

Offered: 3/20/84
Referred: Rules

Original sponsors: Josephson, Halford
and Faiks

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 346 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the treatment of mentally ill
7 persons."

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

9 * Section 1. AS 47.30.655 is amended to read:

10 Sec. 47.30.655. PURPOSE. The purpose of this major revision of
11 Alaska civil commitment statutes (AS 47.30.660 - 47.30.915) is to more
12 adequately protect the legal rights of persons suffering from mental
13 illness. The legislature has attempted to balance the individual's
14 constitutional right to physical liberty and the state's interest in
15 [(1)] protecting society from persons who are dangerous to others [;]
16 and [(2)] protecting persons who are dangerous to themselves [.] by
17 providing due process safeguards at all stages of commitment proceed-
18 ings. In addition, the following principles of modern mental health
19 care have guided this revision:

20 (1) that persons be given a reasonable [EVERY] opportunity
21 to accept voluntary treatment before involvement with the judicial
22 system;

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

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

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

29 (5) that patients be informed of their legal rights and be

1 informed of and allowed to participate in their treatment program as
2 much as possible;

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

6 * Sec. 2. AS 47.30.670 is amended to read:

7 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 18
8 [14] years of age or older may be voluntarily admitted to a treatment
9 facility if the person [HE] is suffering from mental illness and [HE]
10 voluntarily signs the admission papers.

11 * Sec. 3. AS 47.30.675 is amended to read:

12 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon the application of
13 a person for voluntary admission, or at the time a person admitted
14 under AS 47.30.690 reaches the age of 18, the person [14, HE] shall be
15 given a copy of the following documents which shall be explained [TO
16 HIM] as necessary:

17 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
18 and an explanation of any document served upon the person [HIM]; and

19 (2) notice that should the person [HE] desire to leave at a
20 time when the treatment facility determines that the person [HE] is
21 mentally ill and as a result is likely to cause serious harm to self
22 [HIMSELF] or others or is gravely disabled, the facility could initi-
23 ate commitment proceedings against the person [HIM].

24 (b) If an applicant for voluntary admission does not understand
25 English, the explanation shall be given in a language the applicant
26 [HE] understands.

27 * Sec. 4. AS 47.30.685 is amended to read:

28 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.
29 A voluntary patient who is 18 [14] years of age or older and who

1 desires to leave a treatment facility must submit to the facility a
2 request [WRITTEN NOTICE OF INTENT] to leave on a form provided [TO
3 HIM] by the facility. When the [UPON IMMEDIATE] investigation is
4 completed, the patient shall be evaluated immediately in writing and
5 discharged immediately or given written notice that involuntary com-
6 mitment proceedings will be initiated against the patient [HIM]. The
7 treatment facility may detain the patient for no more than 48 hours
8 after receipt of the patient's request [NOTICE OF INTENT] to leave in
9 order to initiate involuntary commitment proceedings.

10 * Sec. 5. AS 47.30.690 is amended to read:

11 Sec. 47.30.690. ADMISSION OF MINORS UNDER 18 [14] YEARS OF AGE.

12 (a) A minor under the age of 18 [14] may be admitted for 30 [21] days
13 of evaluation, diagnosis, and treatment at a designated treatment
14 facility if the minor's [HIS] parent or guardian signs the admission
15 papers and if, in the opinion of the professional person in charge,

16 (1) the minor [HE] is gravely disabled or is suffering from
17 mental illness and as a result [HE] is likely to cause serious harm to
18 the minor [HIMSELF] or others;

19 (2) there is no less restrictive alternative available for
20 the minor's [HIS] treatment; and

21 (3) there is reason to believe that the minor's [PATIENT'S]
22 mental condition could be improved by the course of treatment or would
23 deteriorate further if untreated.

24 (b) The minor may be released by the treatment facility at any
25 time [DURING THE 21-DAY PERIOD] if the professional person in charge
26 or the minor's [HIS] designated mental health professional determines
27 the minor would no longer benefit from continued treatment [HOSPITAL-
28 IZATION] and the minor is not dangerous. The minor's parents or [HIS]
29 guardian must be notified by the facility of the contemplated release

1 [AND THAT, UNLESS THEY INITIATE INVOLUNTARY COMMITMENT PROCEEDINGS,
2 THE MINOR WILL BE RELEASED].

3 * Sec. 6. AS 47.30.695 is amended to read:

4 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 18
5 [14] YEARS OF AGE FROM DETENTION AND COMMITMENT. The parent or guard-
6 ian of a minor who is less than 18 [14] years of age may file a notice
7 to withdraw the minor from the facility. On receipt of the notice,
8 the facility may

9 (1) discharge the minor to the custody of the parent or
10 guardian; or

11 (2) if, in the opinion of the treating physician, release
12 of the minor would be seriously detrimental to the minor's health, the
13 treating physician may

14 (A) discharge the minor to the custody of the parent
15 or guardian after advising the parent or guardian that this
16 action is against medical advice and after receiving a written
17 acknowledgement of the advice; or

18 (B) refuse to discharge the minor, initiate involun-
19 tary commitment proceedings, and continue to hold the minor until
20 a court order under AS 47.30.700 has been issued; or

21 (3) if, in the opinion of the treating physician, the minor
22 is likely to cause serious harm to self or others and there is reason
23 to believe the release could place the minor in imminent danger, the
24 treating physician shall refuse to discharge the minor, and shall
25 initiate involuntary commitment proceedings and continue to hold the
26 minor until a court order under AS 47.30.700 has been issued [REQUEST
27 AND OBTAIN IMMEDIATE RELEASE OF THE MINOR AT ANY TIME, UNLESS AS THE
28 RESULT OF MENTAL ILLNESS, THE MINOR IS LIKELY TO CAUSE SERIOUS HARM TO
29 HIMSELF OR OTHERS].

1 * Sec. 7. AS 47.30.705 is amended to read:

2 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
3 officer or a mental health professional who has probable cause to
4 believe that a person is gravely disabled or is suffering from mental
5 illness and is likely to cause serious harm to self [HIMSELF] or
6 others of such immediate nature that considerations of safety do not
7 allow initiation of involuntary commitment procedures set out in
8 AS 47.30.700, may cause the person to be taken into custody and de-
9 livered to the nearest evaluation facility. A person taken into
10 custody for emergency evaluation may not be placed in a jail or other
11 correctional facility except for protective custody purposes and only
12 while awaiting transportation to a treatment facility. The [A COR-
13 RECTIONAL FACILITY MAY BE USED AS AN EMERGENCY EVALUATION FACILITY IF
14 AN EVALUATION FACILITY IS NOT AVAILABLE. UPON ARRIVAL AT THE EVALU-
15 ATION FACILITY, THE] peace officer or mental health professional shall
16 complete an application for examination of the person in custody and
17 be interviewed by a mental health professional at the facility.

18 * Sec. 8. AS 47.30.715 is amended to read:

19 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives
20 a proper order for evaluation, it must accept the order and the re-
21 spondent for an evaluation period not to exceed 72 hours. The facili-
22 ty shall promptly notify the court of the date and time of the respon-
23 dent's arrival. The court shall set a date, time and place for a
24 30-day [21-DAY] commitment hearing, to be held if needed within 72
25 hours after the respondent's arrival, and the court shall notify the
26 facility, the respondent, the respondent's [HIS] attorney, and the
27 prosecuting attorney of the hearing arrangements. Evaluation person-
28 nel, when used, shall similarly notify the court of the date and time
29 when they first met with the respondent.

1 * Sec. 9. AS 47.30.725 is amended to read:

2 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)
3 When a respondent is detained for evaluation under AS 47.30.660 -
4 47.30.915, the respondent [HE] shall be immediately notified orally
5 and in writing of the [HIS] rights under this section. Notification
6 shall be in a language understood by the respondent. The respondent's
7 [HIS] guardian, if any, and if the respondent requests, an adult
8 designated by the respondent, shall also be notified of the respon-
9 dent's rights under this section.

10 (b) Unless a respondent is released or voluntarily admitted
11 [ADMITS HIMSELF] for treatment within 72 hours of [HIS] arrival at the
12 facility or, if the respondent [HE] is evaluated by evaluation person-
13 nel, within 72 hours from the beginning of the respondent's [HIS]
14 meeting with evaluation personnel, the respondent [HE] is entitled to
15 a court hearing to be set for not later than the end of that 72-hour
16 period to determine whether there is cause for detention [TO DETAIN
17 HIM] after the 72 hours have expired for up to an additional 30 [21]
18 days on the grounds that the respondent [HE] is [GRAVELY DISABLED OR]
19 mentally ill, and as a result presents a likelihood of serious harm to
20 the respondent [HIMSELF] or others, or is gravely disabled. The
21 facility or evaluation personnel shall give notice to the court of the
22 releases and voluntary admissions under AS 47.30.700 - 47.30.820.

23 (c) The respondent has a right to communicate immediately, at
24 the department's expense, with the respondent's [HIS] guardian, if
25 any, or an adult designated by the respondent and the attorney desig-
26 nated in the ex parte order, or an attorney of the respondent's
27 choice.

28 (d) The respondent has the right to be represented by an attor-
29 ney, to present evidence, and to cross-examine witnesses who testify

1 against the respondent [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 30-day [21-DAY] commitment hearing; however, the facility
5 or evaluation personnel may treat the respondent [HIM] with medication
6 under prescription by a licensed physician or by a less restrictive
7 alternative of the respondent's [HIS] preference if, in the opinion of
8 a licensed physician in the case of medication, or of a mental health
9 professional in the case of alternative treatment, the treatment is
10 necessary to

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

12 (2) prevent such deterioration of the respondent's mental
13 condition that subsequent treatment might not enable the respondent
14 [HIM] to recover; or

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

17 (f) A respondent, if [HE IS] represented by counsel, may waive,
18 orally or in writing, the 72-hour time limit on the 30-day [21-DAY]
19 commitment hearing and have the hearing set for a date no more than
20 seven calendar days after [HIS] arrival at the facility. The respon-
21 dent's counsel shall immediately notify the court of the waiver.

22 * Sec. 10. AS 47.30.730 is amended to read:

23 Sec. 47.30.730. PROCEDURE FOR 30-DAY [21-DAY] COMMITMENT; PETI-
24 TION FOR COMMITMENT. (a) In the course of the 72-hour evaluation
25 period, a petition for commitment to a treatment facility may be filed
26 in court. The petition must be signed by two mental health profes-
27 sionals who have examined the respondent, one of whom is a physician.
28 The petition must

29 (1) allege that the respondent is mentally ill and as a

1 result is likely to cause harm to self [HIMSELF] or others or is
2 gravely disabled;

3 (2) allege that the evaluation staff has considered but has
4 not found that there are any less restrictive alternatives available
5 that would adequately protect the respondent or others; or, if a less
6 restrictive involuntary form of treatment is sought, specify the
7 treatment and the basis for supporting it;

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

11 (4) allege that a specified treatment facility or less
12 restrictive alternative that is appropriate to the respondent's condi-
13 tion has agreed to accept the respondent;

14 (5) allege that the respondent has been advised of the need
15 for, but has not accepted, voluntary treatment, and request that the
16 court commit the respondent to the specified treatment facility or
17 less restrictive alternative for a period not to exceed 30 [21] days;

18 (6) list the prospective witnesses who will testify in
19 support of commitment or involuntary treatment;

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

22 (b) A copy of the petition shall be served on the respondent,
23 the respondent's [HIS] attorney, and the respondent's [HIS] guardian,
24 if any, before the 30-day [21-DAY] commitment hearing.

25 * Sec. 11. AS 47.30.735 is amended to read:

26 Sec. 47.30.735. 30-DAY [21-DAY] COMMITMENT. (a) Upon receipt
27 of a proper petition for commitment, the court shall hold a hearing at
28 the date and time previously specified according to procedures set out
29 in AS 47.30.715.

1 (b) The hearing shall be conducted in a physical setting least
2 likely to have a harmful effect on the mental or physical health of
3 the respondent, within practical limits. At the hearing, in addition
4 to other rights specified in AS 47.30.660 - 47.30.915, the respondent
5 has the right

6 (1) to be present at the hearing; this right may be waived
7 only with the respondent's informed consent; if the respondent is
8 incapable of giving informed consent, the respondent may be excluded
9 from the hearing only if the court, after hearing, finds that the
10 incapacity exists and that there is a substantial likelihood that the
11 respondent's presence at the hearing would be severely injurious to
12 the respondent's [HIS] mental or physical health;

13 (2) to view and copy all petitions and reports in the court
14 file of the respondent's [HIS] case;

15 (3) to have the hearing open or closed to the public as the
16 respondent [HE] elects;

17 (4) to have the rules of evidence and civil procedure
18 applied so as to provide for the informal but efficient presentation
19 of evidence [TO BE PROCEEDED AGAINST ACCORDING TO THE RULES OF EVI-
20 DENCE APPLICABLE TO CIVIL PROCEEDINGS];

21 (5) to have an interpreter if the respondent [HE] does not
22 understand English;

23 (6) to present evidence on the respondent's [HIS] behalf;

24 (7) to cross-examine witnesses who testify against the
25 respondent [HIM];

26 (8) to remain silent;

27 (9) to call experts and other witnesses to testify on the
28 respondent's behalf.

29 (c) At the conclusion of the hearing the court may commit the

1 respondent to a treatment facility for not more than 30 [21] days if
2 it finds, by clear and convincing evidence, that the respondent is
3 mentally ill and as a result is likely to cause harm to the respondent
4 [HIMSELF] or others or is gravely disabled.

5 (d) If the court finds that there is a viable less restrictive
6 alternative available and that the respondent has been advised of and
7 refused voluntary treatment through the alternative, the court may
8 order the less restrictive alternative treatment for not more than 30
9 [21] days if the program accepts the respondent.

10 (e) The court shall specifically state to the respondent, and
11 give the respondent [HIM] written notice, that if commitment or other
12 involuntary treatment beyond the 30 [21] days is to be sought, the
13 respondent shall have the right to a full hearing or jury trial.

14 * Sec. 12. AS 47.30.740 is amended to read:

15 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY
16 [21-DAY] COMMITMENT. (a) At any time during the respondent's 30-day
17 [21-day] commitment, the professional person in charge, or that per-
18 son's [HIS] professional designee, may file with the court a petition
19 for a 90-day commitment of that respondent. The petition must include
20 all material required under AS 47.30.730(a) except that references to
21 "30 days" ["21 DAYS"] shall be read as "90 days"; and

22 (1) allege that the respondent has attempted to inflict or
23 has inflicted serious bodily harm upon the respondent [HIMSELF] or
24 another since the respondent's [HIS] acceptance for evaluation, or
25 that the respondent [HE] was committed initially as a result of con-
26 duct in which the respondent [HE] attempted or inflicted serious
27 bodily harm upon the respondent [HIMSELF] or another, or that the
28 respondent [HE] continues to be gravely disabled, or that the respon-
29 dent [HE] demonstrates a current intent to carry out plans of serious

1 harm to the respondent [HIMSELF] or another;

2 (2) allege that the respondent has received appropriate and
3 adequate care and treatment during the respondent's 30-day [HIS 21-
4 DAY] commitment;

5 (3) be verified by the professional person in charge, or
6 that person's [HIS] professional designee, during the 30-day [21-DAY]
7 commitment.

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

17 (c) Findings of fact relating to the respondent's behavior made
18 at a 30-day [21-DAY] commitment hearing under AS 47.30.735 shall be
19 admitted as evidence and may not be rebutted except that newly dis-
20 covered evidence may be used for the purpose of rebutting the find-
21 ings.

22 * Sec. 13. AS 47.30.745(b) is amended to read:

23 (b) Unless the respondent is released or is admitted voluntarily
24 [ADMITS HIMSELF] following the filing of a petition and before the
25 hearing, the respondent [HE] is entitled to a judicial hearing within
26 five judicial days of the filing of the petition as set out in AS 47.-
27 30.740(b) to determine if the respondent [HE] is mentally ill and as a
28 result is likely to cause harm to self [HIMSELF] or others, or if the
29 respondent [HE] is gravely disabled. If the respondent is admitted

1 voluntarily [ADMITS HIMSELF] following the filing of the petition, the
2 voluntary admission constitutes a waiver of any hearing rights under
3 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-
4 dent's voluntary admission under this subsection, the respondent
5 submits to the facility a written request [NOTICE OF INTENT] to leave,
6 the professional person in charge may file with the court a petition
7 for a 180-day [120-DAY] commitment of the respondent under AS 47.30.-
8 770. The 180-day [120-DAY] commitment hearing shall be scheduled for
9 a date not later [EARLIER] than 90 days after the respondent's volun-
10 tary admission.

11 * Sec. 14. AS 47.30.770 is amended to read:

12 Sec. 47.30.770. ADDITIONAL 180-DAY [120-DAY] COMMITMENT. (a)
13 The respondent shall be released from involuntary treatment at the
14 expiration of 90 days unless the professional person in charge files a
15 petition for a 180-day [120-DAY] commitment conforming to the require-
16 ments of AS 47.30.740(a) except that all references to "30-day commit-
17 ment" ["21-DAY COMMITMENT"] shall be read as "the previous 90-day
18 commitment" and all references to "90-day commitment" shall be read as
19 "180-day commitment" ["120-DAY COMMITMENT"].

20 (b) The procedures for service of the petition, notification of
21 rights, and judicial hearing shall be as set out in AS 47.30.740 -
22 47.30.750. If the court or jury finds by clear and convincing evidence
23 that the grounds for 90-day commitment as set out in AS 47.30.755 are
24 present, the court may order the respondent committed for an addition-
25 al treatment period not to exceed 180 [120] days from the date on
26 which the first 90-day treatment period would have expired.

27 (c) Successive 180-day [120-DAY] commitments are permissible on
28 the same ground and under the same procedures as the original 180-day
29 [120-DAY] commitment. An order of commitment may not exceed 180 [120]

1 days.

2 (d) Findings of fact relating to the respondent's behavior made
3 at a 30-day [21-DAY] commitment hearing under AS 47.30.735, a 90-day
4 commitment hearing under AS 47.30.750, or a previous 180-day [120-DAY]
5 commitment hearing under this section shall be admitted as evidence
6 and may not be rebutted except that newly discovered evidence may be
7 used for the purpose of rebutting the findings.

8 * Sec. 15. AS 47.30 is amended by adding a new section to read:

9 Sec. 47.30.772. MEDICATION AND TREATMENT. A designated treat-
10 ment facility may administer medication or other treatment to an
11 involuntarily committed patient consistent with the provisions of
12 AS 47.30.825 - 47.30.865.

13 * Sec. 16. AS 47.30.790 is amended to read:

14 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a
15 respondent undergoing involuntary treatment on an inpatient basis is
16 absent from the treatment facility without, or in excess of, author-
17 ization under AS 47.30.785, the professional person in charge, or that
18 person's [HIS] professional designee, may contact the appropriate
19 peace officers who shall take the respondent into custody and return
20 the respondent [HIM] to the treatment facility. If it is determined
21 by the professional person in charge to be necessary, a member of the
22 treatment facility staff shall accompany the peace officers when they
23 take the respondent into custody. In addition, the family or guardian
24 of the patient and any person known to have been threatened by the
25 patient shall be notified of the patient's unauthorized absence imme-
26 diately upon its discovery.

27 * Sec. 17. AS 47.30 is amended by adding a new section to read:

28 Sec. 47.30.803. CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS.
29 A patient subject to involuntary hospitalization under AS 47.30.705,

1 47.30.735, or AS 47.30.755 may at any time convert to voluntary status
2 if the responsible physician agrees that

3 (1) the patient is an appropriate patient for voluntary
4 hospitalization; and

5 (2) the conversion is made in good faith.

6 * Sec. 18. AS 47.30.805(a) is amended to read:

7 (a) Except as provided in (b) of this section,

8 (1) computations of a 72-hour evaluation period under
9 AS 47.30.715 or a 48-hour detention period under AS 47.30.685 do not
10 include Saturdays, Sundays, legal holidays, or any period of time
11 necessary to transport the respondent to the treatment facility;

12 (2) a 30-day [21-DAY] commitment period expires at the end
13 of the 30th [21ST] day after the 72 hours following initial accep-
14 tance;

15 (3) a 90-day commitment period expires at the end of the
16 90th day after the expiration of a 30-day [21-DAY] period of treat-
17 ment;

18 (4) a 180-day [120-DAY] commitment period expires at the
19 end of the 180th [120TH] day, after the expiration of a 90-day period
20 of treatment or previous 180-day [120-DAY] period, whichever is appli-
21 cable.

22 * Sec. 19. AS 47.30.815(b) is amended to read:

23 (b) The following persons may not be held civilly or criminally
24 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
25 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
26 of the period for which the person was admitted or committed for
27 evaluation or treatment if the persons have performed their duties in
28 good faith and without gross negligence:

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

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

4 (3) a public official performing functions necessary to the
5 administration of AS 47.30.700 47.30.915;

6 (4) a peace officer or mental health professional responsi-
7 ble for detaining or transporting a person under AS 47.30.700 -
8 47.30.915.

9 * Sec. 20. AS 47.30.825(8) is amended to read:

10 (8) A patient upon discharge shall be given a discharge
11 plan specifying the kinds and amount of care and treatment the patient
12 [HE] should have after discharge and such other steps as the patient
13 [HE] might take to benefit the patient's [HIS] mental health after
14 leaving the facility. The patient shall have the right to partici-
15 pate, as far as practicable, in formulating the patient's [HIS] dis-
16 charge plan. A copy of the plan shall be given to the patient, the
17 patient's [HIS] guardian, an adult designated in accordance with
18 AS 47.30.725, the court if appropriate, and any follow-up agencies.

19 * Sec. 21. AS 47.30 is amended by adding a new section to read:

20 Sec. 47.30.833. RIGHT TO PROPER DIET. A patient has the right
21 to a nutritionally sound and medically appropriate diet.

22 * Sec. 22. AS 47.30.840 is amended to read:

23 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
24 person undergoing evaluation or treatment under AS 47.30.660 -
25 47.30.915 [SHALL]

26 (1) may not be photographed without the person's [HIS]
27 consent and that of the person's [HIS] guardian if a minor, except
28 that the person [HE] may be photographed upon admission to a facility
29 for identification and for administrative purposes of the facility;

1 all photographs shall be confidential and may only be released by the
2 facility to the patient or the patient's [HIS] designee unless a court
3 orders otherwise;

4 (2) at the time of admission to an evaluation or treatment
5 facility, shall have reasonable precautions taken by the staff to
6 inventory and safeguard the patient's [HIS] personal property; a copy
7 of the inventory signed by the staff member making it shall be given
8 to the patient and made available to the patient's [HIS] attorney and
9 any other person authorized by the patient to inspect the document;

10 (3) shall have access to an individual storage space for
11 the patient's [HIS] private use while undergoing evaluation or treat-
12 ment;

13 (4) shall be permitted to wear personal [HIS OWN] clothing,
14 to keep and use [HIS OWN] personal possessions including [HIS] toilet
15 articles if they are not considered unsafe for the patient [HIM] or
16 other patients who might have access to them, and to keep and be
17 allowed to spend a reasonable sum of the patient's [HIS] own money for
18 the patient's [HIS OWN] needs and comfort;

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

20 (6) shall have ready access to letter writing materials,
21 including stamps, and have the right to send and receive unopened
22 mail;

23 (7) shall have reasonable access to a telephone, both to
24 make and receive confidential calls;

25 (8) has the right to be free of corporal punishment;

26 (9) has the right to exercise and recreation;

27 (10) has the right, at any time, to have a telephone
28 conversation with or be visited by an attorney;

29 (11) may not be retaliated against or subjected to any

1 adverse change of conditions or treatment solely because of assertion
2 of rights under this section.

3 * Sec. 23. AS 47.30.840 is amended by adding a new subsection to read:

4 (b) The patient's rights under (a)(4), (5), (7) and (9) of this
5 section may be suspended temporarily, following the initial evaluation
6 period, if the professional person in charge of the patient determines
7 that granting the patient those rights will pose a threat to the
8 safety or well-being of the patient or others.

9 * Sec. 24. AS 47.30.845 is amended to read:

10 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
11 obtained in the course of a screening investigation, evaluation,
12 examination, or treatment are confidential and are not public records,
13 except as the requirements of a hearing under AS 47.30.660 - 47.30.915
14 may necessitate a different procedure. Information and records may be
15 copied and disclosed under regulations established by the department
16 only to

17 (1) a physician or a provider of health, mental health, or
18 social and welfare services involved in caring for, treating, or
19 rehabilitating the patient;

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

22 (3) a person authorized by a court order;

23 (4) a person doing research or maintaining health statis-
24 tics, if the anonymity of the patient is assured, and the facility
25 recognizes the project as a bona fide research or statistical under-
26 taking;

27 (5) the division of corrections in a case in which a pris-
28 oner confined to the state prison is a patient in the state hospital
29 on authorized transfer either by voluntary admission or by court

1 order;

2 (6) a governmental or law enforcement agency when necessary
3 to secure the return of a patient who is on unauthorized absence from
4 a facility where the patient was undergoing evaluation or treatment;

5 (7) a law enforcement agency when there is substantiated
6 concern over imminent danger to the community by a presumed mentally
7 ill person.

8 * Sec. 25. AS 47.30.915(5) is amended to read:

9 (5) "evaluation facility" means a health care facility that
10 has been designated or is operated by the department to perform the
11 evaluations described in AS 47.30.660 - 47.30.915; or a medical facil-
12 ity licensed under AS 18.20.020 or operated by the federal government;

13 * Sec. 26. AS 47.30.915(7) is amended to read:

14 (7) "gravely disabled" means a condition in which a person
15 as a result of mental illness [,]

16 (A) is in danger of physical harm arising from such
17 complete neglect of basic needs for food, clothing, shelter, or
18 personal safety as to render serious accident, illness or death
19 highly probable if care by another is not taken; or

20 (B) will, if not treated, suffer or continue to suffer
21 severe and abnormal mental, emotional or physical distress, and
22 this distress is associated with significant impairment of judg-
23 ment, reason or behavior causing a substantial deterioration of
24 the person's previous ability to function independently;

25 * Sec. 27. AS 47.30.915(10) is amended to read:

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

27 (A) poses a substantial risk of [IMMINENT AND SUBSTAN-
28 TIAL] bodily harm to that person's self [HIMSELF], as manifested
29 by recent behavior causing, attempting or threatening that

1 [ATTEMPTS AT SUICIDE OR BODILY] harm;

2 (B) poses a substantial risk of [IMMINENT AND SUBSTAN-
3 TIAL BODILY] harm to others [ONE OR MORE OTHER PERSONS] as mani-
4 fested by recent behavior causing, [OR] attempting, or threaten-
5 ing harm, and is likely in the near future to cause physical
6 injury, physical abuse or substantial property damage to another
7 person [INCLUDING, IN REGARD TO EVALUATIONS, AT LEAST ONE INCI-
8 DENT WITHIN 30 DAYS BEFORE THE FILING OF A PETITION FOR EMERGENCY
9 HOSPITALIZATION]; or

10 (C) manifests [DEMONSTRATES] a current intent to carry
11 out plans of serious harm to that person's self [HIMSELF] or
12 another;

13 * Sec. 28. AS 47.30.915(11) is amended to read:

14 (11) "mental health professional" means a psychiatrist or
15 physician who is licensed to practice in this state or employed by the
16 federal government; a [CLINICAL] psychologist trained in clinical
17 psychology and licensed by the state Board of Psychologists and Psy-
18 chological Associate Examiners; a psychological associate trained in
19 [WITH A] clinical psychology and [OR COUNSELING SPECIALTY] licensed b
20 the Board of Psychologists and Psychological Associate Examiners; a
21 registered nurse with a master's degree in psychiatric nursing, li-
22 censed by the State Board of Nursing; and a social worker with a
23 master's degree in social work and experience in the field of mental
24 illness;