

Original sponsor: Parr

Offered: 2/16/79  
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 2

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

9 \* Section 1. AS 47.30 is amended by adding new sections to read:

10 ARTICLE 6. MENTAL HEALTH PROGRAM.

11 Sec. 47.30.655. PURPOSE. The purpose of this major revision of  
12 Alaska civil commitment statutes is to more adequately protect the legal  
13 rights of persons suffering from mental illness. The legislature has  
14 attempted to balance the individual's constitutional right to physical  
15 liberty and the state's interest in (1) protecting society from persons  
16 who are dangerous to others; and (2) protecting persons who are dan-  
17 gerous to themselves, by providing due process safeguards at all stages  
18 of commitment proceedings. In addition, the following principles of  
19 modern mental health care have guided this revision:

20 (1) that persons be given every opportunity to accept volun-  
21 tary treatment before involvement with the judicial system;

22 (2) that persons be treated in the least restrictive alter-  
23 native environment consistent with their treatment needs;

24 (3) that treatment occur as promptly as possible and as close  
25 to the individual's home as possible;

26 (4) that a system of mental health community facilities and  
27 supports be available;

28 (5) that patients be informed of their legal rights and be  
29 informed of and allowed to participate in their treatment program as

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to  
3 others be committed only if there is a reasonable expectation of im-  
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department  
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of  
8 mental illness and the care and treatment of the mentally ill, including  
9 inpatient and outpatient care and treatment and the procurement of  
10 services of specialists or other persons on a contractual or other  
11 basis;

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

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities  
18 equipped and qualified to provide inpatient and outpatient care and  
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in  
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for  
23 the care or treatment of the mentally ill in facilities of the govern-  
24 mental agencies in the state or in another state;

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

27 (8) enter into contracts which incorporate safeguards consis-  
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil  
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48  
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70  
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,  
5 requests for release and consents to medical or psychological treatment  
6 required by AS 47.30.655 - 47.30.915;

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

9 (11) visit each treatment facility at least annually to review  
10 methods of care or treatment for patients;

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

13 (13) delegate upon mutual agreement to another officer or  
14 agency of it, or a political subdivision of this state, or a treatment  
15 facility designated, any of the duties and powers imposed upon it by AS  
16 47.30.655 - 47.30.915; and

17 (14) promulgate regulations to implement the provisions of AS  
18 47.30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14  
21 years of age or older may be voluntarily admitted to a treatment facil-  
22 ity if he is suffering from mental illness and he voluntarily signs the  
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon application for  
25 voluntary admission a person shall be given a copy of the following  
26 documents which shall be explained to him as necessary:

27 (1) notice of rights as set out in AS 47.30.825 - 47.30.865  
28 and an explanation of any document served upon him; and

29 (2) notice that should he desire to leave at a time when the

1 treatment facility determines that he is mentally ill and as a result is  
2 likely to cause serious harm to himself or others or is gravely dis-  
3 abled, the facility could initiate commitment proceedings against him.

4 (b) If the applicant for voluntary admission does not understand  
5 English, the explanation shall be given in a language he understands.

6 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. The professional  
7 person in charge of the treatment facility or his designee shall dis-  
8 charge any patient who no longer meets the standards established in AS  
9 47.30.670.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT. A  
11 voluntary patient who is 14 years of age or older and who desires to  
12 leave a treatment facility must submit to the facility a written notice  
13 of intent to leave on a form provided to him by the facility. Upon  
14 immediate investigation, the professional person in charge of the treat-  
15 ment facility or a designated mental health professional shall evaluate  
16 the patient in writing and discharge the patient immediately or give him  
17 written notice that involuntary commitment proceedings will be initiated  
18 against him. The treatment facility may detain the patient for no more  
19 than 48 hours after receipt of the patient's notice of intent to leave  
20 in order to initiate involuntary commitment proceedings.

21 Sec. 47.30.690. VOLUNTARY ADMISSION OF MINORS UNDER 14 YEARS OF  
22 AGE. (a) A minor under the age of 14 may be admitted for 30 days  
23 evaluation, diagnosis and treatment at a designated treatment facility  
24 if his parent or guardian signs the admission papers and if, in the  
25 opinion of the professional person in charge of the facility,

26 (1) he is gravely disabled or is suffering from mental ill-  
27 ness and as a result he is likely to cause serious harm to himself or  
28 others;

29 (2) there is no less restrictive alternative available for

1 his treatment; and

2 (3) there is reason to believe that the patient's mental  
3 condition could be improved by the course of treatment.

4 (b) The minor may be released by the treatment facility at any  
5 time during the 30-day period if the professional person in charge of  
6 the facility or his designated mental health professional determines the  
7 minor would no longer benefit from continued hospitalization and the  
8 minor is not dangerous. The minor's parents or his guardian must be  
9 notified by the facility of the contemplated release and that, unless  
10 they initiate involuntary commitment proceedings, the minor will be  
11 released.

12 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14  
13 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT. The parent or  
14 guardian of any minor who is less than 14 years of age may request and  
15 obtain immediate release of the minor at any time.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult person, a judge may issue an ex parte  
19 order orally, or in writing, within 48 hours of the petition stating  
20 that there is probable cause to believe a person is mentally ill and  
21 that condition causes the person to be gravely disabled or to present a  
22 likelihood of serious harm to himself or others. The court shall pro-  
23 vide findings on which the conclusion is based, appoint an attorney to  
24 represent the respondent, and may direct that a peace officer take the  
25 person into custody and deliver him to the nearest designated appro-  
26 priate facility for emergency examination or treatment. The ex parte  
27 order shall be provided to the respondent and made a part of the re-  
28 spondent's clinical record.

29 (b) The petition required in (a) of this section shall allege that

1 the respondent is reasonably believed to present a likelihood of serious  
2 harm to himself or others or is gravely disabled as a result of mental  
3 illness and shall specify the factual information on which that belief  
4 is based including the names and addresses of all persons known to the  
5 petitioner who have knowledge of those facts through personal observa-  
6 tion.

7 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace  
8 officer who has probable cause to believe that a person is gravely  
9 disabled or is suffering from mental illness and is likely to cause  
10 serious harm to himself or others of such an immediate nature that con-  
11 siderations of safety do not allow initiation of involuntary commitment  
12 procedures set out in AS 47.30.700, may cause the person to be taken  
13 into custody and delivered to a treatment or evaluation facility. Upon  
14 arrival at the treatment facility, the peace officer shall complete an  
15 application for examination of the person in custody and be interviewed  
16 by a mental health professional at the facility.

17 Sec. 47.30.710. EXAMINATION. (a) A patient who is delivered  
18 under AS 47.30.700 or 47.30.705 for emergency examination and treatment  
19 to a treatment facility shall be thoroughly examined and evaluated as to  
20 his mental and physical condition by a mental health professional and by  
21 a physician within 24 hours after arrival at the facility.

22 (b) If the mental health professional who performs the emergency  
23 examination has reason to believe that the patient is (1) mentally ill  
24 and that condition causes the person to be gravely disabled or to pre-  
25 sent a likelihood of serious harm to himself or others, and (2) is in  
26 need of care or treatment, the mental health professional may hospi-  
27 talize him on an emergency basis. If a judicial order has not been  
28 obtained under AS 47.30.700, the mental health professional shall apply  
29 for an ex parte order authorizing hospitalization for emergency treat-

1 ment.

2 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a  
3 proper order for evaluation, it must accept the order and the person for  
4 an evaluation period not to exceed 72 hours. The facility shall  
5 promptly notify the court of the date and time of the respondent's  
6 arrival. The court shall set a date, time and place for a probable  
7 cause hearing, to be held if needed within 72 hours after the respon-  
8 dent's arrival, and the court shall notify the facility, the respondent,  
9 his attorney, and the prosecuting attorney of the hearing arrangements.  
10 Evaluation personnel, where used, shall similarly notify the court of  
11 the date and time when they first met with the respondent.

12 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If  
13 at any time in the course of the 72-hour period the mental health pro-  
14 fessionals conducting the evaluation determine that the respondent does  
15 not meet the standards for commitment specified in AS 47.30.700, the  
16 respondent shall be discharged from the facility or the place of evalua-  
17 tion by evaluation personnel and the petitioner and the court so noti-  
18 fied.

19 Sec. 47.30.725. 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. Notification shall be in a language understood by the respondent.  
23 His guardian, if any, and if the respondent requests, an adult desig-  
24 nated by the respondent, shall also be notified of the respondent's  
25 rights under this section.

26 (b) Unless a person is released or voluntarily admits himself for  
27 treatment within 72 hours of his arrival at the facility or, if he is  
28 evaluated by evaluation personnel, within 72 hours from the beginning of  
29 his meeting with evaluation personnel, he is entitled to a court hearing

1 to be set for not later than the end of that 72-hour period to determine  
2 whether there is probable cause to detain him after the 72 hours have  
3 expired for up to an additional 14 days on the grounds that he is grave-  
4 ly disabled or mentally ill and as a result presents a likelihood of  
5 serious harm to himself or others. The facility or evaluation personnel  
6 shall give notice to the court of the releases and voluntary admissions  
7 under AS 47.30.700 -47.30.820.

8 (c) The respondent has a right to communicate immediately, at the  
9 department's expense, with his guardian, if any, or an adult designated  
10 by the respondent and the attorney designated in the ex parte order, or  
11 any attorney of the respondent's choice.

12 (d) The respondent has the right to be represented by an attorney,  
13 to present evidence and to cross-examine witnesses who testify against  
14 him at the hearing.

15 (e) The respondent has the right to be free of the effects of  
16 medication and other forms of treatment to the maximum extent possible  
17 before the probable cause hearing; however, the facility or evaluation  
18 personnel shall be able to treat him with medication under prescription  
19 by a licensed physician or a less restrictive alternative of his pre-  
20 ference if, in the opinion of a licensed physician and another mental  
21 health professional, these treatments are necessary to

22 (1) prevent bodily harm to the respondent or others;

23 (2) prevent such deterioration of the respondent's mental  
24 condition that subsequent treatment might not enable him to recover; or

25 (3) allow the respondent to prepare for and participate in  
26 the proceedings.

27 (f) A respondent, 'if he is represented by counsel, may waive,  
28 orally or in writing, the 72-hour time limit on the probable cause  
29 hearing and have the hearing set for a date no more than seven calendar

1 days after his arrival at the facility. The respondent's counsel shall  
2 immediately notify the court of the waiver.

3 Sec. 47.30.730. PROCEDURE FOR 14-DAY COMMITMENT; PETITION FOR  
4 COMMITMENT. (a) In the course of the 72-hour evaluation period, a  
5 petition for commitment to a treatment facility may be filed in court.  
6 The petition must be signed by two mental health professionals who have  
7 examined the respondent. The petition must

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

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

16 (3) allege with respect to a gravely disabled respondent that  
17 there is reason to believe that the respondent's mental condition could  
18 be improved by the course of treatment sought;

19 (4) allege that a specified treatment facility or less re-  
20 strictive alternative that is appropriate to the respondent's condition  
21 has agreed to accept the respondent;

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

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

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

1           Sec. 47.30.735. PROBABLE CAUSE HEARING. (a) Upon receipt of a  
2 proper petition for commitment, the court shall hold a probable cause  
3 hearing at the date and time previously specified according to proce-  
4 dures set out in AS 47.30.715.

5           (b) The hearing shall be conducted in a physical setting least  
6 likely to have a harmful effect on the mental or physical health of the  
7 respondent, within practical limits. At the hearing, in addition to  
8 other rights specified in this chapter, the respondent has the right

9           (1) to be present at the hearing; this right may be waived  
10 only with the respondent's informed consent; if the respondent is in-  
11 capable of giving informed consent, the respondent may be excluded from  
12 the hearing only if the court, after hearing, finds that the incapacity  
13 exists and that there is a substantial likelihood that the respondent's  
14 presence at the hearing would be severely injurious to his mental or  
15 physical health;

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

18           (3) to have the hearing open or closed to the public as he  
19 elects;

20           (4) to be proceeded against according to the rules of evi-  
21 dence applicable to civil proceedings;

22           (5) to have an interpreter if he does not understand English;

23           (6) to present evidence on his behalf;

24           (7) to cross-examine witnesses who testify against him;

25           (8) to remain silent.

26           (c) At the conclusion of the hearing the court may commit the re-  
27 spondent to a treatment facility for not more than 14 days if it finds,  
28 by clear and convincing evidence, that the allegations required in AS  
29 47.30.730(a) are true.

1 (d) If the court finds that there is a viable less restrictive  
2 alternative available and that the respondent has been advised of and  
3 refused voluntary treatment through the alternative, the court may order  
4 the less restrictive alternative treatment for not more than 14 days.

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

9 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 14-DAY  
10 COMMITMENT. (a) At any time during the respondent's 14-day commitment,  
11 the professional person in charge of the treatment facility to which the  
12 person has been confined, or his professional designee, may file with  
13 the court a petition for 90-day commitment of that person. The petition  
14 must include all material required under AS 47.30.730(a) except that  
15 references to "14 days" shall be read as "90 days"; and

16 (1) allege that the respondent has threatened, attempted, or  
17 inflicted serious bodily harm upon himself or another since his accep-  
18 tance for evaluation, or that he was committed initially as a result of  
19 conduct in which he attempted or inflicted serious bodily harm upon  
20 himself or another, or that he continues to be gravely disabled;

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

23 (3) be verified by the professional person in charge of the  
24 facility providing treatment during the 14-day commitment, or his pro-  
25 fessional designee.

26 (b) The court shall have copies of the petition for 90-day commit-  
27 ment served upon the respondent, his attorney, and his guardian, if any.  
28 The petition for 90-day commitment and proofs of service shall be filed  
29 with the clerk of the court, and a date for hearing shall be set, by the

1 end of the next judicial day, for not later than five judicial days from  
2 the date of filing of the petition. The clerk shall notify the respon-  
3 dent, his attorney, and the petitioner of the hearing date at least  
4 three judicial days in advance of the hearing.

5 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A person  
6 subject to a petition for 90-day commitment has, in addition to the rights  
7 specified elsewhere in this chapter, or otherwise applicable, the rights  
8 enumerated in this section. Written notice of these rights shall be  
9 served on the respondent, his attorney, his guardian, if any, and an  
10 adult designated by the respondent at the time the petition for 90-day  
11 commitment is served. An attempt shall be made by oral explanation to  
12 insure that the respondent understands the rights enumerated in the  
13 notice. If the respondent does not understand English, the explanation  
14 shall be given in a language he understands.

15 (b) Unless the respondent is released or voluntarily admits him-  
16 self following the filing of a petition for 90-day commitment and before  
17 the hearing, he is entitled to a judicial hearing within five judicial  
18 days of the filing of the petition as set out in AS 47.30.740(b) to  
19 determine whether the allegations required in AS 47.30.740(a) are true.

20 (c) The respondent is entitled to a jury trial upon request filed  
21 with the court if the request is made at least two judicial days before  
22 the hearing. If the respondent requests a jury trial, the hearing may  
23 be continued for no more than 10 calendar days. The jury shall consist  
24 of six persons.

25 (d) If a jury trial is not requested, the court may still continue  
26 the hearing at the respondent's request for no more than 10 calendar  
27 days.

28 (e) The respondent has a right to retain an independent licensed  
29 physician or other mental health professional to examine him and to

1 testify on his behalf. Upon request by an indigent respondent, the  
2 court shall appoint an independent licensed physician or other mental  
3 health professional to examine him and testify on his behalf. The court  
4 shall give consideration to an indigent respondent's request for a  
5 specific physician or mental health professional. A motion for the  
6 appointment may be filed in court at any reasonable time before the  
7 hearing and shall be acted upon promptly. Reasonable fees and expenses  
8 for such expert examiners shall be determined by the rules of court.

9 (f) The proceeding shall in all respects be in accord with con-  
10 stitutional guarantees of due process and, except as specifically pro-  
11 vided in this chapter, the rules of evidence and procedure in civil  
12 proceedings.

13 (g) Until the court issues a final decision, the respondent shall  
14 continue to be treated at the treatment facility unless the petition for  
15 90-day commitment is withdrawn. If no decision has been made within 20  
16 days of filing of the petition, not including extensions of time due to  
17 jury trial or other requests by the respondent, he shall be released.

18 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-  
19 ducted in the same manner, and with the same rights for the respondent,  
20 as set out in AS 47.30.735(b).

21 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within  
22 the time limit specified in AS 47.30.745, the court may commit the  
23 respondent to a treatment facility for no more than 90 days only if the  
24 court or jury finds by clear and convincing evidence that the allega-  
25 tions required in AS 47.30.740(a) are true.

26 (b) If the court or jury finds that there is a less restrictive  
27 alternative available and that the respondent has been advised of and  
28 refused voluntary treatment through the alternative, the court may order  
29 the less restrictive alternative treatment after acceptance of the

1 program by the respondent for a period not to exceed 90 days.

2 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall  
3 always be available at a state-operated hospital; however, if space is  
4 available and upon acceptance by another treatment facility, a respon-  
5 dent who is committed shall be placed by the court at the treatment  
6 facility closest to his home unless the court finds that

7 (1) another treatment facility in the state has a program  
8 more suited to the respondent's condition, and this interest outweighs  
9 the desirability of the respondent being closer to home;

10 (2) another treatment facility in the state is closer to the  
11 respondent's friends or relatives who could benefit him through their  
12 visits and communications; or

13 (3) the respondent wants to be further removed from his home,  
14 and the mental health professionals who sought his commitment concur in  
15 the desirability of removed placement.

16 Sec. 47.30.765. APPEAL. The respondent shall have the right to an  
17 appeal from any order of involuntary commitment. The court shall inform  
18 the respondent of this right.

19 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent  
20 shall be released from involuntary treatment at the expiration of 90  
21 days unless the professional person in charge of the treatment facility,  
22 or his designee, files a petition for a 120-day commitment conforming to  
23 the requirements of AS 47.30.740(a) except that all references to "14-  
24 day commitment" shall be read as "the previous 90-day commitment" and  
25 all references to "90-day commitment" shall be read as "120-day commit-  
26 ment".

27 (b) The procedures for service of the petition, notification of  
28 rights and judicial hearing shall be as set out in AS 47.30.740 -47.30.-  
29 750. If the court or jury finds by clear and convincing evidence that

1 the grounds for 90-day commitment as set out in AS 47.30.755 are pre-  
2 sent, the court may order the respondent committed for an additional  
3 treatment period not to exceed 120 days from the date on which the first  
4 90-day treatment period would have expired.

5 (c) Successive 120-day commitments are permissible on the same  
6 ground and under the same procedures as the original 120-day commitment.  
7 No order of commitment may exceed 120 days.

8 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-  
9 30.700 - 47.30.820 are applicable to minors; however, all notices re-  
10 quired to be served on the respondent in AS 47.30.700 - 47.30.820 shall  
11 also be served on the parent or guardian of respondents who are minors,  
12 and parents or guardians of minor respondents shall be notified that  
13 they may appear as parties in any commitment proceeding concerning the  
14 minor and that as parties they are entitled to retain their own attorney  
15 or have one appointed for them by the court. A minor has the same  
16 rights to waiver and informed consent as an adult under this chapter;  
17 however, he shall be represented by counsel in waiver and consent pro-  
18 ceedings.

19 Sec. 47.30.780. EARLY DISCHARGE. The professional person in  
20 charge of a treatment facility or his designee shall at any time dis-  
21 charge a committed person on the ground that the person is no longer  
22 gravely disabled or likely to cause serious harm as a result of mental  
23 illness. A certificate to this effect shall be sent to the court which  
24 shall enter an order officially terminating the involuntary commitment.

25 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing  
26 involuntary treatment on an inpatient basis under this chapter may be  
27 given authorization to be absent from the treatment facility during  
28 times specified by the professional person in charge of the facility, or  
29 his professional designee, when an authorization to be absent is in the

1 best interests of the respondent and he is not likely to cause harm to  
2 himself or others.

3 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-  
4 spondent undergoing involuntary treatment on an inpatient basis under  
5 this chapter is absent from the treatment facility without, or in excess  
6 of, authorization under AS 47.30.785, the professional person in charge  
7 of the facility or his professional designee may cause the respondent to  
8 be taken into custody and returned to the treatment facility.

9 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

10 (a) A committed person who was not originally committed to involuntary  
11 outpatient care under the provisions of this chapter may be released  
12 before the expiration of his commitment period on the condition that he  
13 receive specified outpatient treatment from a provider of outpatient  
14 care, for a length of time not to exceed the duration of his commitment  
15 period, when the professional person in charge of the treatment facility  
16 or his professional designee finds that

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

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

21 (b) A copy of the conditions for early release shall be given to  
22 the person, his attorney, his guardian, if any, the provider of out-  
23 patient care, and the court.

24 (c) If at any time during the commitment period the provider of  
25 outpatient care determines that the person can no longer be treated on  
26 an outpatient basis because he is likely to cause harm to himself or  
27 others or is gravely disabled, the provider shall give the patient oral  
28 and written notice, with copies to the patient's attorney, his guardian,  
29 if any, the court and inpatient treatment facility, that he must return

1 to the inpatient treatment facility within 24 hours for a length of time  
2 not to exceed the duration of his commitment period. If the person  
3 fails to arrive at the treatment facility under a 24-hour notice, the  
4 facility shall cause the person to be taken into custody and transported  
5 to the facility. A peace officer shall assist the provider of out-  
6 patient care or the facility if requested.

7 (d) If the provider of outpatient care determines that the patient  
8 will require continued outpatient care after the expiration of his  
9 commitment period, the provider is entitled to initiate further commi-  
10 nent proceedings in the same manner as if the provider were the pro-  
11 fessional person in charge of a treatment facility, and the provisions  
12 of this chapter are applicable, except that provisions relating to  
13 inpatient treatment shall be read as applicable to outpatient treatment.

14 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO  
15 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the  
16 provisions of this chapter to receive involuntary outpatient treatment  
17 may be required to undergo inpatient treatment when the provider of out-  
18 patient care finds that (1) the respondent is mentally ill and is likely  
19 to cause serious harm to himself or others or is still gravely disabled;  
20 (2) the respondent's behavior since the hearing resulting in court-  
21 ordered treatment indicates that he now needs inpatient treatment to  
22 protect himself or others; (3) there is reason to believe that the  
23 respondent's mental condition will improve as a result of inpatient  
24 treatment; and (4) there is an inpatient facility appropriate to the re-  
25 spondent's need which will accept him as a patient. Treatment for these  
26 respondents shall be available at state-operated hospitals at all times.

27 (b) Upon making the findings specified in (a) of this section, the  
28 provisions of AS 47.30.795(b) relating to notice and AS 47.30.745 re-  
29 lating to hearing are applicable.

1           Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-  
2           vided in (b) of this section,

3                   (1) computations of a 72-hour evaluation period do not in-  
4                   clude Saturdays, Sundays, legal holidays, or any period of time neces-  
5                   sary to transport the respondent to the treatment facility;

6                   (2) a 14-day commitment period expires at the end of the 14th  
7                   day after the 72 hours following initial acceptance;

8                   (3) a 90-day commitment period expires at the end of the 90th  
9                   day after the expiration of a 14-day period of treatment;

10                  (4) a 120-day commitment period expires at the end of the  
11                  120th day, after the expiration of a 90-day period of treatment or  
12                  previous 120-day period, whichever is applicable.

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

22                  Sec. 47.30.810. HABEAS CORPUS. Nothing in this chapter may be  
23                  construed as limiting a person's right to a writ of habeas corpus.

24                  Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-  
25                  CATION. (a) A person acting in good faith upon either actual knowledge  
26                  or reliable information who makes application for evaluation or treat-  
27                  ment of another person under this chapter is not subject to civil or  
28                  criminal liability.

29                  (b) A mental health professional or peace officer who in good

1 faith exercises his professional judgment in fulfilling an obligation or  
2 discretionary responsibility under this chapter is not subject to civil  
3 or criminal liability for his act unless it can be shown that it was  
4 done with gross negligence.

5 (c) A person who wilfully initiates an involuntary commitment pro-  
6 cedure under AS 47.30.700 without having good cause to believe that the  
7 other person is suffering from a mental illness and as a result is  
8 gravely disabled or likely to cause serious harm to himself or others,  
9 is guilty of a felony.

10 Sec. 47.30.820. RETROACTIVITY. Except as provided in this chap-  
11 ter, the provisions of this chapter do not in themselves impair any  
12 action taken in a proceeding pending under statutes in effect before  
13 October 1, 1979, nor do they apply retroactively to terminate the deten-  
14 tion of a person previously committed under statutes in effect before  
15 October 1, 1979. However, 90 days after October 1, 1979, the provisions  
16 of this chapter apply to all persons committed under statutes in effect  
17 before October 1, 1979.

18 ARTICLE 9. PATIENT RIGHTS.

19 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are  
20 receiving services from a treatment facility licensed under AS 18.20.-  
21 020, have the following rights:

22 (1) The patient, or his counsel, guardian, or the adult  
23 designated in accordance with AS 47.30.725 if the patient is mentally  
24 incapable of participation, shall be entitled to participate in form-  
25 ulating his individualized treatment plan and in the evaluation process  
26 as much as possible, at minimum to the extent of requesting specific  
27 forms of therapy, inquiring why specific therapies are or are not in-  
28 cluded in his treatment program, and being informed as to his present  
29 medical and psychological condition and prognosis. The treating phy-

1           sician may not withhold any of this information from the patient.

2           (2) Counsel and guardian for a patient, or if there is no  
3 guardian the adult designated in accordance with AS 47.30.725, have the  
4 right at all reasonable times to examine all records of, and plans for,  
5 the patient's treatment and to make copies, upon payment of costs if  
6 requested, of any portion of these records.

7           (3) Every patient has the right to know the name of medica-  
8 tion that he is asked to take, what its purpose is, and what side  
9 effects may occur with this medication. If the patient is incapable of  
10 understanding the purpose and side effects of the medication, the treat-  
11 ing physician or mental health professional shall explain it to the  
12 patient's counsel or guardian, or if there is no guardian the adult  
13 designated in accordance with AS 47.30.725.

14           (4) The quiet room, or other form of physical restraint, may  
15 not be used, except as provided in this paragraph unless a patient is  
16 likely to physically harm himself or others unless restrained. The form  
17 of restraint utilized shall be that which is in the patient's best  
18 interest and which constitutes the least restrictive alternative avail-  
19 able. When practicable, the patient shall be consulted as to his pre-  
20 ference among forms of adequate, medically advisable restraints in-  
21 cluding medication, and his preference shall be considered. Nothing in  
22 this section is intended to limit the right of staff to use the quiet  
23 room at the patient's request or with his knowing concurrence when deem-  
24 ed in the best interests of the patient. Patients placed in a quiet  
25 room or other physical restraint shall be checked at least every 15  
26 minutes or more often if good medical practice so indicates. Patients  
27 in the quiet room must be visited by a staff member at least once every  
28 hour and must be given adequate food and drink and access to bathroom  
29 facilities. At no time may a patient be kept in the quiet room or other

1 form of physical restraint against his will longer than necessary to  
2 accomplish the purposes set out in this paragraph. All uses of the  
3 quiet room or other restraint shall be recorded in the patient's medical  
4 record, the information including but not limited to the reasons for its  
5 use, the duration of use, and the name of the authorizing staff member.

6 (5) All persons have the right to be free from unnecessary or  
7 excessive medication. Psychotropic medication shall be administered  
8 only on the order of a licensed physician when the physician determines  
9 that such medication is in the best interest of the patient or will  
10 prevent serious harm to others.

11 (6) A patient capable of giving informed consent shall have  
12 the absolute right to accept or refuse electro-convulsive therapy or  
13 aversive conditioning. Patients who lack substantial capacity to make  
14 this decision may not be given such therapy or conditioning without a  
15 court order following a hearing compatible with full due process.

16 (7) In no event may treatment include psychosurgery, lobotomy  
17 or other comparable form of treatment without specific informed consent  
18 of the patient, including a minor unless he is clearly too young or  
19 disabled to give an informed consent in which case the consent of his  
20 legal guardian shall be required. In addition, no such treatment may be  
21 given without a court order after hearing in accord with full rights of  
22 due process.

23 (8) When, in the written opinion of a patient's attending  
24 physician, a true medical emergency exists and a surgical operation is  
25 necessary to save the life, physical health, eyesight, hearing or member  
26 of the patient, the professional person in charge of the treatment  
27 facility or his professional designee may give consent to the surgical  
28 operation if time will not permit obtaining the consent of the proper  
29 relatives or guardian or appropriate judicial authority. However, no

1 operation may be authorized if the patient is not a minor and knowingly  
2 withholds consent on religious grounds.

3 (9) Each person upon discharge shall have a discharge plan  
4 specifying the kinds and amount of care and treatment he should have  
5 after discharge and such other steps as he might take to benefit his  
6 mental health after leaving the facility. The patient shall have the  
7 right to participate, as far as practicable, in formulating this plan.  
8 A copy of the plan shall be given to him, his guardian, the court, if  
9 appropriate, and any follow-up agencies.

10 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a) No  
11 experimental treatments involving any significant risk of physical or  
12 psychological harm may be administered to any patient.

13 (b) If the personnel of an evaluation or treatment facility are  
14 uncertain as to whether a proposed technique is experimental or is  
15 experimental as applied to a particular respondent or would involve a  
16 significant risk of mental or physical harm to the patient, the matter  
17 may be referred to the commissioner of health and social services for a  
18 determination. The patient, his attorney, his guardian, if any, and an  
19 adult designated by the patient, shall, simultaneously with the referral  
20 to the commissioner, be provided with copies of all the documents by  
21 which the referral is made and shall have the opportunity to provide  
22 evidence to the commissioner on the question.

23 (c) A determination that a treatment technique is experimental and  
24 entails significant risks of mental or physical harm shall be binding  
25 upon all persons involved in the administration of treatment to a  
26 patient for purposes of this section.

27 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. No person undergoing  
28 evaluation or treatment under this chapter may be denied a civil right,  
29 including but not limited to, the right to free exercise of religion and

1 the right to dispose of property, sue and be sued, enter into contrac-  
2 tual relationships and vote. Court-ordered treatment or evaluation  
3 under this chapter is not a determination of legal incompetency.

4 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A  
5 person undergoing evaluation or treatment under this chapter shall

6 (1) not be photographed without his consent and that of his  
7 guardian if a minor, except that he may be photographed upon admission  
8 to a facility for identification and administrative purposes of the  
9 facility; all photographs shall be confidential and may not be released  
10 by the facility except under court order;

11 (2) at the time of admission to an evaluation or treatment  
12 facility, have reasonable precautions taken by the staff to inventory  
13 and safeguard his personal property; a copy of the inventory signed by  
14 the staff member making it shall be given to the patient and made avail-  
15 able to his attorney and any other person authorized by the patient to  
16 inspect the document;

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

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

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

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

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

29 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records

1 obtained in the course of evaluation, examination or treatment are  
2 confidential and are not public records, except as the requirements of a  
3 hearing under this chapter may necessitate a different procedure.  
4 Information and records may be disclosed under regulations established  
5 by the department only to

6 (1) physicians and providers of health, mental health or  
7 social and welfare services involved in caring for, treating or rehabil-  
8 itating the patient;

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

11 (3) persons authorized by a court order;

12 (4) persons doing research or maintaining health statistics,  
13 if the anonymity of the patient is assured, and the facility recognizes  
14 the project as a bona fide research or statistical undertaking;

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

18 (6) governmental or law enforcement agencies when necessary  
19 to secure the return of a patient who is on unauthorized absence from a  
20 facility where the patient was undergoing evaluation or treatment.

21 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge  
22 of a respondent from a treatment facility or the issuance of a court  
23 order denying a petition for commitment, a respondent may at any time  
24 move to have all court records pertaining to the proceedings expunged on  
25 condition that he file a full release of all claims of whatever nature  
26 arising out of the proceedings and the statements and actions of persons  
27 and facilities in connection with the proceedings.

28 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-  
29 30.825 - 47.30.855 shall be prominently posted in all treatment facili-

1 ties in places accessible to all patients. A patient who does not  
2 understand English shall have his rights explained to him in a language  
3 he understands.

4 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where  
5 practicable all documents and notices required by this chapter to be  
6 served on a respondent, or on his parents, guardian or adult designee,  
7 shall be explained in a language the person understands if he is not  
8 competent in English.

9 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a  
10 person is or has been evaluated or treated for mental illness may not be  
11 a basis for discrimination in:

- 12 (1) seeking employment;
- 13 (2) resuming or continuing professional practice or previous  
14 occupation;
- 15 (3) obtaining or retaining housing;
- 16 (4) obtaining or retaining licenses or permits, including but  
17 not limited to motor vehicle licenses, motor vehicle operator's and  
18 chauffeur's licenses, and professional or occupational licenses.

19 (b) Applications for positions, licenses and housing may contain  
20 no requests for information concerning evaluation or treatment experi-  
21 ences.

22 (c) It is unlawful for a person to aid, abet, incite, compel or  
23 coerce the doing of an act forbidden under this section or to attempt to  
24 do so.

25 ARTICLE 10. MISCELLANEOUS PROVISIONS.

26 Sec. 47.30.870. TRANSPORTATION. When a person is to be evaluated  
27 or involuntarily committed to a facility, or presented for a judicial  
28 hearing under this chapter, the department shall arrange, and is autho-  
29 rized to pay for, the person's necessary transportation to the desig-

1 nated facility or hearing with appropriate medical or nursing attendants  
2 and if necessary a peace officer. The department shall pay return  
3 transportation of a person, appropriate medical and nursing attendants,  
4 and if necessary a peace officer, after a determination that the person  
5 is not committable, at the end of a commitment period, or at the end of  
6 a voluntary stay following an evaluation conducted in accordance with AS  
7 47.30.715 at a treatment facility. When advisable, one or more rela-  
8 tives or friends shall be permitted to accompany the person. The de-  
9 partment may pay necessary travel, housing and meal expenses incurred by  
10 one relative or friend in accompanying the person if the department  
11 determines that the person's best interests require that he be accom-  
12 panied by the relative or friend and the relative or friend is indigent.

13 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers  
14 of a person who is admitted to a treatment facility under this chapter  
15 shall include a statement as to his residence. The department may  
16 return a patient who is not a resident of the state to the state of his  
17 residence with court approval if the person has been committed. If the  
18 state in which he has residence does not accept him as a patient, the  
19 person shall be treated as a resident under the provisions of this  
20 chapter.

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 in  
27 the state designated by the department. The department may enter into  
28 reciprocal agreements or contracts with another state providing for  
29 custody, care or treatment, or return of mentally ill residents of this

1 state by the other state and for the custody and care or treatment of  
2 mentally ill residents of that state by this state on a reimbursable  
3 basis. A resident of this state who has been committed in another state  
4 and is returned in accordance with this section shall, within 72 hours  
5 of his admission to the designated facility, be examined. After exami-  
6 nation the mental health professional in charge of the facility shall  
7 release him or shall petition for involuntary commitment as prescribed  
8 in AS 47.30.740.

9 (c) In taking action under (a) and (b) of this section, consider-  
10 ation shall be given to the best interests of the patient particularly  
11 to the relationship of the patient to his family, legal guardian, or  
12 friends to maintain relationships and encourage visits beneficial to the  
13 patient.

14 Sec. 47.30.880. INTERSTATE COMPACT. This state ratifies and  
15 adopts by reference "The Interstate Compact on Mental Health" consisting  
16 of 14 articles approved on September 30, 1955, by the Northeast State  
17 Governments Conference on Mental Health. The department is designated  
18 as compact administrator with full power to carry out the purpose of the  
19 compact and to make all necessary regulations to implement the compact.

20 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in this chapter  
21 alters or impairs the application or availability to a patient, while  
22 hospitalized in another state under contractual arrangements entered in  
23 accordance with the provisions of this chapter, of the rights, remedies  
24 or protective safeguards provided by the laws of this state.

25 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The  
26 department shall make arrangements which are necessary to insure that

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

29 (2) an indigent patient discharged is furnished suitable

1 transportation to his permanent residence in this state or other suit-  
2 able place at the discretion of the department and a reasonable amount  
3 of money to meet his immediate needs.

4 Sec. 47.30.895. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED  
5 FUNDS. (a) All assets in the custody of a treatment facility which  
6 belong to a patient who dies before his discharge, or to a patient who  
7 leaves the hospital without authority, if unclaimed by the patient or  
8 his legal heirs or representatives within four years after the death or  
9 departure of the patient, shall be disposed of in the manner prescribed  
10 by the department and the proceeds shall be deposited in the state  
11 treasury.

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

18 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-  
19 partment shall make diligent inquiry in every instance after departure  
20 without authority or death of a patient, to ascertain his whereabouts or  
21 that of his legal heirs or representatives, and shall turn over to the  
22 proper person the money or articles of personal property in the custody  
23 of the head of the facility to the credit of the patient. Claims to the  
24 money or articles of personal property, including claims by this state,  
25 may be presented to the department at any time. If a claim other than  
26 by this state is established by clear and convincing evidence more than  
27 four years after the death or departure without authority of a patient,  
28 it shall be certified to the legislature for consideration and the  
29 legislature may pay the claim.

1           Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)  
2           The witnesses and the jury in commitment proceedings are entitled to the  
3           fees, compensation and mileage established by law. Compensation, mile-  
4           age, fees and other expenses arising from commitment proceedings shall  
5           be audited and allowed by the superior court of the district in which  
6           the proceedings are held and when audited and allowed shall be paid by  
7           the clerk of the court in the same manner and from the fund as he pays  
8           the other incidental expenses of the court. To the extent that services  
9           of a peace officer are used to carry out the provisions of this chapter,  
10          he is entitled to fees and actual expenses from the same source and in  
11          the same manner as for his other official duties.

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

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

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

19          Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT  
20          FACILITY. (a) A patient, or his legal representative acting in a  
21          representative capacity, or his spouse, or his parents if the person is  
22          under the age of 18, shall pay or contribute to the payment of the  
23          charges for the care or treatment of the patient when hospitalized under  
24          AS 47.30.655 - 47.30.915. The charges may not exceed the actual cost of  
25          the care and treatment as determined by the department. The department  
26          may order payment of charges by the patient or by the person responsible  
27          for payment of the charges for the patient's care and treatment under  
28          this subsection, according to ability to provide for payment. The  
29          department may make necessary investigations to determine the ability to

1 provide for payment and may require sworn statements of income by the  
2 patient, or his legal representative acting in a representative ca-  
3 pacity, or his spouse or parent. In the exercise of his discretion, the  
4 commissioner may impose full liability for the patient's actual cost of  
5 care and treatment on the patient, his legal representative, his spouse  
6 or parent for refusal to supply a sworn statement of income. An order  
7 for payment of charges shall be issued by the department within six  
8 months after the date on which the charge was incurred. The order shall  
9 remain in full force and effect unless modified by subsequent court or  
10 department order. Liability under this subsection shall be determined  
11 as follows:

12 (1) a patient hospitalized on a voluntary basis under AS 47.-  
13 30.655 - 47.30.915, or the person responsible for payment of charges for  
14 the patient, may be required to pay according to his ability to provide  
15 for payment, as determined by the department, and in the manner and  
16 proportion which the department finds is not detrimental to the  
17 patient's rehabilitation; however, after the patient has been hospital-  
18 ized under this chapter for an aggregate period of 12 months, the  
19 patient or person responsible for payment may not be required to pay  
20 more than \$50 a month toward the charges for the care and treatment of  
21 the patient;

22 (2) a patient hospitalized on an involuntary basis under AS  
23 47.30.655 - 47.30.915, or the person responsible for payment of charges  
24 for the patient under this subsection, may not be required to pay more  
25 than \$50 a month toward the charges for the care and treatment of the  
26 patient.

27 (b) As used in (a) of this section, the term "actual cost of the  
28 care and treatment" means either the rate provided for by a contract  
29 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a

1 contract, a daily rate fixed by the department, and includes expenses of  
2 transportation incidental to examination or hospitalization.

3 (c) The department may charge, or accept from a person money or  
4 property, for the care or treatment of an in-patient or out-patient or  
5 for other purposes, even if the payment is not required by an order of  
6 the department, so long as the total payments received do not exceed the  
7 actual cost of care or treatment.

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

10 (e) If an order of placement is entered by the department under  
11 this section, and delinquency in the payment of any amount due the state  
12 under the order continues for a period of more than 30 days after the  
13 notification to the patient or the legal representative, spouse, or  
14 parent of the patient by the department, the state may proceed to  
15 collect the amounts due by appropriate proceedings. Actions to enforce  
16 the collection of payments may only be brought within three years after  
17 the date of notification of a delinquent payment.

18 (f) The orders of the department issued under this section shall  
19 relate only to charges incurred after October 1, 1979.

20 Sec. 47.30.915. DEFINITIONS. In this chapter

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

22 (2) "department" means the Department of Health and Social  
23 Services;

24 (3) "evaluation facility" means a health care facility that  
25 has been designated or is operated by the department to perform the  
26 evaluations described in this chapter, however, no correctional insti-  
27 tution or facility or jail may be used as an evaluation facility for  
28 purposes of this chapter;

29 (4) "evaluation personnel" means mental health professionals

1 designated by the department to conduct evaluations as prescribed in  
2 this chapter who conduct evaluations in places in which no staffed  
3 evaluation facility exists;

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

9 (6) "inpatient treatment" means care and treatment rendered  
10 inside or on the premises of a treatment facility, or a part or unit of  
11 a treatment facility for a continual period of 24 hours or longer;

12 (7) "least restrictive alternative" means mental health  
13 treatment facilities and conditions of treatment which are

14 (A) no more harsh, hazardous or intrusive than necessary  
15 to achieve the treatment objectives of the patient; and

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

20 (8) "likely to cause serious harm" means

21 (A) a substantial risk of imminent and substantial  
22 bodily harm to the person himself, as manifested by recent attempts  
23 at suicide or bodily harm; or

24 (B) substantial risk of imminent and substantial bodily  
25 harm to one or more other persons as manifested by behavior caus-  
26 ing, or attempting harm, including, in regard to evaluations, at  
27 least one incident within 30 days before the filing of a petition  
28 for emergency hospitalization;

29 (9) "mental health professional" means a psychiatrist or

1 physician who is licensed to practice in this state; a clinical psychol-  
2 ogist certified by the state Board of Psychologist and Psychological  
3 Associate Examiners; a registered nurse with psychiatric training,  
4 licensed by the State Board of Nursing; and a social worker with a  
5 master's degree and experience in the field of mental illness;

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

13 (11) "peace officer" includes a state police officer, muni-  
14 cipal or other local police officer, state, municipal, or other local  
15 health officer, public health nurse, United States marshal or deputy  
16 United States marshal, or a person authorized by the court.

17 (12) "provider of outpatient care" means a mental health pro-  
18 fessional or hospital, clinic, institution, center or other health care  
19 facility who has been designated by the department to accept for treat-  
20 ment by the court or who are released early from inpatient commitments  
21 on condition that they undergo outpatient treatment;

22 (13) "state" means a state of the United States, the District  
23 of Columbia, the territories and possessions of the United States, and  
24 the Commonwealth of Puerto Rico, and, with the approval of the United  
25 States Congress, Canada;

26 (14) "treatment facility" means a hospital, clinic, institu-  
27 tion, center or other health care facility which has been designated by  
28 the department for the treatment or rehabilitation of mentally ill  
29 persons and for the receipt of these persons by court-ordered commit-

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ment, but does not include correctional institutions;

(15) "professional person in charge of the treatment facility" means the senior mental health professional at the facility; in the absence of a mental health professional it means the chief of staff or other senior physician.

\* Sec. 2. AS 47.30.010 - 47.30.340 are repealed.

\* Sec. 3. This Act takes effect October 1, 1979.