

Original sponsors: Parr, Stimson, and  
Fischer

Offered: 3/31/81  
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 100 (HESS)

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  
10 review 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 the application of a  
25 person for voluntary admission, or at the time a person admitted under  
26 AS 47.30.690 reaches the age of 14, he shall be given a copy of the  
27 following documents which shall be explained to him as necessary:

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

1 (2) notice that should he desire to leave at a time when the  
2 treatment facility determines that he is mentally ill and as a result  
3 is likely to cause serious harm to himself or others or is gravely dis-  
4 abled, the facility could initiate commitment proceedings against him.

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

7 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. A patient who  
8 no longer meets the standards established in AS 47.30.670 shall be  
9 discharged from the treatment facility.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.  
11 A 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 patient shall be evaluated in writing and  
15 discharged immediately or given written notice that involuntary commit-  
16 ment proceedings will be initiated against him. The treatment facility  
17 may detain the patient for no more than 48 hours after receipt of the  
18 patient's notice of intent to leave in order to initiate involuntary  
19 commitment proceedings.

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

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

28 (2) there is no less restrictive alternative available for  
29 his treatment; and

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

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

10 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14  
11 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT. The parent or  
12 guardian of any minor who is less than 14 years of age may request and  
13 obtain immediate release of the minor at any time, unless as the result  
14 of mental illness, the minor is likely to cause serious harm to himself  
15 or others.

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 local mental health program which  
21 receives money from the department under AS 47.30.520 - 47.30.620 or  
22 another mental health professional designated by the judge, to conduct  
23 a screening investigation of the person alleged to be mentally ill and,  
24 as a result of that condition, alleged to be gravely disabled or to  
25 present a likelihood of serious harm to himself or others. Within 48  
26 hours after the completion of the screening investigation, a judge may  
27 issue an ex parte order orally or in writing, stating that there is  
28 probable cause to believe the respondent is mentally ill and that  
29 condition causes the respondent to be gravely disabled or to present a

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

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

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

27 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered  
28 under AS 47.30.700 or 47.30.705 for emergency examination and treatment  
29 to an evaluation facility shall be examined and evaluated as to his

1 mental and physical condition by a mental health professional and by a  
2 physician within 24 hours after arrival at the facility.

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

12 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a  
13 proper order for evaluation, it must accept the order and the respondent  
14 for an evaluation period not to exceed 72 hours. The facility shall  
15 promptly notify the court of the date and time of the respondent's  
16 arrival. The court shall set a date, time and place for a 30-day com-  
17 mitment hearing, to be held if needed within 72 hours after the respon-  
18 dent's arrival, and the court shall notify the facility, the respondent,  
19 his attorney, and the prosecuting attorney of the hearing arrangements.  
20 Evaluation personnel, where used, shall similarly notify the court of  
21 the date and time when they first met with the respondent.

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

29 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)

1 When a respondent is detained for evaluation under AS 47.30.655 - 47.-  
2 30.915, he shall be immediately notified orally and in writing of his  
3 rights under this section. Notification shall be in a language under-  
4 stood by the respondent. His guardian, if any, and if the respondent  
5 requests, an adult designated by the respondent, shall also be notified  
6 of the respondent's rights under this section.

7 (b) Unless a respondent is released or voluntarily admits himself  
8 for treatment within 72 hours of his arrival at the facility or, if he  
9 is evaluated by evaluation personnel, within 72 hours from the beginning  
10 of his meeting with evaluation personnel, he is entitled to a court  
11 hearing to be set for not later than the end of that 72-hour period to  
12 determine whether there is cause to detain him after the 72 hours have  
13 expired for up to an additional 30 days on the grounds that he is  
14 gravely disabled or mentally ill and as a result presents a likelihood  
15 of serious harm to himself or others. The facility or evaluation  
16 personnel shall give notice to the court of the releases and voluntary  
17 admissions under AS 47.30.700 - 47.30.820.

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

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

25 (e) The respondent has the right to be free of the effects of  
26 medication and other forms of treatment to the maximum extent possible  
27 before the 30-day commitment hearing; however, the facility or evalua-  
28 tion personnel may treat him with medication under prescription by a  
29 licensed physician or by a less restrictive alternative of his pre-

1       ference if, in the opinion of a licensed physician in the case of  
2 medication, or of a mental health professional in the case of alterna-  
3 tive treatment, the treatment is necessary to

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

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

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

9               (f) A respondent, if he is represented by counsel, may waive,  
10 orally or in writing, the 72-hour time limit on the 30-day commitment  
11 hearing and have the hearing set for a date no more than seven calendar  
12 days after his arrival at the facility. The respondent's counsel shall  
13 immediately notify the court of the waiver.

14               Sec. 47.30.730. PROCEDURE FOR 30-DAY COMMITMENT; PETITION FOR  
15 COMMITMENT. (a) In the course of the 72-hour evaluation period, a  
16 petition for commitment to a treatment facility may be filed in court.  
17 The petition must be signed by two mental health professionals who have  
18 examined the respondent, one of whom is a physician. The petition must

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

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

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

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

4 (5) allege that the respondent has been advised of the need  
5 for, but has not accepted, voluntary treatment, and request that the  
6 court commit the respondent to the specified treatment facility or less  
7 restrictive alternative for a period not to exceed 30 days;

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

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

12 (b) A copy of the petition shall be served on the respondent, his  
13 attorney, and his guardian, if any, before the 30-day commitment hear-  
14 ing.

15 Sec. 47.30.735. 30-DAY COMMITMENT. (a) Upon receipt of a proper  
16 petition for commitment, the court shall hold a hearing at the date and  
17 time previously specified according to procedures set out in AS 47.30.-  
18 715.

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

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

1 physical health;

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

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

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

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

9 (6) to present evidence on his behalf;

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

11 (8) to remain silent.

12 (c) At the conclusion of the hearing the court may commit the re-  
13 spondent to a treatment facility for not more than 30 days if it finds,  
14 by clear and convincing evidence, that the respondent is mentally ill  
15 and as a result is likely to cause harm to himself or others or is  
16 gravely disabled.

17 (d) If the court finds that there is a viable less restrictive  
18 alternative available and that the respondent has been advised of and  
19 refused voluntary treatment through the alternative, the court may  
20 order the less restrictive alternative treatment for not more than 30  
21 days if the program accepts the respondent.

22 (e) The court shall specifically state to the respondent, and  
23 give him written notice, that if commitment or other involuntary treat-  
24 ment beyond the 30 days is to be sought, the respondent shall have the  
25 right to a full hearing or jury trial.

26 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY  
27 COMMITMENT. (a) At any time during the respondent's 30-day commitment,  
28 the professional person in charge, or his professional designee, may  
29 file with the court a petition for 90-day commitment of that respondent.

1 The petition must include all material required under AS 47.30.730(a)  
2 except that references to "30 days" shall be read as "90 days"; and

3 (1) allege that the respondent has attempted to inflict or  
4 has inflicted serious bodily harm upon himself or another since his  
5 acceptance for evaluation, or that he was committed initially as a  
6 result of conduct in which he attempted or inflicted serious bodily  
7 harm upon himself or another, or that he continues to be gravely dis-  
8 abled, or that he demonstrates a current intent to carry out plans of  
9 serious harm to himself or another;

10 (2) allege that the respondent has received appropriate and  
11 adequate care and treatment during his 30-day commitment;

12 (3) be verified by the professional person in charge, or his  
13 professional designee, during the 30-day commitment.

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

22 (c) Findings of fact relating to the respondent's behavior made  
23 at a 30-day commitment hearing under AS 47.30.735 shall be admitted as  
24 evidence and may not be rebutted except that newly discovered evidence  
25 may be used for the purpose of rebutting the findings.

26 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-  
27 dent subject to a petition for 90-day commitment has, in addition to  
28 the rights specified elsewhere in this chapter, or otherwise applicable,  
29 the rights enumerated in this section. Written notice of these rights

1 shall be served on the respondent, his attorney, his guardian, if any,  
2 and may be served on an adult designated by the respondent at the time  
3 the petition for 90-day commitment is served. An attempt shall be made  
4 by oral explanation to insure that the respondent understands the  
5 rights enumerated in the notice. If the respondent does not understand  
6 English, the explanation shall be given in a language he understands.

7 (b) Unless the respondent is released or voluntarily admits him-  
8 self following the filing of a petition and before the hearing, he is  
9 entitled to a judicial hearing within five judicial days of the filing  
10 of the petition as set out in AS 47.30.740(b) to determine if he is  
11 mentally ill and as a result is likely to cause harm to himself or  
12 others, or if he is gravely disabled. If the respondent voluntarily  
13 admits himself following the filing of the petition, the voluntary  
14 admission constitutes a waiver of any hearing rights under AS 47.30.740  
15 or under AS 47.30.685. If at any time during the respondent's voluntary  
16 admission under this subsection, the respondent submits to the facility  
17 a written notice of intent to leave, the professional person in charge  
18 may file with the court a petition for 120-day commitment of the respon-  
19 dent under AS 47.30.770. The 120-day commitment hearing shall be  
20 scheduled for a date not earlier than 90 days after the respondent's  
21 voluntary admission.

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

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

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

11 (f) The proceeding shall in all respects be in accord with con-  
12 stitutional guarantees of due process and, except as otherwise specifi-  
13 cally provided in AS 47.30.700 - 47.30.915, the rules of evidence and  
14 procedure in civil proceedings.

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

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

24 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within  
25 the time limit specified in AS 47.30.745, the court may commit the  
26 respondent to a treatment facility for no more than 90 days if the  
27 court or jury finds by clear and convincing evidence that the respondent  
28 is mentally ill and as a result is likely to cause harm to himself or  
29 others, or is gravely disabled.

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

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

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

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

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

21 Sec. 47.30.765. APPEAL. The respondent has the right to an  
22 appeal from any order of involuntary commitment. The court shall  
23 inform the respondent of this right.

24 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent  
25 shall be released from involuntary treatment at the expiration of 90  
26 days unless the professional person in charge files a petition for a  
27 120-day commitment conforming to the requirements of AS 47.30.740(a)  
28 except that all references to "30-day commitment" shall be read as "the  
29 previous 90-day commitment" and all references to "90-day commitment"

1 shall be read as "120-day commitment".

2 (b) The procedures for service of the petition, notification of  
3 rights and judicial hearing shall be as set out in AS 47.30.740 -  
4 47.30.750. If the court or jury finds by clear and convincing evidence  
5 that the grounds for 90-day commitment as set out in AS 47.30.755 are  
6 present, the court may order the respondent committed for an additional  
7 treatment period not to exceed 120 days from the date on which the  
8 first 90-day treatment period would have expired.

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

12 (d) Findings of fact relating to the respondent's behavior made  
13 at a 30-day commitment hearing under AS 47.30.735, a 90-day commitment  
14 hearing under AS 47.30.750, or a previous 120-day commitment hearing  
15 under this section shall be admitted as evidence and may not be rebutted  
16 except that newly discovered evidence may be used for the purpose of  
17 rebutting the findings.

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

29 Sec. 47.30.780. EARLY DISCHARGE. The professional person in

1 charge shall at any time discharge a respondent on the ground that the  
2 respondent is no longer gravely disabled or likely to cause serious  
3 harm as a result of mental illness. A certificate to this effect shall  
4 be sent to the court which shall enter an order officially terminating  
5 the involuntary commitment.

6 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing  
7 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-  
8 815 may be authorized to be absent from the treatment facility during  
9 times specified by the professional person in charge, or his profes-  
10 sional designee, when an authorization to be absent is in the best  
11 interests of the respondent and he is not likely to cause harm to  
12 himself or others.

13 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-  
14 spondent undergoing involuntary treatment on an inpatient basis is  
15 absent from the treatment facility without, or in excess of, authoriza-  
16 tion under AS 47.30.785, the professional person in charge, or his  
17 professional designee, may cause the respondent to be taken into custody  
18 and returned to the treatment facility.

19 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.  
20 (a) A respondent who was originally committed to involuntary inpatient  
21 care under AS 47.30.700 - 47.30.915 may be released before the expira-  
22 tion of his commitment period if a provider of outpatient care accepts  
23 him for specified outpatient treatment for a period of time not to  
24 exceed the duration of his commitment, and if the professional person  
25 in charge, or his professional designee, finds that

26 (1) it is not necessary to treat the respondent as an in-  
27 patient to prevent him from harming himself or others; and

28 (2) there is reason to believe that the respondent's mental  
29 condition would improve as a result of the outpatient treatment.

1 (b) A copy of the conditions for early release shall be given to  
2 the respondent, his attorney, his guardian, if any, the provider of  
3 outpatient care, and the court.

4 (c) If during the commitment period the provider of outpatient  
5 care determines that the respondent can no longer be treated on an  
6 outpatient basis because he is likely to cause harm to himself or  
7 others or is gravely disabled, the provider shall give the respondent  
8 oral and written notice that he must return to the treatment facility  
9 within 24 hours, with copies to the respondent's attorney, his guardian,  
10 if any, the court and inpatient treatment facility. If the respondent  
11 fails to arrive at the treatment facility within 24 hours after receiv-  
12 ing the notice, the professional person in charge shall cause him to be  
13 taken into custody and transported to the facility. If requested, a  
14 peace officer shall assist the provider of outpatient care or the  
15 facility.

16 (d) If the provider of outpatient care determines that the respon-  
17 dent will require continued outpatient care after the expiration of his  
18 commitment period, the provider may initiate further commment proceed-  
19 ings as if he were the professional person in charge, and the provisions  
20 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to  
21 inpatient treatment shall be read as applicable to outpatient treatment.

22 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO  
23 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the  
24 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient  
25 treatment may be required to undergo inpatient treatment when the pro-  
26 vider of outpatient care finds that (1) the respondent is mentally ill  
27 and is likely to cause serious harm to himself or others or is still  
28 gravely disabled; (2) the respondent's behavior since the hearing re-  
29 sulting in court-ordered treatment indicates that he now needs inpatient

1 treatment to protect himself or others; (3) there is reason to believe  
2 that the respondent's mental condition will improve as a result of  
3 inpatient treatment; and (4) there is an inpatient facility appropriate  
4 to the respondent's need which will accept him as a patient. Treatment  
5 for these respondents shall be available at state-operated hospitals at  
6 all times.

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

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

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

15 (2) a 30-day commitment period expires at the end of the  
16 30th day after the 72 hours following initial acceptance;

17 (3) a 90-day commitment period expires at the end of the  
18 90th day after the expiration of a 30-day period of treatment;

19 (4) a 120-day commitment period expires at the end of the  
20 120th day, after the expiration of a 90-day period of treatment or  
21 previous 120-day period, whichever is applicable.

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

1 respondent, his attorney, his guardian, if any, and to the court.

2 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-  
3 915 may be construed as limiting a person's right to a writ of habeas  
4 corpus.

5 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-  
6 CATION. (a) A person acting in good faith upon either actual knowledge  
7 or reliable information who makes application for evaluation or treat-  
8 ment of another person under AS 47.30.700 - 47.30.915 is not subject to  
9 civil or criminal liability.

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

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

17 (2) the superintendent, the professional person in charge,  
18 the professional designee of the professional person in charge, and the  
19 attending staff of a public or private agency;

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

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

24 (c) A person who wilfully initiates an involuntary commitment  
25 procedure under AS 47.30.700 without having good cause to believe that  
26 the other person is suffering from a mental illness and as a result is  
27 gravely disabled or likely to cause serious harm to himself or others,  
28 is guilty of a felony.

29 ARTICLE 9. PATIENT RIGHTS.

1           Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are  
2 receiving services under AS 47.30.655 - 47.30.915 have the following  
3 rights:

4           (1) The patient, or his counsel, guardian, or the adult  
5 designated in accordance with AS 47.30.725 if the patient is mentally  
6 incapable of participation, shall be entitled to participate in form-  
7 ulating his individualized treatment plan and in the evaluation process  
8 as much as possible, at minimum to the extent of requesting specific  
9 forms of therapy, inquiring why specific therapies are or are not in-  
10 cluded in his treatment program, and being informed as to his present  
11 medical and psychological condition and prognosis. The treating phy-  
12 sician may not withhold any of this information from the patient.

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

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

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

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

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

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

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

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

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

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

1 (c) A determination by the commissioner that a treatment is  
2 experimental and entails significant risks of mental or physical harm  
3 is binding upon all persons involved in the administration of treatment  
4 to a patient.

5 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. (a) A person may not  
6 deny to a person who is undergoing evaluation or treatment under AS 47.-  
7 30.655 - 47.30.915 a civil right, including but not limited to, the  
8 right to free exercise of religion and the right to dispose of property,  
9 sue and be sued, enter into contractual relationships and vote. A  
10 person who violates this subsection commits the crime of interference  
11 with constitutional rights under AS 11.76.110.

12 (b) Court-ordered evaluation or treatment under AS 47.30.655 -  
13 47.30.915 is not a determination of legal incapacity under AS 13.26.

14 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A  
15 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915  
16 shall

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

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

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

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

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

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

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

11 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records  
12 obtained in the course of evaluation, examination or treatment are  
13 confidential and are not public records, except as the requirements of  
14 a hearing under AS 47.30.655 - 47.30.915 may necessitate a different  
15 procedure. Information and records may be copied and disclosed under  
16 regulations established by the department only to

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

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

22 (3) persons authorized by a court order;

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

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

29 (6) governmental or law enforcement agencies when necessary

1 to secure the return of a patient who is on unauthorized absence from a  
2 facility where the patient was undergoing evaluation or treatment.

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

10 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-  
11 30.825 - 47.30.855 shall be prominently posted in all treatment facili-  
12 ties in places accessible to all patients. A patient who does not  
13 understand English shall have his rights explained to him in a language  
14 he understands.

15 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where  
16 practicable all documents and notices required by AS 47.30.655 - 47.30.-  
17 915 to be served on a respondent, or on his parents, guardian or adult  
18 designee, shall be explained in a language the person understands if he  
19 is not competent in English.

20 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a  
21 person is or has been evaluated or treated for mental illness may not  
22 be a basis for discrimination in

23 (1) seeking employment;

24 (2) resuming or continuing professional practice or previous  
25 occupation;

26 (3) obtaining or retaining housing;

27 (4) obtaining or retaining licenses or permits, including  
28 but not limited to motor vehicle licenses, motor vehicle operator's and  
29 chauffeur's licenses, and professional or occupational licenses.

1 (b) Applications for positions, licenses, and housing may not  
2 contain requests for information concerning evaluation or treatment  
3 experiences.

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

7 ARTICLE 10. MISCELLANEOUS PROVISIONS.

8 Sec. 47.30.870. TRANSPORTATION. When a person is to be involun-  
9 tarily committed to a facility, the department shall arrange, and is  
10 authorized to pay for, the person's necessary transportation to the  
11 designated facility accompanied by appropriate persons and if necessary  
12 by a peace officer. The department shall pay return transportation of  
13 a person, his escorts, and if necessary a peace officer, after a deter-  
14 mination that the person is not committable, at the end of a commitment  
15 period, or at the end of a voluntary stay at a treatment facility  
16 following an evaluation conducted in accordance with AS 47.30.715.  
17 When advisable, one or more relatives or friends shall be permitted to  
18 accompany the person. The department may pay necessary travel, housing  
19 and meal expenses incurred by one relative or friend in accompanying  
20 the person if the department determines that the person's best interests  
21 require that he be accompanied by the relative or friend and the rela-  
22 tive or friend is indigent.

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

1 visions of AS 47.30.655 - 47.30.915.

2 (b) To facilitate the return of nonresident patients the depart-  
3 ment may enter a reciprocal agreement or compact with another state  
4 providing for the prompt return under appropriate supervision of resi-  
5 dents of that state who are mentally ill. Mentally ill residents of  
6 this state who have been placed in a facility outside this state may be  
7 admitted with the approval of the department to a treatment facility in  
8 the state designated by the department. The department may enter into  
9 reciprocal agreements or contracts with another state providing for  
10 custody, care or treatment, or return of mentally ill residents of this  
11 state by the other state and for the custody and care or treatment of  
12 mentally ill residents of that state by this state on a reimbursable  
13 basis. A resident of this state who has been committed in another  
14 state and is returned in accordance with this section shall, within 72  
15 hours of his admission to the designated facility, be examined. After  
16 examination the mental health professional in charge shall release him  
17 or shall petition for involuntary commitment as prescribed in AS 47.30.-  
18 740.

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

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

29 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The

1 department shall insure that

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

4 (2) a discharged indigent patient is furnished

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

8 (B) a reasonable amount of money to meet his immediate  
9 needs.

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

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

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

1 by this state, may be presented to the department at any time. If a  
2 claim other than by this state is established by clear and convincing  
3 evidence more than one year after the death or departure without  
4 authority of a patient, it shall be certified to the legislature for  
5 consideration and the legislature may pay the claim.

6 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)  
7 The witnesses, expert witnesses, and the jury in commitment proceedings  
8 under AS 47.30.655 - 47.30.915 are entitled to the fees, compensation,  
9 and mileage established by the administrative rules of court for other  
10 jurors and witnesses. Compensation, mileage, fees, transportation  
11 expenses for a respondent, and other expenses arising from evaluation  
12 and commitment proceedings shall be audited and allowed by the superior  
13 court of the judicial district in which the proceedings are held. To  
14 the extent that services of a peace officer are used to carry out the  
15 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and  
16 actual expenses from the same source and in the same manner as for his  
17 other official duties.

18 (b) An attorney appointed for a person under AS 47.30.655 - 47.-  
19 30.915 shall be compensated for his services as follows:

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

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

25 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT  
26 FACILITY. (a) A patient, or his legal representative acting in a  
27 representative capacity, or his spouse, or his parents if the patient  
28 is under the age of 18, shall pay or contribute to the payment of the  
29 charges for the care, transportation, and treatment of the patient when

1 hospitalized under AS 47.30.655 - 47.30.915. Charges assessed after an  
2 order for commitment for treatment is issued and charges assessed when  
3 a patient is hospitalized at a facility operated by the department, or  
4 under a contract for services with the department, may not exceed the  
5 actual cost of the care and treatment. The department may order payment  
6 by the patient or by the person responsible for payment for the  
7 patient's care and treatment under this subsection, according to ability  
8 to provide for payment. The department may make necessary investiga-  
9 tions to determine the ability to pay and may require sworn statements  
10 of income by the patient, or his legal representative acting in a  
11 representative capacity, or his spouse or parent. In the exercise of  
12 his discretion, the commissioner may impose full liability for the  
13 patient's actual cost of care and treatment on the patient, his legal  
14 representative, his spouse or parent for refusal to supply a sworn  
15 statement of income. An order for payment shall be issued by the de-  
16 partment within six months after the date on which the charge was in-  
17 curred. The order shall remain in full force and effect unless modified  
18 by subsequent court or department order. Liability under this subsec-  
19 tion shall be determined as follows: a patient hospitalized under  
20 AS 47.30.655 - 47.30.915, or the person responsible for payment of  
21 charges for the patient, may be required to pay according to his ability  
22 to provide for payment, and in the manner and proportion which the  
23 department finds is not detrimental to the patient's rehabilitation.  
24 The department shall, at any time that it determines the action will  
25 serve the best interests of the state and the patient or the person  
26 responsible for payment, relieve the patient or the person responsible  
27 for payment from liability for charges for the care, transportation,  
28 and treatment of the patient.

29 (b) As used in (a) of this section, the term "actual cost of the

1 care and treatment" means either the rate provided for by a contract  
2 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a  
3 contract, a daily rate approved by the department.

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

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

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

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

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

22 (1) "commissioner" means the commissioner of health and  
23 social services;

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

25 (3) "department" means the Department of Health and Social  
26 Services;

27 (4) "designated treatment facility" means a hospital, clinic,  
28 institution, center or other health care facility which has been desig-  
29 nated by the department for the treatment or rehabilitation of mentally

1 ill persons and for the receipt of these persons by court-ordered  
2 commitment, but does not include correctional institutions;

3 (5) "evaluation facility" means a health care facility that  
4 has been designated or is operated by the department to perform the  
5 evaluations described in AS 47.30.655 - 47.30.915; or a medical facility  
6 licensed under AS 18.20.020;

7 (6) "evaluation personnel" means mental health professionals  
8 designated by the department to conduct evaluations as prescribed in  
9 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no  
10 staffed evaluation facility exists;

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

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

19 (9) "least restrictive alternative" means mental health  
20 treatment facilities and conditions of treatment which are

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

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

27 (10) "likely to cause serious harm" means a person who

28 (A) poses a substantial risk of imminent and substantial  
29 bodily harm to himself, as manifested by recent attempts at suicide

1 or bodily harm;

2 (B) poses a substantial risk of imminent and substantial  
3 bodily harm to one or more other persons as manifested by behavior  
4 causing, or attempting harm, including, in regard to evaluations,  
5 at least one incident within 30 days before the filing of a petition  
6 for emergency hospitalization; or

7 (C) demonstrates a current intent to carry out plans of  
8 serious harm to himself or another;

9 (11) "mental health professional" means a psychiatrist or  
10 physician who is licensed to practice in this state or employed by the  
11 federal government; a clinical psychologist licensed by the state Board  
12 of Psychologists and Psychological Associate Examiners; a psychological  
13 associate with a clinical psychology or counseling specialty licensed  
14 by the Board of Psychologists and Psychological Associate Examiners; a  
15 registered nurse with a master's degree in psychiatric nursing, licensed  
16 by the State Board of Nursing; and a social worker with a master's  
17 degree in social work and experience in the field of mental illness;

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

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

29 (14) "provider of outpatient care" means a mental health pro-

1 professional or hospital, clinic, institution, center or other health care  
2 facility who has been designated by the department to accept for treat-  
3 ment patients who are ordered to undergo involuntary outpatient treat-  
4 ment by the court or who are released early from inpatient commitments  
5 on condition that they undergo outpatient treatment;

6 (15) "screening investigation" means the investigation and  
7 review of facts which have been alleged to warrant emergency exam-  
8 ination or treatment, including interviews with the persons making such  
9 allegations, any other significant witnesses who can readily be con-  
10 tacted for interviews, and, if possible, the respondent;

11 (16) "state" means a state of the United States, the District  
12 of Columbia, the territories and possessions of the United States, and  
13 the Commonwealth of Puerto Rico, and, with the approval of the United  
14 States Congress, Canada;

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

19 \* Sec. 2. AS 12.45.087(a) is amended to read:

20 (a) If a defendant has filed a notice of intention to rely on the  
21 defense of mental disease or defect excluding responsibility, or there  
22 is reason to doubt his fitness to proceed, or there is reason to believe  
23 that mental disease or defect of the defendant will otherwise become an  
24 issue in the cause, the court shall appoint at least one qualified  
25 psychiatrist, or a forensic psychologist certified by the American  
26 Board of Forensic Psychology, or shall request the superintendent of  
27 the Alaska Psychiatric Institute to designate at least one qualified  
28 psychiatrist, which designation may be or include himself, to examine  
29 and report upon the mental condition of the defendant. If the defen-

1 dant has filed notice under AS 12.45.090(a) the report shall consider  
2 whether the defendant can still be committed under AS 12.45.090. The  
3 court may order the defendant to be committed to a hospital or other  
4 suitable facility for the purpose of the examination for not more than  
5 60 days or such longer period as the court determines to be necessary  
6 for the purpose and may direct that a qualified psychiatrist retained  
7 by the defendant be permitted to witness and participate in the exam-  
8 ination.

9 \* Sec. 3. AS 12.45.090 is repealed and reenacted to read:

10 Sec. 12.45.090. PROCEDURE AFTER RAISING DEFENSE OF MENTAL DISEASE  
11 OR DEFECT. (a) At the time the defendant files notice to raise the  
12 affirmative defense of mental disease or defect as excluding responsi-  
13 bility he shall also file notice as to whether if found not guilty by  
14 reason of mental disease or defect as excluding responsibility he will  
15 assert that he is not presently suffering from a mental disease or  
16 defect that causes him to be dangerous to the public peace or safety.

17 (b) If the defendant is found not guilty by reason of mental  
18 disease or defect as excluding responsibility and he has not filed the  
19 notice required under (a) of this section, the court shall immediately  
20 commit him to the custody of the commissioner of health and social  
21 services.

22 (c) If the defendant is found not guilty by reason of mental  
23 disease or defect as excluding responsibility, and he has filed the  
24 notice required under (a) of this section, a hearing shall be held  
25 immediately after the verdict is returned to determine the necessity of  
26 further commitment. The hearing shall be held before the same trier of  
27 fact as the underlying charge, but if a jury was the trier of fact, the  
28 hearing shall be held before a jury of six drawn from the original jury  
29 in accordance with rules adopted by the supreme court. At the hearing,

1 the defendant has the burden of proving by a preponderance of the  
2 evidence that he is not presently suffering from a mental disease or  
3 defect that causes him to be dangerous to the public. If the court or  
4 jury determines that the defendant has failed to meet his burden of  
5 proof, the court shall order the defendant committed to the custody of  
6 the commissioner of health and social services.

7 (d) A defendant committed under (b) or (c) of this section shall  
8 be held in custody for a period of time not to exceed the maximum term  
9 of imprisonment for the crime for which the defendant was acquitted  
10 under AS 12.45.083 or until the mental disease is cured or the defect  
11 corrected as determined at a hearing under (e) of this section.

12 (e) A defendant committed under (b) or (c) of this position may  
13 have the need for his continued hospitalization determined or redeter-  
14 mined under a petition filed in the superior court at intervals begin-  
15 ning no sooner than six months from his initial commitment and yearly  
16 thereafter. The burden and standard of proof at a hearing under this  
17 subsection is the same as at a hearing under (c) of this section except  
18 that the defendant is not entitled to a jury unless he files a motion  
19 for a jury no later than 15 days before the date set for the hearing.  
20 A copy of all petitions for release shall be served on the attorney  
21 general at Juneau, Alaska. A copy shall also be served upon the attor-  
22 ney of record, if he is not the attorney general, who represented the  
23 state or a municipality at the time the defendant was first committed.

24 (f) Continued commitment following expiration of the maximum term  
25 of imprisonment for the crime for which the defendant was acquitted  
26 under AS 12.45.083 is governed by the standards pertaining to civil  
27 commitments as set out in AS 47.30.735.

28 (g) A person committed under this section may not be released  
29 during the term of commitment except upon court order following a

1 hearing in accordance with (c) of this section. On the grounds that  
2 the defendant has been cured of the mental disease or defect and is no  
3 longer dangerous to public peace or safety the state may at any time  
4 request the court to hold a hearing to decide if the defendant should  
5 be released.

6 (h) The commissioner of health and social services or his author-  
7 ized representative shall submit periodic written reports to the court  
8 on the mental condition of a person committed under this section.

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

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

21 (b) On or before the expiration of the initial 90-day period of  
22 commitment the court shall conduct a hearing to determine whether or  
23 not the defendant remains incompetent. If the court finds by a pre-  
24 ponderance of the evidence that the defendant remains incompetent, the  
25 court may recommit the defendant for a second period of 90 days. The  
26 court shall determine at the expiration of the second 90-day period  
27 whether the defendant has become competent. If at the expiration of  
28 the second 90-day period the court determines that the defendant con-  
29 tinues to be incompetent to stand trial, the charges against him shall

1 be dismissed without prejudice and continued commitment of the defendant  
2 shall be governed by the provisions relating to civil commitments under  
3 AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime  
4 involving force against a person and the court finds that the defendant  
5 presents a substantial danger of physical injury to other persons and  
6 that there is a substantial probability that the defendant will regain  
7 competency within a reasonable period of time, in which case the court  
8 may extend the period of commitment for an additional six months. If  
9 the defendant remains incompetent at the expiration of the additional  
10 six-month period, the charges shall be dismissed without prejudice and  
11 either civil commitment proceedings shall be instituted or the court  
12 shall order the release of the defendant. If the defendant remains  
13 incompetent for five years after the charges have been dismissed under  
14 this subsection, the defendant may not be charged again for an offense  
15 arising out of the facts alleged in the original charges, except if the  
16 original charge is murder.

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

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

26 \* Sec. 5. AS 12.45.115 is amended to read:

27 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]  
28 COMMITMENT. (a) When, in the medical judgment of the custodian of an  
29 accused person committed under AS 12.45.110 [AS 12.45.110(a)], the

1 accused is considered to be mentally competent to stand trial, the  
2 committing court shall hold a hearing, after due notice, as soon as  
3 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At  
4 the hearing, evidence as to the mental condition of the accused may be  
5 submitted including reports by the custodian to whom the accused was  
6 committed for care.

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

11 (c) If at the hearing the court determines that the accused is  
12 still presently mentally incompetent, the court shall recommit the  
13 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-  
14 110(a)].

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

20 \* Sec. 6. Except as provided in this Act, the provisions of AS 47.30.-  
21 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair  
22 any action taken in a proceeding pending under statutes in effect before  
23 October 1, 1981, nor do they apply retroactively to terminate the detention  
24 of a person previously committed under statutes in effect before October 1,  
25 1981. However, 90 days after October 1, 1981, the provisions of this Act  
26 apply to all persons committed under statutes in effect before October 1,  
27 1981.

28 \* Sec. 7. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are  
29 repealed.

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\* Sec. 8. This Act takes effect October 1, 1981.