

1 IN THE SENATE

BY BRADLEY

2 SENATE BILL NO. 712

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act reducing the age of delinquent minor juris-  
7 diction under AS 47.10."

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

9 \* Section 1. AS 47.10.010(a) is amended to read:

10 (a) Proceedings relating to a minor [UNDER 18 YEARS OF AGE] resid-  
11 ing or found in the state are governed by this chapter, except as other-  
12 wise provided in this chapter, when the court finds a [THE] minor

13 (1) under 14 years of age to be a delinquent minor as a  
14 result of violating a criminal law of the state or of a municipality of  
15 the state; or

16 (2) under 18 years of age to be a child in need of aid as a  
17 result of

18 (A) the child being habitually absent from his home or  
19 refusing to accept available care, or having no parent, guardian,  
20 custodian or relative caring or willing to care for him, including  
21 physical abandonment by

22 (i) both parents,

23 (ii) the surviving parent, or

24 (iii) one parent if the other parent's rights and  
25 responsibilities have been terminated under AS 47.10.080 or  
26 voluntarily relinquished;

27 (B) the child being in need of medical treatment to  
28 cure, alleviate, or prevent his suffering substantial physical  
29 harm, or mental harm as evidenced by failure to thrive, severe

1 anxiety, depression, withdrawal, or untoward aggressive behavior or  
2 hostility toward others, and his parents are unwilling to provide  
3 the medical treatment;

4 (C) the child having suffered substantial physical harm  
5 or if there is an imminent and substantial risk that the child will  
6 suffer such harm as a result of the actions done by or conditions  
7 created by his parent, guardian or custodian or the failure of his  
8 parent, guardian or custodian adequately to supervise him;

9 (D) the child having been sexually abused either by his  
10 parent, guardian or custodian, or as a result of conditions created  
11 by his parent, guardian or custodian, or by the failure of his  
12 parent, guardian or custodian adequately to supervise him;

13 (E) the child committing delinquent acts as a result of  
14 pressure, guidance, or approval from his parents, guardian or  
15 custodian.

16 \* Sec. 2. AS 47.10.020(b) is amended to read:

17 (b) The petition and all subsequent pleadings shall be styled [AS  
18 FOLLOWS:] "In the matter of ....., a minor under  
19 18 years of age[.] ", except that if the petition alleges violation of  
20 a criminal law of the state or of a municipality of the state, it shall  
21 be styled "In the matter of ....., a minor under  
22 14 years of age." The petition may be executed upon the petitioner's  
23 information and belief, and shall be verified. It shall include the  
24 following information:

25 (1) the name, address and occupation of the petitioner,  
26 together with his relationship to the minor, and his interest in the  
27 matter;

28 (2) the name, age and address of the minor;

29 (3) a brief statement of the facts which bring the minor

1 within this chapter;

2 (4) the names and addresses of the minor's parents;

3 (5) the name and address of the minor's guardian, or of the  
4 person having control or custody of the minor.

5 \* Sec. 3. AS 47.10.060(d) is amended to read:

6 (d) A minor is unamenable to treatment under this chapter if he  
7 probably cannot be rehabilitated by treatment under this chapter before  
8 he reaches 16 [20] years of age. In determining whether a minor is  
9 unamenable to treatment, the court may consider the seriousness of the  
10 offense the minor is alleged to have committed, the minor's history of  
11 delinquency, the probable cause of the minor's delinquent behavior, and  
12 the facilities available to the division of youth and adult authority  
13 for treating the minor.

14 \* Sec. 4. AS 47.10.080(b) is amended to read:

15 (b) If the court finds that the minor is delinquent, it shall

16 (1) order the minor committed to the Department of Health and  
17 Social Services for a period of time not to exceed two years or in any  
18 event extend past the day the minor becomes 15 [19], except that the  
19 department may petition for and the court may grant in a hearing (A)  
20 two-year extensions of commitment which do not extend beyond the child's  
21 15th [19TH] birthday if the extension is in the best interests of the  
22 minor and the public; and (B) an additional one-year period of super-  
23 vision past age 15 [19] if continued supervision is in the best interests  
24 of the person and the person consents to it; the department shall place  
25 the minor in the juvenile facility which the department considers ap-  
26 propriate and which may include a juvenile correctional school, detention  
27 home, or detention facility; the minor may be released from placement or  
28 detention and placed on probation on order of the court and may also be  
29 released by the department, in its discretion, under AS 47.10.200;

1 (2) order the minor placed on probation, to be supervised by  
2 the department, and release him to his parents, guardian, or a suitable  
3 person; if the court orders the minor placed on probation, it may specify  
4 the terms and conditions of probation; the probation may be for a period  
5 of time, not to exceed two years and in no event extend past the day the  
6 minor becomes 15 [19], except that the department may petition for and  
7 the court may grant in a hearing

8 (A) two-year extensions of supervision which do not  
9 extend beyond the child's 15th [19TH] birthday if the extension is  
10 in the best interests of the minor and the public; and

11 (B) an additional one-year period of supervision past  
12 age 15 [19] if the continued supervision is in the best interests  
13 of the person and the person consents to it;

14 (3) order the minor committed to the department and placed on  
15 probation, to be supervised by the department, and release him to his  
16 parents, guardian, other suitable person, or suitable nondetention  
17 setting such as a family home, group care facility, or child care facil-  
18 ity, whichever the department considers appropriate to implement the  
19 treatment plan of the predisposition report; if the court orders the  
20 minor placed on probation, it may specify the terms and conditions of  
21 probation; the department may transfer the minor, in his best interests,  
22 from one of the probationary placement settings listed in this paragraph  
23 to another, and the minor, his parents or guardian and attorney are  
24 entitled to reasonable notice of the transfer; the probation may be for  
25 a period to time, not to exceed two years and in no event extend past  
26 the day the minor becomes 15 [19], except that the department may  
27 petition for and the court may grant in a hearing

28 (A) two-year extensions of commitment which do not  
29 extend beyond the child's 15th [19TH] birthday if the extension is

1 in the best interests of the minor and the public; and

2 (B) an additional one-year period of supervision past  
3 age 15 [19] if the continued supervision is in the best interest of  
4 the person and the person consents to it; [OR]

5 (4) order the minor to make suitable restitution in lieu of  
6 or in addition to the court's order under (1), (2) or (3) of this sub-  
7 section; or [.]

8 (5) order the minor committed to the Department of Health and  
9 Social Services for placement in an adventure-based education program  
10 established under AS 47.21.020 with conditions the court considers  
11 appropriate concerning release upon satisfactory completion of the  
12 program or commitment under (1) of this subsection if the program is not  
13 satisfactorily completed.

14 \* Sec. 5. AS 47.10.100 is amended to read:

15 Sec. 47.10.100. RETENTION OF JURISDICTION OVER MINOR. (a) The  
16 court retains jurisdiction over the case and may at any time stay execu-  
17 tion, modify, set aside, revoke, or enlarge a judgment or order, or  
18 grant a new hearing, in the exercise of its power of protection over the  
19 minor and for his best interest, for a period of time not to exceed two  
20 years or in any event extend past the day the delinquent minor becomes  
21 15 or the child in need of aid becomes 19, unless sooner discharged by  
22 the court, except that the department may apply for and the court may  
23 grant an additional one-year period of supervision [PAST AGE 19] if  
24 continued supervision is in the best interests of the person and the  
25 person consents to it. An application for any of these purposes may be  
26 made by the parent, guardian, or custodian acting in behalf of the  
27 minor, or the court may, on its own motion, and after reasonable notice  
28 to interested parties and the appropriate department, take action which  
29 it considers appropriate.

1 (b) If the court determines at a rehearing that it is for the best  
2 interests of the minor that he be released to the care or custody of his  
3 parent, guardian, or custodian, it may enter an order to that effect and  
4 the minor is discharged from the control of the department.

5 (c) If a minor is adjudicated a delinquent before his 14th birthday  
6 or a child in need of aid before his 18th birthday, the court may retain  
7 jurisdiction over him after that [HIS 18TH] birthday for the purpose of  
8 supervising his rehabilitation, but the court's jurisdiction over him  
9 under this chapter never extends beyond his [19TH] birthday as set out  
10 in (a) of this section, except that the department may apply for and the  
11 court may grant an additional one-year period of supervision [PAST AGE  
12 19] if continued supervision is in the best interests of the person and  
13 the person consents to it. If a delinquent minor is placed under the  
14 supervision of the department before his 14th birthday or a child in  
15 need of aid is placed under the supervision of the department before  
16 his 18th birthday, the department may retain jurisdiction over him  
17 after that birthday for the purpose of supervising his rehabilitation,  
18 but the department's jurisdiction over him under this chapter never  
19 extends beyond his birthday as set out in (a) of this section [THE DE-  
20 PARTMENT MAY RETAIN JURISDICTION OVER A CHILD BETWEEN HIS 18TH AND 19TH  
21 BIRTHDAYS FOR THE PURPOSE OF SUPERVISING HIS REHABILITATION, IF HE HAS  
22 BEEN PLACED UNDER THE SUPERVISION OF THE DEPARTMENT BEFORE HIS 18TH  
23 BIRTHDAY], except that the department may apply for and the court may  
24 grant an additional one-year period of supervision [PAST AGE 19] if  
25 continued supervision is in the best interests of the person and the  
26 person consents to it.

27 \* Sec. 6. AS 47.10.130 is amended to read:

28 Sec. 47.10.130. DETENTION. No minor under 18 years of age who is  
29 detained pending hearing may be incarcerated in a jail unless assigned

1 to separate quarters so that the minor cannot communicate with or view  
2 adult prisoners convicted of, under arrest for, or charged with a crime.  
3 However, the detention of a minor 14 years of age or older who is  
4 charged with violation of a criminal law of the state or of a municipal-  
5 ity of the state shall be the same as for an adult similarly charged.  
6 When a minor is detained pending hearing, his parent, guardian, or  
7 custodian shall be notified immediately.

8 \* Sec. 7. AS 47.10.140(g) is amended to read:

9 (g) No minor who is detained under (f) of this section may be  
10 detained in a jail or other facility unless kept out of contact with  
11 adult persons convicted or accused of a crime. Except as provided in  
12 AS 47.10.130, no [NO] minor may be detained in a jail or other detention  
13 facility which has not been approved by the Department of Health and  
14 Social Services before detention of the minor.

15 \* Sec. 8. AS 47.10.290(2) is amended to read:

16 (2) "delinquent minor" means a minor under 14 years of age  
17 found to be within the jurisdiction of the court under AS 47.10.-  
18 010(a)(1);  
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