

Introduced: 1/19/81  
Referred: Health, Education &  
Social Services and Judiciary

1 IN THE SENATE

BY PARR, STIMSON AND FISCHER

2 SENATE BILL NO. 100

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH 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  
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-  
18 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  
9 AS 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  
7 the minor would no longer benefit from continued hospitalization and  
8 the minor is not dangerous. The minor's parents or his guardian must  
9 be notified by the facility of the contemplated release and that,  
10 unless they initiate involuntary commitment proceedings, the minor will  
11 be 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, a judge shall immediately conduct a  
19 screening investigation or direct a local mental health professional  
20 employed by the department or by a program which receives money from  
21 the department under AS 47.30.520 - 47.30.620 to conduct a screening  
22 investigation of the person alleged to be mentally ill and, as a result  
23 of that condition, alleged to be gravely disabled or to present a  
24 likelihood of serious harm to himself or others. Within 48 hours after  
25 the completion of the screening investigation, a judge may issue an ex  
26 parte order orally or in writing, stating that there is probable cause  
27 to believe the respondent is mentally ill and that condition causes the  
28 respondent to be gravely disabled or to present a likelihood of serious  
29 harm to himself or others. The court shall provide findings on which

1 the conclusion is based, appoint an attorney to represent the respon-  
2 dent, and may direct that a peace officer take the person into custody  
3 and deliver him to the nearest designated appropriate facility for  
4 emergency examination or treatment. The ex parte order shall be pro-  
5 vided to the respondent and made a part of the respondent's clinical  
6 record.

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

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

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

29 (b) If the mental health professional who performs the emergency

1 examination has reason to believe that the respondent is (1) mentally  
2 ill and that condition causes the person to be gravely disabled or to  
3 present a likelihood of serious harm to himself or others, and (2) is in  
4 need of care or treatment, the mental health professional may hospi-  
5 talize him on an emergency basis. If a judicial order has not been  
6 obtained under AS 47.30.700, the mental health professional shall apply  
7 for an ex parte order authorizing hospitalization for emergency treat-  
8 ment.

9 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a  
10 proper order for evaluation, it must accept the order and the respondent  
11 for an evaluation period not to exceed 72 hours. The facility shall  
12 promptly notify the court of the date and time of the respondent's  
13 arrival. The court shall set a date, time and place for a 14-day com-  
14 mitment hearing, to be held if needed within 72 hours after the respon-  
15 dent's arrival, and the court shall notify the facility, the respondent,  
16 his attorney, and the prosecuting attorney of the hearing arrangements.  
17 Evaluation personnel, where used, shall similarly notify the court of  
18 the date and time when they first met with the respondent.

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

26 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)  
27 When a respondent is detained for evaluation under AS 47.30.655 - 47.-  
28 30.915, he shall be immediately notified orally and in writing of his  
29 rights under this section. Notification shall be in a language under-

1 stood by the respondent. His guardian, if any, and if the respondent  
2 requests, an adult designated by the respondent, shall also be notified  
3 of the respondent's rights under this section.

4 (b) Unless a respondent is released or voluntarily admits himself  
5 for treatment within 72 hours of his arrival at the facility or, if he  
6 is evaluated by evaluation personnel, within 72 hours from the beginning  
7 of his meeting with evaluation personnel, he is entitled to a court  
8 hearing to be set for not later than the end of that 72-hour period to  
9 determine whether there is cause to detain him after the 72 hours have  
10 expired for up to an additional 14 days on the grounds that he is grave-  
11 ly disabled or mentally ill and as a result presents a likelihood of  
12 serious harm to himself or others. The facility or evaluation personnel  
13 shall give notice to the court of the releases and voluntary admissions  
14 under AS 47.30.700 - 47.30.820.

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

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

2 (e) The respondent has the right to be free of the effects of  
3 medication and other forms of treatment to the maximum extent possible  
4 before the 14-day commitment hearing; however, the facility or evalua-  
5 tion personnel may treat him with medication under prescription by a  
6 licensed physician or by a less restrictive alternative of his pre-  
7 ference if, in the opinion of a licensed physician and another mental  
8 health professional, the treatments are necessary to

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

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

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

5 (f) A respondent, if he is represented by counsel, may waive,  
6 orally or in writing, the 72-hour time limit on the 14-day commitment  
7 hearing and have the hearing set for a date no more than seven calendar  
8 days after his arrival at the facility. The respondent's counsel shall  
9 immediately notify the court of the waiver.

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

15 (1) allege that the respondent is mentally ill and as a  
16 result is likely to cause harm to himself or others or is gravely dis-  
17 abled;

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

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

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

29 (5) allege that the respondent has been advised of the need

1 for, but has not accepted, voluntary treatment, and request that the  
2 court commit the respondent to the specified treatment facility or less  
3 restrictive alternative for a period not to exceed 14 days;

4 (6) list the prospective witnesses who will testify in sup-  
5 port of commitment or involuntary treatment;

6 (7) list the facts and specific behavior of the respondent  
7 supporting the allegation in (1) of this subsection.

8 (b) A copy of the petition shall be served on the respondent, his  
9 attorney, and his guardian, if any, before the 14-day commitment hear-  
10 ing.

11 Sec. 47.30.735. 14-DAY COMMITMENT. (a) Upon receipt of a proper  
12 petition for commitment, the court shall hold a hearing at the date and  
13 time previously specified according to procedures set out in AS 47.30.-  
14 715.

15 (b) The hearing shall be conducted in a physical setting least  
16 likely to have a harmful effect on the mental or physical health of the  
17 respondent, within practical limits. At the hearing, in addition to  
18 other rights specified in AS 47.30.655 - 47.30.915, the respondent has  
19 the right

20 (1) to be present at the hearing; this right may be waived  
21 only with the respondent's informed consent; if the respondent is in-  
22 capable of giving informed consent, the respondent may be excluded from  
23 the hearing only if the court, after hearing, finds that the incapacity  
24 exists and that there is a substantial likelihood that the respondent's  
25 presence at the hearing would be severely injurious to his mental or  
26 physical health;

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

29 (3) to have the hearing open or closed to the public as he

1 elects;

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

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

5 (6) to present evidence on his behalf;

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

7 (8) to remain silent.

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

16 (e) The court shall specifically state to the respondent, and  
17 give him written notice, that if commitment or other involuntary treat-  
18 ment beyond the 14 days is to be sought, the respondent shall have the  
19 right to a full hearing or jury trial.

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

27 (1) allege that the respondent has attempted to inflict or  
28 has inflicted serious bodily harm upon himself or another since his  
29 acceptance for evaluation, or that he was committed initially as a

1 result of conduct in which he attempted or inflicted serious bodily harm  
2 upon himself or another, or that he continues to be gravely disabled;

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

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

8 (b) The court shall have copies of the petition for 90-day commit-  
9 ment served upon the respondent, his attorney, and his guardian, if any.  
10 The petition for 90-day commitment and proofs of service shall be filed  
11 with the clerk of the court, and a date for hearing shall be set, by the  
12 end of the next judicial day, for not later than five judicial days from  
13 the date of filing of the petition. The clerk shall notify the respon-  
14 dent, his attorney, and the petitioner of the hearing date at least  
15 three judicial days in advance of the hearing.

16 (c) Findings of fact relating to the respondent's behavior made at  
17 a 14-day commitment hearing under AS 47.30.735 shall be admitted as  
18 evidence and may not be rebutted except that newly discovered evidence  
19 may be used for the purpose of rebutting the findings.

20 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-  
21 dent subject to a petition for 90-day commitment has, in addition to the  
22 rights specified elsewhere in this chapter, or otherwise applicable, the  
23 rights enumerated in this section. Written notice of these rights shall  
24 be served on the respondent, his attorney, his guardian, if any, and an  
25 adult designated by the respondent at the time the petition for 90-day  
26 commitment is served. An attempt shall be made by oral explanation to  
27 insure that the respondent understands the rights enumerated in the  
28 notice. If the respondent does not understand English, the explanation  
29 shall be given in a language he understands.

1 (b) Unless the respondent is released or voluntarily admits him-  
2 self following the filing of a petition and before the hearing, he is  
3 entitled to a judicial hearing within five judicial days of the filing  
4 of the petition as set out in AS 47.30.740(b) to determine whether the  
5 allegations required in AS 47.30.740(a) are true. If the respondent  
6 voluntarily admits himself following the filing of the petition, the  
7 voluntary admission constitutes a waiver of any hearing rights under  
8 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-  
9 dent's voluntary admission under this subsection, the respondent submits  
10 to the facility a written notice of intent to leave, the professional  
11 person in charge of the treatment facility may file with the court a  
12 petition for 120-day commitment of the respondent under AS 47.30.770.  
13 The 120-day commitment hearing shall be scheduled for a date not  
14 earlier than 90 days after the respondent's voluntary admission.

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

20 (d) If a jury trial is not requested, the court may still con-  
21 tinue the hearing at the respondent's request for no more than 10  
22 calendar days.

23 (e) The respondent has a right to retain an independent licensed  
24 physician or other mental health professional to examine him and to  
25 testify on his behalf. Upon request by an indigent respondent, the  
26 court shall appoint an independent licensed physician or other mental  
27 health professional to examine him and testify on his behalf. The  
28 court shall consider an indigent respondent's request for a specific  
29 physician or mental health professional. A motion for the appointment

1 may be filed in court at any reasonable time before the hearing and  
2 shall be acted upon promptly. Reasonable fees and expenses for expert  
3 examiners shall be determined by the rules of court.

4 (f) The proceeding shall in all respects be in accord with con-  
5 stitutional guarantees of due process and, except as otherwise specifi-  
6 cally provided in AS 47.30.700 - 47.30.815, the rules of evidence and  
7 procedure in civil proceedings.

8 (g) Until the court issues a final decision, the respondent shall  
9 continue to be treated at the treatment facility unless the petition for  
10 90-day commitment is withdrawn. If no decision has been made within 20  
11 days of filing of the petition, not including extensions of time due to  
12 jury trial or other requests by the respondent, he shall be released.

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

16 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within  
17 the time limit specified in AS 47.30.745, the court may commit the  
18 respondent to a treatment facility for no more than 90 days if the court  
19 or jury finds by clear and convincing evidence that the allegations  
20 required in AS 47.30.740(a) are true.

21 (b) If the court finds that there is a less restrictive alterna-  
22 tive available and that the respondent has been advised of and refused  
23 voluntary treatment through the alternative, the court may order the  
24 less restrictive alternative treatment after acceptance by the program  
25 of the respondent for a period not to exceed 90 days.

26 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall  
27 always be available at a state-operated hospital; however, if space is  
28 available and upon acceptance by another treatment facility, a respon-  
29 dent who is committed shall be placed by the court at the treatment

1 facility closest to his home unless the court finds that

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

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

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

11 Sec. 47.30.765. APPEAL. The respondent has the right to an  
12 appeal from any order of involuntary commitment. The court shall  
13 inform the respondent of this right.

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

22 (b) The procedures for service of the petition, notification of  
23 rights and judicial hearing shall be as set out in AS 47.30.740 -  
24 47.30.750. If the court or jury finds by clear and convincing evidence  
25 that the grounds for 90-day commitment as set out in AS 47.30.755 are  
26 present, the court may order the respondent committed for an additional  
27 treatment period not to exceed 120 days from the date on which the  
28 first 90-day treatment period would have expired.

29 (c) Successive 120-day commitments are permissible on the same

1 ground and under the same procedures as the original 120-day commitment.  
2 No order of commitment may exceed 120 days.

3 (d) Findings of fact relating to the respondent's behavior made at  
4 a 14-day commitment hearing under AS 47.30.735, a 90-day commitment  
5 hearing under AS 47.30.750, or a previous 120-day commitment hearing  
6 under this section shall be admitted as evidence and may not be rebutted  
7 except that newly discovered evidence may be used for the purpose of  
8 rebutting the findings.

9 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-  
10 30.700 - 47.30.815 apply to minors. However, all notices required to be  
11 served on the respondent in AS 47.30.700 - 47.30.815 shall also be  
12 served on the parent or guardian of a respondent who is a minor, and  
13 parents or guardians of a minor respondent shall be notified that they  
14 may appear as parties in any commitment proceeding concerning the minor  
15 and that as parties they are entitled to retain their own attorney or  
16 have one appointed for them by the court. A minor respondent has the  
17 same rights to waiver and informed consent as an adult respondent under  
18 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel in  
19 waiver and consent proceedings.

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

26 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing  
27 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-  
28 815 may be authorized to be absent from the treatment facility during  
29 times specified by the professional person in charge of the facility, or

1 his professional designee, when an authorization to be absent is in the  
2 best interests of the respondent and he is not likely to cause harm to  
3 himself or others.

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

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

11 (a) A respondent who was not originally committed to involuntary out-  
12 patient care under AS 43.30.700 - 43.30.915 may be released before the  
13 expiration of his commitment period on the condition that he receive  
14 specified outpatient treatment from a provider of outpatient care, for a  
15 length of time not to exceed the duration of his commitment period, when  
16 the professional person in charge of the treatment facility or his  
17 professional designee finds that

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

20 (2) there is reason to believe that the respondent's mental  
21 condition would improve as a result of the specified outpatient treat-  
22 ment.

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

26 (c) If at any time during the commitment period the provider of  
27 outpatient care determines that the respondent can no longer be treated  
28 on an outpatient basis because he is likely to cause harm to himself or  
29 others or is gravely disabled, the provider shall give the respondent

1 oral and written notice, with copies to the respondent's attorney, his  
2 guardian, if any, the court and inpatient treatment facility, that he  
3 must return to the inpatient treatment facility within 24 hours for a  
4 length of time not to exceed the duration of his commitment period. If  
5 the respondent fails to arrive at the treatment facility under a 24-hour  
6 notice, the facility shall cause him to be taken into custody and trans-  
7 ported to the facility. A peace officer shall assist the provider of  
8 outpatient care or the facility if requested.

9 (d) If the provider of outpatient care determines that the respon-  
10 dent will require continued outpatient care after the expiration of his  
11 commitment period, the provider is entitled to initiate further commi-  
12 tment proceedings in the same manner as if the provider were the pro-  
13 fessional person in charge of a treatment facility, and the provisions  
14 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to  
15 inpatient treatment shall be read as applicable to outpatient treatment.

16 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO  
17 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the  
18 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient  
19 treatment may be required to undergo inpatient treatment when the pro-  
20 vider of outpatient care finds that (1) the respondent is mentally ill  
21 and is likely to cause serious harm to himself or others or is still  
22 gravely disabled; (2) the respondent's behavior since the hearing re-  
23 sulting in courtordered treatment indicates that he now needs inpatient  
24 treatment to protect himself or others; (3) there is reason to believe  
25 that the respondent's mental condition will improve as a result of  
26 inpatient treatment; and (4) there is an inpatient facility appropriate  
27 to the respondent's need which will accept him as a patient. Treatment  
28 for these respondents shall be available at state-operated hospitals at  
29 all times.

1 (b) Upon making the findings specified in (a) of this section,  
2 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745  
3 relating to hearing apply.

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

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

9 (2) a 14-day commitment period expires at the end of the  
10 14th day after the 72 hours following initial acceptance;

11 (3) a 90-day commitment period expires at the end of the  
12 90th day after the expiration of a 14-day period of treatment;

13 (4) a 120-day commitment period expires at the end of the  
14 120th day, after the expiration of a 90-day period of treatment or  
15 previous 120-day period, whichever is applicable.

16 (b) When a respondent has failed to appear or absented himself  
17 contrary to any order properly made or entered under AS 47.30.655 -  
18 47.30.915, the relevant commitment period shall be extended for a  
19 period of time equal to the respondent's absence if written notice of  
20 absence is promptly provided to the respondent's attorney and his  
21 guardian, if there is one, and if, within 24 hours after the respondent  
22 has returned to the evaluation or treatment facility, written notice of  
23 the corresponding extension and the reason for it is given to the  
24 respondent, his attorney, and to the court.

25 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-  
26 915 may be construed as limiting a person's right to a writ of habeas  
27 corpus.

28 Sec. 47.30.815. LIMITATION OF LIABILITY, PENALTY FOR FALSE APPLI-  
29 CATION. (a) A person acting in good faith upon either actual knowledge

1 or reliable information who makes application for evaluation or treat-  
2 ment of another person under AS 47.30.700 - 47.30.915 is not subject to  
3 civil or criminal liability.

4 (b) The following persons may not be held civilly or criminally  
5 liable for detaining a person under AS 47.30.700 - 47.30.915 or for  
6 releasing a person under AS 47.30.700 - 47.30.915 at or before the end  
7 of the period for which the person was admitted or committed for evalua-  
8 tion or treatment if the persons have performed their duties in good  
9 faith and without gross negligence:

10 (1) an officer of a public or private agency;

11 (2) the superintendent, the professional person in charge,  
12 the professional designee of the professional person in charge, and the  
13 attending staff of a public or private agency;

14 (3) a public official performing functions necessary to the  
15 administration of AS 47.30.700 - 47.30.915;

16 (4) a peace officer responsible for detaining a person under  
17 AS 47.30.700 - 47.30.915.

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

23 ARTICLE 9. PATIENT RIGHTS.

24 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are  
25 receiving services from a treatment facility licensed under AS 18.20.-  
26 020, have the following rights:

27 (1) The patient, or his counsel, guardian, or the adult  
28 designated in accordance with AS 47.30.725 if the patient is mentally  
29 incapable of participation, shall be entitled to participate in form-

1 ulating his individualized treatment plan and in the evaluation process  
2 as much as possible, at minimum to the extent of requesting specific  
3 forms of therapy, inquiring why specific therapies are or are not in-  
4 cluded in his treatment program, and being informed as to his present  
5 medical and psychological condition and prognosis. The treating phy-  
6 sician may not withhold any of this information from the patient.

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

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

19 (4) The quiet room, or other form of physical restraint, may  
20 not be used, except as provided in this paragraph unless a patient is  
21 likely to physically harm himself or others unless restrained. The form  
22 of restraint utilized shall be that which is in the patient's best  
23 interest and which constitutes the least restrictive alternative avail-  
24 able. When practicable, the patient shall be consulted as to his pre-  
25 ference among forms of adequate, medically advisable restraints in-  
26 cluding medication, and his preference shall be considered. Nothing in  
27 this section is intended to limit the right of staff to use the quiet  
28 room at the patient's request or with his knowing concurrence when  
29 considered in the best interests of the patient. Patients placed in a

1 quiet room or other physical restraint shall be checked at least every  
2 15 minutes or more often if good medical practice so indicates. Pa-  
3 tients in the quiet room must be visited by a staff member at least once  
4 every hour and must be given adequate food and drink and access to  
5 bathroom facilities. At no time may a patient be kept in the quiet room  
6 or other form of physical restraint against his will longer than neces-  
7 sary to accomplish the purposes set out in this paragraph. All uses of  
8 the quiet room or other restraint shall be recorded in the patient's  
9 medical record, the information including but not limited to the reasons  
10 for its use, the duration of use, and the name of the authorizing staff  
11 member.

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

17 (6) A patient capable of giving informed consent has the  
18 absolute right to accept or refuse electro-convulsive therapy or aver-  
19 sive conditioning. Patients who lack substantial capacity to make this  
20 decision may not be given such therapy or conditioning without a court  
21 order following a hearing compatible with full due process.

22 (7) In no event may treatment include psychosurgery, lobotomy  
23 or other comparable form of treatment without specific informed consent  
24 of the patient, including a minor unless he is clearly too young or  
25 disabled to give an informed consent in which case the consent of his  
26 legal guardian shall be required. In addition, no such treatment may be  
27 given without a court order after hearing compatible with full due  
28 process.

29 (8) When, in the written opinion of a patient's attending

1 physician, a true medical emergency exists and a surgical operation is  
2 necessary to save the life, physical health, eyesight, hearing or member  
3 of the patient, the professional person in charge of the treatment  
4 facility or his professional designee may give consent to the surgical  
5 operation if time will not permit obtaining the consent of the proper  
6 relatives or guardian or appropriate judicial authority. However, no  
7 operation may be authorized if the patient is not a minor and knowingly  
8 withholds consent on religious grounds.

9 (9) Each patient upon discharge shall be given a discharge  
10 plan specifying the kinds and amount of care and treatment he should  
11 have after discharge and such other steps as he might take to benefit  
12 his mental health after leaving the facility. The patient shall have  
13 the right to participate, as far as practicable, in formulating his  
14 discharge plan. A copy of the plan shall be given to the patient, his  
15 guardian, the court, if appropriate, and any follow-up agencies.

16 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)  
17 Experimental treatments involving any significant risk of physical or  
18 psychological harm may not be administered to a patient.

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

29 (c) A determination that a treatment is experimental and entails

1 significant risks of mental or physical harm is binding upon all persons  
2 involved in the administration of treatment to a patient.

3 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. A person undergoing  
4 evaluation or treatment under AS 47.30.655 - 47.30.915 may not be denied  
5 a civil right, including but not limited to, the right to free exercise  
6 of religion and the right to dispose of property, sue and be sued, enter  
7 into contractual relationships and vote. Court-ordered treatment or  
8 evaluation under this chapter is not a determination of legal incompe-  
9 tency.

10 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A  
11 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915  
12 shall

13 (1) not be photographed without his consent and that of his  
14 guardian if a minor, except that he may be photographed upon admission  
15 to a facility for identification and for administrative purposes of the  
16 facility; all photographs shall be confidential and may not be released  
17 by the facility except under court order;

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

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

26 (4) be permitted to wear his own clothing, to keep and use  
27 his own personal possessions including his toilet articles if they are  
28 not considered unsafe for him or other patients who might have access to  
29 them, and to keep and be allowed to spend a reasonable sum of his own

1 money for his own needs and comfort;

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

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

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

7 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records  
8 obtained in the course of evaluation, examination or treatment are  
9 confidential and are not public records, except as the requirements of a  
10 hearing under AS 47.30.655 - 47.30.915 may necessitate a different pro-  
11 cedure. Information and records may be disclosed under regulations  
12 established by the department only to

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

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

18 (3) persons authorized by a court order;

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

22 (5) the division of corrections in a case in which a prisoner  
23 confined to the state prison is a patient in the state hospital on  
24 authorized transfer either by voluntary admission or by court order;

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

28 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge  
29 of a respondent from a treatment facility or the issuance of a court

1 order denying a petition for commitment, the respondent may at any time  
2 move to have all court records pertaining to the proceedings expunged on  
3 condition that he file a full release of all claims of whatever nature  
4 arising out of the proceedings and the statements and actions of persons  
5 and facilities in connection with the proceedings.

6 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-  
7 30.825 - 47.30.855 shall be prominently posted in all treatment facili-  
8 ties in places accessible to all patients. A patient who does not  
9 understand English shall have his rights explained to him in a language  
10 he understands.

11 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where  
12 practicable all documents and notices required by AS 47.30.655 - 47.30.-  
13 915 to be served on a respondent, or on his parents, guardian or adult  
14 designee, shall be explained in a language the person understands if he  
15 is not competent in English.

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

- 19 (1) seeking employment;
- 20 (2) resuming or continuing professional practice or previous  
21 occupation;
- 22 (3) obtaining or retaining housing;
- 23 (4) obtaining or retaining licenses or permits, including but  
24 not limited to motor vehicle licenses, motor vehicle operator's and  
25 chauffeur's licenses, and professional or occupational licenses.

26 (b) Applications for positions, licenses, and housing may not  
27 contain requests for information concerning evaluation or treatment  
28 experiences.

29 (c) It is unlawful for a person to aid, abet, incite, compel or

1 coerce the doing of an act forbidden under this section or to attempt to  
2 do so.

3 ARTICLE 10. MISCELLANEOUS PROVISIONS.

4 Sec. 47.30.870. TRANSPORTATION. When a person is to be evaluated  
5 or involuntarily committed to a facility, or presented for a judicial  
6 hearing under this chapter, the department shall arrange, and is autho-  
7 rized to pay for, the person's necessary transportation to the desig-  
8 nated facility or hearing accompanied by appropriate medical or nursing  
9 attendants and if necessary by a peace officer. The department shall  
10 pay return transportation of a person, appropriate medical and nursing  
11 attendants, and if necessary a peace officer, after a determination that  
12 the person is not committable, at the end of a commitment period, or at  
13 the end of a voluntary stay at a treatment facility following an evalu-  
14 ation conducted in accordance with AS 47.30.715. When advisable, one or  
15 more relatives or friends shall be permitted to accompany the person.  
16 The department may pay necessary travel, housing and meal expenses  
17 incurred by one relative or friend in accompanying the person if the  
18 department determines that the person's best interests require that he  
19 be accompanied by the relative or friend and the relative or friend is  
20 indigent.

21 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers  
22 of a person who is admitted to a treatment facility under AS 47.30.655 -  
23 47.30.915 shall include a statement as to his residence. The department  
24 may return a patient who is not a resident of the state to the state of  
25 his residence with court approval if the person has been committed. If  
26 the state in which he has residence does not accept him as a patient,  
27 the person shall be treated as a resident of this state under the pro-  
28 visions of AS 47.30.655 - 47.30.915.

29 (b) To facilitate the return of nonresident patients the depart-

1 ment may enter a reciprocal agreement or compact with another state  
2 providing for the prompt return under appropriate supervision of resi-  
3 dents of that state who are mentally ill. Mentally ill residents of  
4 this state who have been placed in a facility outside this state may be  
5 admitted with the approval of the department to a treatment facility in  
6 the state designated by the department. The department may enter into  
7 reciprocal agreements or contracts with another state providing for  
8 custody, care or treatment, or return of mentally ill residents of this  
9 state by the other state and for the custody and care or treatment of  
10 mentally ill residents of that state by this state on a reimbursable  
11 basis. A resident of this state who has been committed in another state  
12 and is returned in accordance with this section shall, within 72 hours  
13 of his admission to the designated facility, be examined. After exami-  
14 nation the mental health professional in charge of the facility shall  
15 release him or shall petition for involuntary commitment as prescribed  
16 in AS 47.30.740.

17 (c) In taking action under (a) and (b) of this section, consider-  
18 ation shall be given to the best interests of the patient particularly  
19 to the relationship of the patient to his family, legal guardian, or  
20 friends to maintain relationships and encourage visits beneficial to the  
21 patient.

22 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -  
23 47.30.915 alters or impairs the application or availability to a pa-  
24 tient, while hospitalized in another state under contractual arrange-  
25 ments entered in accordance with AS 47.30.655 - 47.30.915, of the  
26 rights, remedies or safeguards provided by the laws of this state.

27 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The  
28 department shall insure that

29 (1) no patient is discharged from a treatment facility with-

1 out suitable clothing; and

2 (2) a discharged indigent patient is furnished

3 (A) suitable transportation to his permanent residence  
4 in this state or to another suitable place at the discretion of  
5 the department; and

6 (B) a reasonable amount of money to meet his immediate  
7 needs.

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

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

21 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-  
22 partment shall make diligent inquiry in every instance after departure  
23 without authority or death of a patient, to ascertain the whereabouts  
24 of the patient or that of his legal heirs or representatives, and shall  
25 turn over to the proper person the money or articles of personal prop-  
26 erty in the custody of the facility to the credit of the patient.

27 Claims to the money or articles of personal property, including claims  
28 by this state, may be presented to the department at any time. If a  
29 claim other than by this state is established by clear and convincing

evidence more than four years after the death or departure without authority of a patient, it shall be certified to the legislature for consideration and the legislature may pay the claim.

**Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)**

The witnesses and the jury in commitment proceedings under AS 47.30.-655 - 47.30.915 are entitled to the fees, compensation, and mileage established by the administrative rules of court for other jurors and witnesses. Compensation, mileage, fees, and other expenses arising from commitment proceedings shall be audited and allowed by the superior court of the judicial district in which the proceedings are held. To the extent that services of a peace officer are used to carry out the provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and actual expenses from the same source and in the same manner as for his other official duties.

(b) An attorney appointed for a person under AS 47.30.655 - 47.-30.915 shall be compensated for his services as follows:

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

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

**Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT FACILITY. (a)**

A patient, or his legal representative acting in a representative capacity, or his spouse, or his parents if the patient is under the age of 18, shall pay or contribute to the payment of the charges for the care or treatment of the patient when hospitalized under AS 47.30.655 - 47.30.915. The charges may not exceed the actual cost of the care and treatment as determined by the department. The department may order payment by the patient or by the person responsible

1 for payment for the patient's care and treatment under this subsection,  
2 according to ability to provide for payment. The department may make  
3 necessary investigations to determine the ability to pay and may require  
4 sworn statements of income by the patient, or his legal representative  
5 acting in a representative capacity, or his spouse or parent. In the  
6 exercise of his descretion, the commissioner may impose full liability  
7 for the patient's actual cost of care and treatment on the patient, his  
8 legal representative, his spouse or parent for refusal to supply a  
9 sworn statement of income. An order for payment shall be issued by the  
10 department within six months after the date on which the charge was in-  
11 curred. The order shall remain in full force and effect unless modified  
12 by subsequent court or department order. Liability under this subsec-  
13 tion shall be determined as follows: a patient hospitalized under  
14 AS 47.30.655 - 47.30.915, or the person responsible for payment of  
15 charges for the patient, may be required to pay according to his ability  
16 to provide for payment, as determined by the department, and in the  
17 manner and proportion which the department finds is not detrimental to  
18 the patient's rehabilitation; however, after the patient has been  
19 hospitalized under AS 47.30.655 - 47.30.915 for an aggregate period of  
20 12 months, the patient or person responsible for payment may not be re-  
21 quired to pay more than \$50 a month toward the charges for the care and  
22 treatment of the patient.

23 (b) As used in (a) of this section, the term "actual cost of the  
24 care and treatment" means either the rate provided for by a contract  
25 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a  
26 contract, a daily rate fixed by the department, and includes expenses  
27 of transportation incidental to examination or hospitalization.

28 (c) The department may charge, or accept from a person money or  
29 property, for the care or treatment of an inpatient or outpatient or for

1 other purposes, even if the payment is not required by an order of the  
2 department, so long as the total payments received do not exceed the  
3 actual cost of care or treatment.

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

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

14 (f) The orders of the department issued under this section may  
15 relate only to charges incurred after October 1, 1981.

16 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

17 (1) "commissioner" means the Commissioner of Health and  
18 Social Services;

19 (2) "court" means a superior court of the state;

20 (3) "department" means the Department of Health and Social  
21 Services;

22 (4) "evaluation facility" means a health care facility that  
23 has been designated or is operated by the department to perform the  
24 evaluations described in AS 47.30.655 - 47.30.915; however, a correc-  
25 tional institution or facility or jail may not be used as an evaluation  
26 facility;

27 (5) "evaluation personnel" means mental health professionals  
28 designated by the department to conduct evaluations as prescribed in  
29 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no

1           staffed evaluation facility exists;

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

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

10          (8) "least restrictive alternative" means mental health  
11          treatment facilities and conditions of treatment which are

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

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

18          (9) "likely to cause serious harm" means

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

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

27          (10) "mental health professional" means a psychiatrist or  
28          physician who is licensed to practice in this state; a clinical psychol-  
29          ogist certified by the state Board of Psychologist and Psychological

1 Associate Examiners; a registered nurse with psychiatric training,  
2 licensed by the State Board of Nursing; and a social worker with a  
3 master's degree and experience in the field of mental illness;

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

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

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

21 (14) "screening investigation" means the investigation and  
22 review of facts which have been alleged to warrant emergency examination  
23 or treatment, including interviews with the persons making such allega-  
24 tions, any other significant witnesses who can readily be contacted for  
25 interviews, and, if possible, the respondent;

26 (15) "state" means a state of the United States, the District  
27 of Columbia, the territories and possessions of the United States, and  
28 the Commonwealth of Puerto Rico, and, with the approval of the United  
29 States Congress, Canada;

1 (16) "treatment facility" means a hospital, clinic, institu-  
2 tion, center or other health care facility which has been designated by  
3 the department for the treatment or rehabilitation of mentally ill  
4 persons and for the receipt of these persons by court-ordered commit-  
5 ment, but does not include correctional institutions;

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

10 \* Sec. 2. AS 12.45.090 is repealed and reenacted to read:

11 Sec. 12.45.090. COMMITMENT AFTER JUDGMENT OF NOT GUILTY. (a) If  
12 the court or jury finds the defendant not guilty on the ground of mental  
13 disease or defect as excluding responsibility and the court considers  
14 his being at large dangerous to the public peace or safety, the court  
15 shall immediately commit the defendant to the custody of the commis-  
16 sioner of health and social services.

17 (b) If the defendant asserts at the time a verdict of not guilty  
18 on the ground of mental disease or defect as excluding responsibility is  
19 returned that he is not presently suffering from a mental disease or  
20 defect which causes him to be a danger to the public, a hearing shall be  
21 set within 60 days to determine the necessity of further commitment.  
22 The hearing shall be held before either the court or a jury of six  
23 persons who may be drawn from the jury impaneled for a trial on the  
24 underlying charge in accordance with rules promulgated by the supreme  
25 court. At the hearing, the defendant has the burden of proving by a  
26 preponderance of the evidence that he is not presently suffering from a  
27 mental disease or defect which causes him to be a danger to the public.

28 (c) If the court or jury determines that the defendant has failed  
29 to sustain his burden of proof, the court shall order him to be committed

1 to the custody of the commissioner of health and social services and  
2 held in custody for a period of time not to exceed the maximum sentence  
3 for the offense committed by the defendant or until the disease is cured  
4 or the defect corrected or he is otherwise discharged from the institu-  
5 tion by authority of law.

6 (d) The defendant may file a petition in the superior court for a  
7 hearing to have the need for his continued hospitalization determined or  
8 redetermined. The defendant is entitled to a hearing on the question no  
9 sooner than six months after his initial commitment and annually there-  
10 after. The burden and standard of proof at a release hearing shall be  
11 the same as at the initial hearing and the defendant shall be entitled  
12 to a hearing before a jury of six upon request filed not later than 15  
13 days before the date set for the hearing with the court.

14 (e) Continued hospitalization following the expiration of the  
15 maximum term of sentence of the criminal offense for which the defendant  
16 was acquitted on the ground of mental disease or defect shall be gov-  
17 erned by the standards and burden of proof relating to civil commitments  
18 under AS 47.30.700 - 47.30.915.

19 (f) A person committed under this section may not be released  
20 during the term of commitment except upon court order following a hear-  
21 ing under this section. The state may at any time request the court to  
22 release the defendant on the grounds that the defendant has been cured  
23 of the mental disease or defect and is no longer a danger to the public  
24 peace or safety.

25 (g) The committing court in its commitment order shall require the  
26 commissioner of health and social services or his authorized representa-  
27 tive to submit periodic written reports on the mental condition of a  
28 person who is committed under (a) of this section.

29 (h) A copy of all petitions for release shall be served on the

1 attorney general. A copy shall also be served upon the attorney of  
2 record, if he is not the attorney general, who represented the state at  
3 the time the defendant was first committed.

4 \* Sec. 3. AS 12.45.110 is repealed and reenacted to read:

5 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When  
6 the trial court determines by a preponderance of the evidence, in accor-  
7 dance with AS 12.45.100, that a defendant is so mentally incompetent  
8 that he is unable to understand the proceedings against him or properly  
9 to assist in his own defense, the court shall order the proceedings  
10 against him stayed, except as provided in (d) of this section, and may  
11 commit the defendant to the custody of the commissioner of health and  
12 social services or his authorized representative for further evaluation  
13 and treatment until the defendant is mentally competent to stand trial,  
14 or until the pending charges against him are disposed of according to  
15 law, but in no event longer than 90 days.

16 (b) On or before the expiration of the initial 90-day period of  
17 commitment the court shall conduct a hearing to determine whether or not  
18 the defendant remains incompetent. If the court finds by a preponder-  
19 ance of the evidence that the defendant remains incompetent, the court  
20 may recommit the defendant for a second period of 90 days. The court  
21 shall determine at the expiration of the second 90-day period whether  
22 the defendant has become competent. If at the expiration of the second  
23 90-day period the court determines that the defendant continues to be  
24 incompetent to stand trial, the charges against him shall be dismissed  
25 without prejudice and continued commitment of the defendant shall be  
26 governed by the provisions relating to civil commitments under AS 47.-  
27 30.700 - 47.30.915 unless the defendant is charged with a crime involv-  
28 ing force against a person and the court finds that the defendant pre-  
29 sents a substantial danger of physical injury to other persons and that

1 there is a substantial probability that the defendant will regain compe-  
2 tency within a reasonable period of time, in which case the court may  
3 extend the period of commitment for an additional six months. If the  
4 defendant remains incompetent at the expiration of the additional six-  
5 month period, the charges shall be dismissed without prejudice and  
6 either civil commitment proceedings shall be instituted or the court  
7 shall order the release of the defendant. If the defendant remains  
8 incompetent for five years after the charges have been dismissed under  
9 this subsection, the defendant may not be charged again for an offense  
10 arising out of the facts alleged in the original charges, except if the  
11 original charge is murder.

12 (c) The defendant is not responsible for the expenses of hospital-  
13 ization or transportation incurred as a result of his commitment under  
14 this section. Liability for payment under AS 47.30.910 does not apply  
15 to commitments under this section.

16 (d) A defendant receiving medication for either a physical or a  
17 mental condition may not be prohibited from standing trial, if the  
18 medication either enables him to understand the proceedings against him  
19 and to properly assist in his own defense or does not disable him from  
20 understanding the proceedings and assisting in his own defense.

21 \* Sec. 4. AS 12.45.115 is amended to read:

22 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]  
23 COMMITMENT. (a) When, in the medical judgment of the custodian of an  
24 accused person committed under AS 12.45.110 [AS 12.45.110(a)], the  
25 accused is considered to be mentally competent to stand trial, the  
26 committing court shall hold a hearing, after due notice, as soon as  
27 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At  
28 the hearing, evidence as to the mental condition of the accused may be  
29 submitted including reports by the custodian to whom the accused was

1 committed for care.

2 (b) If at the hearing the court determines that the accused is  
3 presently mentally competent to understand the nature of the proceedings  
4 against him and [OR] to assist in his own defense, appropriate criminal  
5 proceedings may [SHALL] be commenced against the accused.

6 (c) If at the hearing the court determines that the accused is  
7 still presently mentally incompetent, the court shall recommit the  
8 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-  
9 110(a)].

10 (d) A finding by the court that the accused is mentally competent  
11 to stand trial in no way prejudices the accused in a defense based on  
12 mental disease or defect excluding responsibility. This finding may  
13 not be introduced in evidence on that issue or otherwise be brought to  
14 the notice of the jury.

15 \* Sec. 5. Except as provided in this Act, the provisions of AS 47.30.-  
16 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair  
17 any action taken in a proceeding pending under statutes in effect before  
18 October 1, 1981, nor do they apply retroactively to terminate the detention  
19 of a person previously committed under statutes in effect before October 1,  
20 1981. However, 90 days after October 1, 1981, the provisions of this Act  
21 apply to all persons committed under statutes in effect before October 1,  
22 1981.

23 \* Sec. 6. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are  
24 repealed.

25 \* Sec. 7. This Act takes effect October 1, 1981.  
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