an application for examination of the person in custody and be inter-
24 viewed by a mental health professional at the facility.

25 Sec. 47.30.061. EXAMINATION. (a) A patient who is delivered
26 under sec. 51 or 56 of this chapter for emergency examination and treat-
27 ment to a treatment facility shall be examined by a physician within 24
28 hours after arrival at the facility.

29 (b) If the physician who performs the emergency examination has

1 reason to believe that the patient is (1) mentally ill and that condi-
2 tion causes the person to be gravely disabled or to present a likelihood
3 of serious harm to himself or others, and (2) is in need of care or
4 treatment, the physician may hospitalize him on an emergency basis. If
5 a judicial order has not been obtained under sec. 56 of this chapter,
6 the physician shall apply for an ex parte order authorizing hospitali-
7 zation for emergency treatment.

8 Sec. 47.30.066. ACCEPTANCE OF PETITION. When a facility receives
9 a proper petition for evaluation it must accept the petition and the
10 person for an evaluation period not to exceed 72 hours. The facility
11 shall promptly notify the court of the date and time of the respondent's
12 arrival. The court shall set a date, time and place for a probable
13 cause hearing, to be held if needed within 72 hours after the respon-
14 dent's arrival, and the court shall notify the facility, the respondent,
15 his attorney, the prosecuting attorney, and the district official of the
16 hearing arrangements. Evaluation personnel, where used, shall similarly
17 notify the court of the date and time when they first met with the
18 respondent.

19 Sec. 47.30.071. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)
20 When a person is detained for evaluation under this chapter, he shall be
21 immediately notified orally and in writing of his rights under this sec-
22 tion.

23 (b) Unless a person is released or voluntarily admits himself for
24 treatment within 72 hours of his arrival at the facility (or the begin-
25 ning of his meetings with evaluation personnel), he is entitled to a
26 court hearing to be set for no later than the end of that 72-hour period
27 to determine whether there is probable cause to detain him after the 72
28 hours have expired for up to an additional 14 days on the grounds
29 that he is gravely disabled or mentally ill and as a result presents a

1 likelihood of serious harm to himself or others.

2 (c) The respondent has a right to communicate immediately, at the
3 department's expense, with a responsible relative or representative and
4 the attorney designated in the ex parte order.

5 (d) The respondent has the right to present evidence and to cross-
6 examine witnesses who testify against him at the hearing.

7 (e) The respondent has the right to refuse medication and other
8 forms of treatment before the probable cause hearing; however, the
9 facility or evaluation personnel shall be able to treat him with
10 medication or a less restrictive alternative of his preference if, in
11 the opinion of the licensed physician or mental health professional,
12 these treatments may be necessary to prevent bodily harm to the re-
13 spondent or others, or to prevent deterioration of the respondent's
14 mental condition such that subsequent treatment might not enable him to
15 recover.

16 Sec. 47.30.076. PROCEDURE FOR 14-DAY COMMITMENT; PETITION FOR
17 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
18 petition for commitment to a treatment facility may be filed in court.
19 The petition must be signed by two mental health professionals who have
20 examined the respondent. The petition must

21 (1) allege the facts and specific behavior of the respondent
22 showing that the respondent is gravely disabled or mentally ill and as
23 a result is likely to cause harm to himself or others;

24 (2) allege that the evaluation staff has considered but has
25 not found that there are any less restrictive alternatives available
26 that would adequately protect the respondent or others; or, if a less
27 restrictive involuntary form of treatment is sought, specify the treat-
28 ment and the basis for supporting it;

29 (3) allege with respect to a gravely disabled respondent that

1 there is reason to believe that the respondent's mental condition could
2 be improved by the course of treatment sought;

3 (4) allege that a specified treatment facility that is
4 appropriate to the respondent's condition has agreed to accept the re-
5 spondent;

6 (5) allege that the respondent has been advised of the need
7 for, but has not accepted, voluntary treatment, and request that the
8 court commit the respondent to the specified treatment facility or less
9 restrictive alternative for a period not to exceed 14 days;

10 (6) list the prospective witnesses who will testify in sup-
11 port of commitment or involuntary treatment.

12 (b) A copy of the petition shall be served on the respondent, his
13 attorney, and his guardian, if any, before the probable cause hearing.

14 Sec. 47.30.081. PROBABLE CAUSE HEARING. (a) Upon receipt of a
15 proper petition for commitment, the court shall hold a probable cause
16 hearing at the date and time previously specified according to proce-
17 dures set out in sec. 66 of this chapter.

18 (b) At the hearing, in addition to other rights specified in this
19 chapter, the respondent has the right

20 (1) to be present at the hearing unless the court finds that
21 the respondent's presence would be seriously disruptive to the hearing;
22 this right may be waived only with the respondent's informed consent and
23 by stipulation of the petitioner's and respondent's attorneys that
24 there is a substantial likelihood that the respondent's presence would
25 be severely injurious to his mental or physical health; if the respon-
26 dent is incapable of giving informed consent, the respondent may be ex-
27 cluded from the hearing only if the court, after hearing, finds that
28 there is such incapacity and that there is in fact a substantial like-
29 lihood that the respondent's presence at the hearing would be severely

1 injurious to his mental or physical health;

2 (2) to view and copy all petitions and reports in the court
3 file of his case;

4 (3) to have the hearing open or closed to the public as he
5 elects;

6 (4) to be proceeded against according to the rules of evi-
7 dence applicable to civil proceedings.

8 (c) At the conclusion of the hearing the court may commit the re-
9 spondent to a treatment facility for no more than 14 days if it finds,
10 by clear and convincing evidence, that the allegations required in sec.
11 76(a) of this chapter are true.

12 (d) If the court finds that there is a viable less restrictive
13 alternative available and that the respondent has been advised of and
14 refused voluntary treatment through the alternative, the court may order
15 the less restrictive alternative treatment for not to exceed 14 days.

16 (e) The court shall specifically state to the person committed,
17 and give the person written notice, that if commitment or other invol-
18 untary treatment beyond the 14 days is to be sought, the person shall
19 have the right to a full hearing or jury trial.

20 Sec. 47.30.086. PROCEDURE FOR 90-DAY COMMITMENT. (a) At any time
21 during the respondent's 14-day commitment, the professional person in
22 charge of the treatment facility to which the person has been confined,
23 or his professional designee, may file with the court a petition for 90-
24 day commitment of that person. The petition must include all material
25 required under sec. 76(a) of this chapter and

26 (1) allege that the respondent has threatened, attempted, or
27 inflicted serious bodily harm upon himself or another since his accep-
28 tance for evaluation, or that he was committed initially as a result of
29 conduct in which he attempted or inflicted serious bodily harm upon

1 himself or another, or that he continues to be gravely disabled;

2 (2) allege that the respondent has received adequate care and
3 treatment during his 14-day commitment;

4 (3) request that the court commit the respondent to the
5 specified treatment facility or less restrictive alternative for a
6 period not to exceed 90 days;

7 (4) be verified by the professional person in charge of the
8 facility providing treatment during the 14-day commitment, or his pro-
9 fessional designee.

10 (b) Copies of the petition for 90-day commitment shall be served
11 upon the respondent, his attorney, and his guardian, if any. The peti-
12 tion for 90-day commitment and proofs of service shall be filed with the
13 clerk of the court, and a date for hearing shall be set, by the end of
14 the next judicial day, for no later than five judicial days from the
15 date of filing of the petition. The clerk shall notify the respondent,
16 his attorney, and the petitioner of the hearing date at least three
17 judicial days in advance of the hearing.

18 Sec. 47.30.091. 90-DAY COMMITMENT HEARING RIGHTS. (a) A person
19 subject to a petition for 90-day commitment has, in addition to the
20 rights specified elsewhere in this chapter, or otherwise applicable, the
21 rights enumerated in this section. Written notice of these rights shall
22 be served on the respondent, his attorney, and his guardian, if any, at
23 the time the petition for 90-day commitment is served. An attempt shall
24 be made by oral explanation to insure that the respondent understands
25 the rights enumerated in the notice.

26 (b) Unless the respondent is released or voluntarily admits him-
27 self following the filing of a petition for 90-day commitment and before
28 the hearing, he is entitled to a judicial hearing within five judicial
29 days of the filing of the petition as set out in sec. 86(b) of this

1 chapter to determine whether the allegations required in sec. 86(a) of
2 this chapter are true.

3 (c) The respondent is entitled to a jury trial upon request if the
4 request is made at least two judicial days before the hearing. If at
5 the time of the hearing or any time before the hearing he requests a
6 jury trial, the hearing may be continued for no more than 10 calendar
7 days. The jury shall consist of six people.

8 (d) The court shall, if requested by an indigent respondent in
9 preparation for and in connection with the hearing provided in this
10 section, appoint a reasonably available psychiatrist, psychologist or
11 physician designated by the respondent to examine him and testify on
12 his behalf. A motion for the appointment may be filed in court at any
13 reasonable time before the hearing and shall be acted upon by the end
14 of the following judicial day. Reasonable fees and expenses for such
15 expert examiners shall be borne by the department.

16 (e) The proceeding shall in all respects be in accord with con-
17 stitutional guarantees of due process and, except as specifically pro-
18 vided in this chapter, the rules of evidence and procedure in civil
19 proceedings.

20 (f) Until the court issues a final decision, the respondent shall
21 continue to be treated at the treatment facility unless the petition for
22 90-day commitment is withdrawn. If no decision has been made within 20
23 days of filing of the petition, not including extensions of time due to
24 jury trial or other requests by the respondent, he shall be released.

25 Sec. 47.30.096. CONDUCT OF HEARING. The hearing shall be con-
26 ducted in the same manner, and with the same rights for the respondent,
27 as set out in sec. 81(b) of this chapter.

28 Sec. 47.30.101. COURT ORDER. (a) After the hearing and within
29 the time limit specified in sec. 86 of this chapter, the court may

1 commit the respondent to a treatment facility for no more than 90 days
2 only if the court or jury finds by clear and convincing evidence that
3 the allegations required in sec. 86(a) of this chapter are true.

4 (b) If the court or jury finds that there is a less restrictive
5 alternative available and that the respondent has been advised of and
6 refused voluntary treatment through the alternative, the court may order
7 the less restrictive alternative treatment for a period not to exceed 90
8 days.

9 Sec. 47.30.106. EXPEDITED APPEAL. The respondent shall have the
10 right to an expedited appeal from an order of 90-day commitment or other
11 involuntary treatment.

12 Sec. 47.30.111. ADDITIONAL 180-DAY COMMITMENT. (a) The respon-
13 dent shall be released from involuntary treatment at the expiration of
14 90 days unless the professional person in charge of the treatment
15 facility, or his designee, files a petition for a 180-day commitment
16 conforming to the requirements of sec. 86(a) of this chapter except that
17 all references to "14-day commitment" shall be read as "the previous 90-
18 day commitment".

19 (b) The procedures for service of the petition, notification of
20 rights and judicial hearing shall be as set out in secs. 86 - 96 of this
21 chapter. If the court or jury finds by clear and convincing evidence
22 that the grounds for 90-day commitment as set out in sec. 101 of this
23 chapter are present, the court may order the respondent committed for an
24 additional treatment period not to exceed 180 days from the date on
25 which the first 90-day treatment period would have expired.

26 (c) Successive 180-day commitments are permissible on the same
27 ground and under the same procedures as the original 180-day commitment.
28 No order of commitment may exceed 180 days.

29 Sec. 47.30.116. COMMITMENT OF MINORS. A minor who refuses volun-

1 tary admission may not be involuntarily admitted to a treatment facil-
2 ity, regardless of his parent's or guardian's consent, without adherence
3 to the procedures set out in secs. 51 - 166 of this chapter for adult
4 detention and commitment. However, all notices required to be served on
5 the respondent in secs. 51 - 166 of this chapter shall also be served on
6 the parent or guardian of respondents who are minors, and parents or
7 guardians of minor respondents shall be notified that they may appear as
8 parties in any commitment proceeding concerning the minor and that as
9 parties they are entitled to retain their own attorney or have one
10 appointed for them by the court. A minor has the same rights to waiver
11 and informed consent as an adult under this chapter; however, he shall
12 be represented by counsel in waiver and consent proceedings.

13 Sec. 47.30.121. EARLY DISCHARGE. The professional person in
14 charge of a treatment facility or his designee shall at any time dis-
15 charge a committed person on the ground that the person is no longer
16 gravely disabled or likely to cause serious harm as a result of mental
17 illness. A certificate to this effect shall be sent to the court which
18 shall enter an order officially terminating the involuntary commitment.

19 Sec. 47.30.126. AUTHORIZED ABSENCES. A respondent undergoing
20 involuntary treatment on an inpatient basis under this chapter shall be
21 given authorization to be absent from the treatment facility during
22 times specified by the professional person in charge of the facility, or
23 his designee, when an authorization to be absent is in the best inter-
24 ests of the respondent and he is not likely to cause serious bodily harm
25 to others.

26 Sec. 47.30.131. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
27 spondent undergoing involuntary treatment on an inpatient basis under
28 this chapter is absent from the treatment facility without, or in excess
29 of, authorization under sec. 126 of this chapter, the professional

1 person in charge of the facility or his designee may cause the respond-
2 ent to be taken into custody and returned to the treatment facility.

3 Sec. 47.30.136. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

4 (a) A committed person may be released before the expiration of his
5 commitment period on the condition that he receive specified outpatient
6 treatment from a provider of outpatient care, for a length of time not
7 to exceed the duration of his commitment period, when the professional
8 person in charge of the treatment facility or his designee, after con-
9 sultation with the treatment team, finds that

10 (1) security for the person or others no longer requires that
11 he be treated on an inpatient basis;

12 (2) there is reason to believe that the person's mental con-
13 dition would improve as a result of the specified outpatient treatment.

14 (b) If at any time during the commitment period the provider of
15 outpatient care determines that the person can no longer be treated on
16 an outpatient basis because he is likely to cause harm to himself or
17 others, the provider shall give the patient oral and written notice,
18 with copies to the patient's attorney, his guardian, if any, the court
19 and inpatient treatment facility, that he must return to the inpatient
20 treatment facility within 24 hours for a length of time not to exceed
21 the duration of his commitment period. If the person fails to arrive at
22 the treatment facility under a 24-hour notice, the facility may cause
23 the person to be taken into custody and transported to the facility. A
24 peace officer shall assist the provider of outpatient care or the facil-
25 ity if requested.

26 (c) If the provider of outpatient care determines that the patient
27 will require continued outpatient care after the expiration of his com-
28 mitment period, the provider is entitled to initiate further commitment
29 proceedings in the same manner as if the provider were the professional

1 person in charge of a treatment facility, and the provisions of this
2 chapter are applicable, except that provisions relating to inpatient
3 treatment shall be read as applicable to outpatient treatment.

4 Sec. 47.30.141. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO
5 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
6 provisions of this chapter to receive involuntary outpatient treatment
7 may be required to undergo inpatient treatment when the provider of out-
8 patient care finds that

9 (1) the respondent is still gravely disabled or mentally ill
10 and is likely to cause serious harm to himself or others;

11 (2) the respondent's behavior since the hearing resulting in
12 court-ordered treatment indicates that he now needs inpatient treatment
13 to protect himself or others;

14 (3) there is reason to believe that the respondent's mental
15 condition will improve as a result of inpatient treatment; and

16 (4) there is an inpatient facility appropriate to the re-
17 spondent's need which will accept him as a patient.

18 (b) Upon making the findings specified in (a) of this section, the
19 provisions of sec. 136(b) of this chapter relating to notice and sec. 91
20 of this chapter relating to hearing are applicable.

21 Sec. 47.30.146. RECORDS AND PROCEEDINGS. A verbatim transcript
22 shall be made of all court hearings conducted under this chapter and a
23 copy shall be provided to the respondent upon request for purposes of
24 appellate or other court review of the proceedings.

25 Sec. 47.30.151. COMPUTING PERIODS OF TIME. (a) Except as pro-
26 vided in (b) of this section:

27 (1) computations of a 72-hour evaluation period shall not
28 include Saturdays, Sundays, legal holidays, or any period of time
29 necessary to transport the respondent to the treatment facility;

1 (2) a 14-day commitment period shall expire at the end of the
2 14th day after the 72 hours following initial acceptance;

3 (3) a 90-day commitment period shall expire at the end of the
4 90th day after the expiration of a 14-day period of treatment;

5 (4) a 180-day commitment period shall expire at the end of
6 the 180th day, after the expiration of a 90-day period of treatment or
7 previous 180 day period, whichever is applicable;

8 (b) When a respondent has failed to appear or absented himself
9 contrary to any order properly made or entered under this chapter, the
10 relevant commitment period shall be extended for a period of time equal
11 to the respondent's absence if written notice of absence is promptly
12 provided to the respondent's attorney and his guardian, if there is one,
13 and if, within 24 hours after the respondent has returned to the evalu-
14 ation or treatment facility, written notice of the corresponding exten-
15 sion and the reason for it is given to the respondent.

16 Sec. 47.30.156. HABEAS CORPUS. Nothing in this chapter may be
17 construed as limiting a person's right to a writ of habeas corpus.

18 Sec. 47.30.161. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
19 CATION. (a) A person acting in good faith upon either actual knowledge
20 or reliable information who makes application for evaluation or treat-
21 ment of another person under this chapter is not subject to civil or
22 criminal liability.

23 (b) A mental health professional or peace officer who in good
24 faith exercises his professional judgment in fulfilling an obligation or
25 discretionary responsibility under this chapter is not subject to civil
26 or criminal liability for his act unless it can be shown that it was
27 done with gross negligence.

28 (c) A person who makes application for evaluation or treatment of
29 another person without having good cause to believe that the other

1 person is suffering from a mental illness and as a result is likely to
2 cause serious harm to himself or others, is guilty of a misdemeanor and
3 is punishable by imprisonment for not more than one year, by a fine of
4 not more than \$1,000, or by both.

5 Sec. 47.30.166. RETROACTIVITY. Except as provided in this chap-
6 ter, the provisions of this chapter do not in themselves impair any
7 action taken in a proceeding pending under statutes in effect before
8 October 1, 1977, nor do they apply retroactively to terminate the
9 detention of a person previously committed under statutes in effect
10 before October 1, 1977. However, 90 days after October 1, 1977, the
11 provisions of this chapter apply to all persons committed under statutes
12 in effect before October 1, 1977.

13 ARTICLE 1C. PATIENT RIGHTS.

14 Sec. 47.30.171. PATIENT RIGHTS: MEDICAL. All patients who are
15 receiving services from a treatment facility licensed under AS 18.20.-
16 020, have the following rights:

17 (1) The patient shall be entitled to participate in formu-
18 lating his treatment plan and in the evaluation process as much as
19 possible, at minimum to the extent of requesting specific forms of
20 therapy, inquiring why specific therapies are or are not included in his
21 treatment program, and being informed as to his present medical condi-
22 tion and prognosis. The treatment team may withhold any of this infor-
23 mation from the patient only when the withholding is necessary to
24 protect the patient's mental health.

25 (2) Every patient has the right to know the name of medica-
26 tion that he is asked to take, what its purpose is, and what side
27 effects may occur with this medication. However, the prescribing
28 physician may withhold information as to side effects if he has good
29 reason to believe that the patient's mental health would suffer serious-

1 ly by his divulging it.

2 (3) The quiet room, or other form of physical restraint,
3 shall not be used, except as provided in this paragraph unless a patient
4 is likely to physically harm himself or others unless restrained. The
5 form of restraint utilized should be that which is in the patient's best
6 interest and which constitutes the least restrictive alternative avail-
7 able. When practicable, the patient shall be consulted as to his pre-
8 ference among forms of adequate, medically advisable restraints in-
9 cluding medication, and his preference shall be honored. Nothing in
10 this section is intended to limit the right of staff to use the quiet
11 room at the patient's request or with his knowing concurrence when deem-
12 ed in the best interests of the patient. Patients placed in a quiet
13 room or other physical restraint shall be checked at least every 15
14 minutes or sooner if good medical practice so indicates. Patients in
15 the quiet room must be visited by a staff member at least once every
16 hour and must be given adequate food and drink and access to bathroom
17 facilities. At no time may a patient be kept in the quiet room or other
18 form of physical restraint against his will longer than necessary to
19 accomplish the purposes set out in this paragraph.

20 (4) Neither medication nor physical restraint may be used,
21 except in emergency, without prior discussion by the treatment team.
22 All uses of the quiet room or other restraint shall be recorded in the
23 patient's medical record, the information including but not limited to
24 the reasons for its use, the duration of use, and the name of the autho-
25 rizing staff member.

26 (5) In no event may treatment include electric shock, psy-
27 chosurgery, lobotomy or other comparable form of treatment without
28 specific informed consent of the patient, including a minor unless he is
29 clearly too young or disabled to give an informed consent in which case

1 the consent of his legal guardian shall be required. In addition, no
2 such treatment may be given without a court order after hearing in
3 accord with full rights of due process.

4 (6) When, in the written opinion of a patient's attending
5 physician, a true medical emergency exists and a surgical operation is
6 necessary to save the life, physical health, eyesight, hearing or member
7 of the patient, the professional person in charge of the treatment
8 facility or his designee may give consent to the surgical operation if
9 time will not permit the obtainment of the consent of the proper rela-
10 tives or guardian or appropriate judicial authority. However, no
11 operation may be authorized if the patient is not a minor and knowingly
12 withholds consent on religious grounds.

13 Sec. 47.30.176. CIVIL RIGHTS NOT IMPAIRED. No person undergoing
14 evaluation or treatment under this chapter may be denied a civil right,
15 including but not limited to, the right to dispose of property, sue and
16 be sued, enter into contractual relationships and vote. Court-ordered
17 treatment or evaluation under this chapter is not a determination of
18 legal incompetency.

19 Sec. 47.30.181. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. Every
20 person undergoing evaluation or treatment under this chapter shall

21 (1) not be photographed without his consent and that of his
22 guardian if a minor, except that he may be photographed upon admission
23 to a facility for identification and administrative purposes of the
24 facility; all photographs shall be confidential and may not be released
25 by the facility except under court order;

26 (2) at the time of admission to an evaluation or treatment
27 facility, have reasonable precautions taken by the staff to inventory
28 and safeguard his personal property; a copy of the inventory signed by
29 the staff member making it shall be given to the patient and made avail-

1 able to his attorney and any other person authorized by the patient to
2 inspect the document;

3 (3) have access to individual storage space for his private
4 use while undergoing evaluation or treatment;

5 (4) be permitted to wear his own clothing, to keep and use
6 his own personal possessions including his toilet articles if they are
7 not considered unsafe for him or other patients who might have access to
8 them, and to keep and be allowed to spend a reasonable sum of his own
9 money for his own needs and comfort;

10 (5) be allowed to have visitors at reasonable times;

11 (6) have ready access to letter writing materials, including
12 stamps, and have the right to send and receive unopened mail;

13 (7) have reasonable access to a telephone, both to make and
14 receive confidential calls.

15 Sec. 47.30.186. CONFIDENTIAL RECORDS. All information and records
16 obtained in the course of evaluation, examination or treatment shall be
17 kept confidential and not as public records, except as the requirements
18 of a hearing under this chapter may necessitate a different procedure.
19 Information and records may only be disclosed under regulations estab-
20 lished by the department to

21 (1) physicians and providers of health, mental health or
22 social and welfare services involved in caring, treating or rehabili-
23 tating the patient;

24 (2) individuals to whom the patient has given written consent
25 to have information disclosed;

26 (3) persons legally representing the patient, upon proper
27 proof of representation and unless the patient specifically withholds
28 consent;

29 (4) persons authorized by a court order;

1 (5) persons doing research or maintaining health statistics,
2 if the anonymity of the patient is assured, his consent is given, and
3 the facility recognizes the project as a bona fide research or statis-
4 tical undertaking;

5 (6) the division of corrections in cases in which prisoners
6 confined to the state prison are patients in the state hospital on
7 authorized transfers either by voluntary admission or by court order;

8 (7) governmental or law enforcement agencies when necessary
9 to secure the return of a patient who is on unauthorized absence from a
10 facility where the patient was undergoing evaluation or treatment.

11 Sec. 47.30.191. EXPUNGEMENT OF RECORDS. Following the discharge
12 of a respondent from a treatment facility or the issuance of a court
13 order denying a petition for commitment, a respondent may at any time
14 move to have all court records pertaining to the proceedings expunged on
15 condition that he file a full release of all claims of whatever nature
16 arising out of the proceedings and the statements and actions of persons
17 and facilities in connection with the proceedings.

18 Sec. 47.30.196. POSTING OF RIGHTS. The rights set out in secs.
19 171 - 196 of this chapter shall be prominently posted in all treatment
20 facilities in places accessible to all patients.

21 ARTICLE 1D. MISCELLANEOUS PROVISIONS.

22 Sec. 47.30.201. PLACEMENT WITH A UNITED STATES AGENCY. (a) If a
23 court receives a certificate from an agency of the United States showing
24 that accommodations are available and that the respondent is eligible
25 for care, the court may order a respondent who is to be committed to be
26 placed in the custody of that agency for inpatient treatment if the
27 placement would be in the respondent's best interest. When by court
28 order a respondent is admitted to a facility operated by an agency of
29 the United States inside or outside the state, the respondent is subject

1 to the rules and regulations of the agency. The head of the facility
2 operated by the agency and in which the respondent is placed has, with
3 respect to the respondent, the same powers as the department or profes-
4 sional person in charge of a treatment facility in the state concerning
5 the detention, custody, conditional release or discharge of patients.
6 However, the court retains the jurisdiction to inquire into the mental
7 condition of a respondent so committed and to determine commitment
8 periods under the provisions of this chapter, and every commitment order
9 issued under this section is so conditioned.

10 (b) An order of a court of another state to an agency of the
11 United States authorizing commitment of a respondent has the same effect
12 as to the respondent while in this state as in the jurisdiction in which
13 the court entering the order is located, and the courts of the juris-
14 diction issuing the order retain jurisdiction of the individual for the
15 purpose of inquiring into his mental condition and of determining the
16 periods of his commitment. This state consents to the application of
17 the law of the state in which the court issuing the order for commitment
18 is located with respect to the authority of the head of the facility
19 operated in this state by an agency of the United States to retain
20 custody, transfer, conditionally release or discharge the respondent.
21 This section does not prevent the state from entering into a contract
22 with a federal agency for the custody and care or treatment of persons
23 coming under the jurisdiction or assistance of the federal agency.

24 Sec. 47.30.206. TRANSPORTATION. When a person is to be evaluated,
25 committed or otherwise admitted to a facility under this chapter, the
26 department shall arrange, if necessary, and is authorized to pay for,
27 the person's transportation to the designated facility with appropriate
28 medical or nursing attendants and by the available means which are
29 appropriate and suitable. The department may pay return transportation

1 of a person and appropriate medical and nursing attendants after a
2 determination that the person is not committable or at the end of a
3 commitment period or voluntary stay at a treatment facility. When
4 practicable, one or more relatives or friends shall be permitted to
5 accompany the person. The department may pay necessary travel, housing
6 and meal expenses incurred by one relative or friend in accompanying the
7 person to the facility if the department determines that the person's
8 best interests require that he be accompanied by the relative or friend
9 and the relative or friend is indigent. When necessary the department
10 shall arrange for a peace officer or other suitable person to accompany
11 the person.

12 Sec. 47.30.211. NONRESIDENT PATIENTS. (a) The admission papers
13 of a person who is admitted to a treatment facility under this chapter
14 shall include a statement as to his residence. The department may
15 return a patient who is not a resident of the state to the state of his
16 residence with court approval if the person has been committed. If the
17 state in which he has residence does not accept him as a patient, the
18 department may order his discharge unless he has been committed or, if a
19 voluntary patient, is gravely disabled or mentally ill and as a result
20 is likely to cause serious harm to himself or others.

21 (b) To facilitate the return of nonresident patients the depart-
22 ment may enter a reciprocal agreement or compact with another state
23 providing for the prompt return under appropriate supervision of resi-
24 dents of that state who are mentally ill. Mentally ill residents of
25 this state who have been placed in a facility outside this state may be
26 admitted with the approval of the department to a treatment facility
27 designated by the department. The department may enter reciprocal
28 agreements or contracts with another state providing for custody and
29 care or treatment of mentally ill residents of this state by the other

1 state and for the custody and care or treatment of mentally ill resi-
2 dents of that state by this state on a reimbursable basis.

3 (c) In taking action under (a) and (b) of this section, consider-
4 ation shall be given to the best interests of the patient particularly
5 to the relationship of the patient to his family, legal guardian, or
6 friends to maintain relationships and encourage visits beneficial to the
7 patient.

8 Sec. 47.30.216. INTERSTATE COMPACT. This state ratifies and
9 adopts by reference "The Interstate Compact on Mental Health" consisting
10 of 14 articles approved on September 30, 1955, by the Northeast State
11 Governments Conference on Mental Health. The department is designated
12 as compact administrator with full power to carry out the purpose of the
13 compact and to make all necessary regulations to implement the compact.

14 Sec. 47.30.221. RIGHTS OUTSIDE STATE. Nothing in this chapter
15 alters or impairs the application or availability to a patient while
16 hospitalized in another state under contractual arrangements entered in
17 accordance with the provisions of this chapter of the rights, remedies
18 or protective safeguards provided by the laws of this state or of the
19 other state.

20 Sec. 47.30.226. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The
21 department shall make arrangements which are necessary to insure that

22 (1) no patient is discharged from a treatment facility with-
23 out suitable clothing; and

24 (2) an indigent patient discharged is furnished suitable
25 transportation to his permanent residence in this state or other suit-
26 able place at the discretion of the department and a reasonable amount
27 of money to meet his immediate needs.

28 Sec. 47.30.231. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
29 FUNDS. (a) All money or articles of personal property in the custody

1 of a treatment facility which belong to a patient who dies before his
2 discharge, or to a patient who leaves the hospital without authority, if
3 unclaimed by the patient or his legal heirs or representatives within
4 one year after the death or departure of the patient, shall be disposed
5 of in the manner prescribed by the department and the proceeds shall be
6 deposited in the state treasury.

7 (b) If a mentally ill individual has died in a foreign facility
8 and the department desires to recover the patient's personal property
9 under this section, the commissioner of health and social services or
10 his designated representative may secure the property and for that pur-
11 pose only is designated the decedent's administrator. All property so
12 recovered shall be disposed of as provided by law.

13 Sec. 47.30.236. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The
14 department shall make diligent inquiry in every instance after departure
15 without authority or death of a patient, to ascertain his whereabouts or
16 that of his legal heirs or representatives, and shall turn over to the
17 proper person the money or articles of personal property in the custody
18 of the head of the facility to the credit of the patient. Claims to the
19 money or articles of personal property, including claims by this state,
20 may be presented to the department at any time. Claims by this state
21 have priority as set out in sec. 241(d) of this chapter. If a claim
22 other than by this state is established by clear and convincing evidence
23 more than one year after the death or departure without authority of a
24 patient, it shall be certified to the legislature for consideration and
25 the legislature may pay the claim.

26 Sec. 47.30.241. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
27 FACILITY AND TRANSPORTATION. (a) A patient, or his legal representa-
28 tive acting in a representative capacity, or his parents if the patient
29 is under 18 years of age, shall pay or contribute to the payment of the

1 charges for the care or treatment of the patient when hospitalized under
2 this chapter, in the manner and proportion which the department finds is
3 not detrimental to the patient's rehabilitation and which is within
4 their ability to pay. The charges may not exceed the actual cost of the
5 care or treatment as determined by the department. The order of the
6 department relating to the payment of charges by parents shall be pros-
7 pective in effect and shall relate only to charges to be incurred after
8 the order, except that if the parent intentionally conceals his ability
9 to pay, he shall be ordered to pay, to the extent of his ability, the
10 charges accruing during the period of concealment. The order of the
11 department relating to the payment of charges by the patient or his
12 legal representative shall be issued within six months of the date on
13 which the charge was incurred. The department may make necessary in-
14 vestigations to determine the ability to pay, and may require sworn
15 statements of income by the responsible parents. The order shall remain
16 in full force and effect unless modified by subsequent court or depart-
17 ment orders.

18 (b) As used in (a) of this section, the term "actual cost of the
19 care and treatment" means either the rate provided for by a contract
20 entered into under this chapter, or, in the absence of a contract, a
21 daily rate fixed by the department.

22 (c) The department may charge or accept from a person money or
23 property for the care or treatment of an inpatient or outpatient or for
24 other purposes, even if the payment is not required by an order of the
25 department so long as the total payments received do not exceed the
26 actual cost of care or treatment.

27 (d) The amount of liability for care and treatment not paid for by
28 the patient or by someone in his behalf constitutes a lien in favor of
29 this state against all property of the patient. The unpaid amount of

1 liability is a debt to the state and is a first, prior and preferred
2 claim against the estate of the patient after death, and after expenses
3 of administration and all just claims for medical care of last illness
4 and burial expenses have been paid. The claim based upon information
5 submitted by the department shall be prepared and filed by the attorney
6 general.

7 (e) All money paid by the patient or on his behalf under this
8 section shall be deposited in the state treasury.

9 Sec. 47.30.246. PROPERTY TAKEN UNDER EMINENT DOMAIN POWERS. (a)
10 If a recipient's property to which, under sec. 241 of this chapter, a
11 lien for assistance has attached is taken for urban renewal or other
12 public purposes, the department, with the approval of the attorney
13 general, may release its lien upon the property or the proceeds which
14 are paid the recipient as a result of the taking.

15 (b) If the recipient expresses his intent to purchase a personal
16 dwelling, the proceeds shall be paid by the taking authority into an
17 escrow account under escrow instructions approved by the department. If
18 the proceeds are paid into such an account and are applied by the re-
19 cipient within one year to the purchase of a personal dwelling, the
20 proceeds may not cause a reduction of the amount of assistance to which
21 the recipient would otherwise be entitled. The department shall inform
22 the recipient of the provisions of this section at the time of the
23 taking.

24 (c) Nothing in this section prohibits a lien in an amount equal to
25 the total of all assistance granted the recipient from attaching to
26 property purchased with the proceeds paid by the taking authority.

27 Sec. 47.30.251. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
28 The witnesses and the jury in commitment proceedings are entitled to the
29 fees, compensation and mileage established by law. Compensation, mile-

1 age, fees and other expenses arising from commitment proceedings shall
2 be audited and allowed by the superior court of the district in which
3 the proceedings are held and when audited and allowed shall be paid by
4 the clerk of the court in the same manner and from the fund as he pays
5 the other incidental expenses of the court. To the extent that services
6 of a peace officer are used to carry out the provisions of this chapter,
7 he is entitled to fees and actual expenses from the same source and in
8 the same manner as for his other official duties.

9 (b) An attorney appointed for a person under this chapter shall be
10 compensated for his services as follows:

11 (1) the person for whom an attorney is appointed shall, if
12 he is financially able under standards as to financial capability and
13 indigency set by the court, bear the costs of the legal services;

14 (2) if the person is indigent under those standards, the
15 costs of the services shall be borne by the state.

16 Sec. 47.30.256. DEFINITIONS. In this chapter

17 (1) "court" means a superior court of the state;

18 (2) "department" means the Department of Health and Social
19 Services or its designee;

20 (3) "gravely disabled" means a condition in which a person,
21 as a result of mental illness, is in danger of physical harm arising
22 from such complete neglect of basic needs for food, clothing, shelter,
23 or personal safety as to render serious accident, illness or death
24 highly probable if care by another is not taken;

25 (4) "inpatient treatment" means care and treatment rendered
26 inside or on the premises of a treatment facility, or a part or unit of
27 a treatment facility for a continual period of 24 hours or longer;

28 (5) "least restrictive alternative" means mental health
29 treatment facilities and conditions of treatment which are

1 (A) no more harsh, hazardous or intrusive than neces-
2 sary to achieve the treatment objectives of the patient; and

3 (B) involve no restrictions on physical movement nor
4 supervised residence or inpatient care except as reasonably neces-
5 sary for the administration of treatment or the protection of the
6 patient or others from physical injury;

7 (6) "likely to cause serious harm" means

8 (A) a substantial risk of imminent and substantial
9 bodily harm to the person himself, as manifested by recent threats
10 of or attempts at suicide or bodily harm; or

11 (B) substantial risk of imminent and substantial bodily
12 harm to one or more other persons as manifested by behavior causing,
13 attempting or threatening harm, including, in regard to evalua-
14 tions, at least one incident within 30 days before the filing of a
15 petition for emergency hospitalization;

16 (7) "mental health professional" means a psychiatrist,
17 psychologist, psychiatric nurse, or social worker, and such others as
18 may be defined by regulations adopted by the department;

19 (8) "mental illness" means an organic, mental or emotional
20 impairment which has substantial adverse effects on an individual's
21 ability to exercise conscious control of his actions or ability to
22 perceive reality or to reason or understand; mental retardation, epi-
23 lepsy, drug addiction and alcoholism do not per se constitute mental
24 illness, although persons suffering from these conditions may also be
25 suffering from mental illness;

26 (9) "provider of outpatient care" means a mental health pro-
27 fessional or hospital, clinic, institution, center or other health care
28 facility who has been designated by the department to accept for treat-
29 ment patients who are ordered to undergo involuntary outpatient treat-

1 ment by the court or who are released early from inpatient commitments
2 on condition that they undergo outpatient treatment;

3 (10) "state" means a state of the United States, the District
4 of Columbia, the territories and possessions of the United States, and
5 the Commonwealth of Puerto Rico, and, with the approval of the United
6 States Congress, Canada;

7 (11) "treatment facility" means a hospital, clinic, institu-
8 tion, center or other health care facility which has been designated by
9 the department for the treatment or rehabilitation of mentally ill
10 persons and for the receipt of these persons by court-ordered commit-
11 ment.

12 * Sec. 3. This Act takes effect October 1, 1977.
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