

Offered: 5/25/84  
Referred: Judiciary

Original sponsors: Josephson and Faiks

1 IN THE SENATE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 346 (HESS)  
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 every reasonable opportunity to  
21 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) A guardian ad litem for a minor admitted under this section  
25 shall be appointed under AS 25.24.310 to monitor the best interests of  
26 the minor as soon as possible after the minor's admission. If the  
27 guardian ad litem finds that placement is not appropriate, the guard-  
28 ian ad litem may request that an attorney be appointed under AS 25.-  
29 24.310 to represent the minor. The attorney may request a hearing on

1 behalf of the minor during the 30 day admittance.

2 (c) The minor may be released by the treatment facility at any  
3 time [DURING THE 21-DAY PERIOD] if the professional person in charge  
4 or the minor's [HIS] designated mental health professional determines  
5 the minor would no longer benefit from continued treatment [HOSPITAL-  
6 IZATION] and the minor is not dangerous. The minor's parents or [HIS]  
7 guardian must be notified by the facility of the contemplated release  
8 [AND THAT, UNLESS THEY INITIATE INVOLUNTARY COMMITMENT PROCEEDINGS,  
9 THE MINOR WILL BE RELEASED].

10 \* Sec. 6. AS 47.30 is amended by adding a new section to read:

11 Sec. 47.30.693. NOTICE TO PARENT OR GUARDIAN OF MINOR. When a  
12 minor under 18 years of age is detained at or admitted or committed to  
13 a treatment facility, the facility shall inform the parent or guardian  
14 of the location of the minor as soon as possible after the arrival of  
15 the minor at the facility.

16 \* Sec. 7. AS 47.30.695 is amended to read:

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

22 (1) discharge the minor to the custody of the parent or  
23 guardian; or

24 (2) if, in the opinion of the treating physician, release  
25 of the minor would be seriously detrimental to the minor's health, the  
26 treating physician may

27 (A) discharge the minor to the custody of the parent  
28 or guardian after advising the parent or guardian that this  
29 action is against medical advice and after receiving a written

1           acknowledgement of the advice; or  
2                       (B) refuse to discharge the minor, initiate involun-  
3           tary commitment proceedings, and continue to hold the minor until  
4           a court order under AS 47.30.700 has been issued; or  
5                       (3) if, in the opinion of the treating physician, the minor  
6           is likely to cause serious harm to self or others and there is reason  
7           to believe the release could place the minor in imminent danger, the  
8           treating physician shall refuse to discharge the minor, and shall  
9           initiate involuntary commitment proceedings and continue to hold the  
10          minor until a court order under AS 47.30.700 has been issued [REQUEST  
11          AND OBTAIN IMMEDIATE RELEASE OF THE MINOR AT ANY TIME, UNLESS AS THE  
12          RESULT OF MENTAL ILLNESS, THE MINOR IS LIKELY TO CAUSE SERIOUS HARM TO  
13          HIMSELF OR OTHERS].

14          \* Sec. 8. AS 47.30.705 is amended to read:

15                Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace  
16          officer or a mental health professional who has probable cause to  
17          believe that a person is gravely disabled or is suffering from mental  
18          illness and is likely to cause serious harm to self [HIMSELF] or  
19          others of such immediate nature that considerations of safety do not  
20          allow initiation of involuntary commitment procedures set out in  
21          AS 47.30.700, may cause the person to be taken into custody and de-  
22          livered to the nearest evaluation facility. A person taken into  
23          custody for emergency evaluation may not be placed in a jail or other  
24          correctional facility except for protective custody purposes and only  
25          while awaiting transportation to a treatment facility. The [A COR-  
26          RECTIONAL FACILITY MAY BE USED AS AN EMERGENCY EVALUATION FACILITY IF  
27          AN EVALUATION FACILITY IS NOT AVAILABLE. UPON ARRIVAL AT THE EVALU-  
28          ATION FACILITY, THE] peace officer or mental health professional shall  
29          complete an application for examination of the person in custody and

1 be interviewed by a mental health professional at the facility.

2 \* Sec. 9. AS 47.30.715 is amended to read:

3 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives  
4 a proper order for evaluation, it must accept the order and the re-  
5 spondent for an evaluation period not to exceed 72 hours. The facili-  
6 ty shall promptly notify the court of the date and time of the respon-  
7 dent's arrival. The court shall set a date, time and place for a  
8 30-day [21-DAY] commitment hearing, to be held if needed within 72  
9 hours after the respondent's arrival, and the court shall notify the  
10 facility, the respondent, the respondent's [HIS] attorney, and the  
11 prosecuting attorney of the hearing arrangements. Evaluation person-  
12 nel, when used, shall similarly notify the court of the date and time  
13 when they first met with the respondent.

14 \* Sec. 10. AS 47.30.725 is amended to read:

15 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)  
16 When a respondent is detained for evaluation under AS 47.30.660 -  
17 47.30.915, the respondent [HE] shall be immediately notified orally  
18 and in writing of the [HIS] rights under this section. Notification  
19 shall be in a language understood by the respondent. The respondent's  
20 [HIS] guardian, if any, and if the respondent requests, an adult  
21 designated by the respondent, shall also be notified of the respon-  
22 dent's rights under this section.

23 (b) Unless a respondent is released or voluntarily admitted  
24 [ADMITS HIMSELF] for treatment within 72 hours of [HIS] arrival at the  
25 facility or, if the respondent [HE] is evaluated by evaluation person-  
26 nel, within 72 hours from the beginning of the respondent's [HIS]  
27 meeting with evaluation personnel, the respondent [HE] is entitled to  
28 a court hearing to be set for not later than the end of that 72-hour  
29 period to determine whether there is cause for detention [TO DETAIN

1 HIM] after the 72 hours have expired for up to an additional 30 [21]  
2 days on the grounds that the respondent [HE] is [GRAVELY DISABLED OR]  
3 mentally ill, and as a result presents a likelihood of serious harm to  
4 the respondent [HIMSELF] or others, or is gravely disabled. The  
5 facility or evaluation personnel shall give notice to the court of the  
6 releases and voluntary admissions under AS 47.30.700 - 47.30.820.

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

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

15 (e) The respondent has the right to be free of the effects of  
16 medication and other forms of treatment to the maximum extent possible  
17 before the 30-day [21-DAY] commitment hearing; however, the facility  
18 or evaluation personnel may treat the respondent [HIM] with medication  
19 under prescription by a licensed physician or by a less restrictive  
20 alternative of the respondent's [HIS] preference if, in the opinion of  
21 a licensed physician in the case of medication, or of a mental health  
22 professional in the case of alternative treatment, the treatment is  
23 necessary to

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

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

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

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

6 \* Sec. 11. AS 47.30.730 is amended to read:

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

13 (1) allege that the respondent is mentally ill and as a  
14 result is likely to cause harm to self [HIMSELF] or others or is  
15 gravely disabled;

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

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

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

27 (5) allege that the respondent has been advised of the need  
28 for, but has not accepted, voluntary treatment, and request that the  
29 court commit the respondent to the specified treatment facility or

1 less restrictive alternative for a period not to exceed 30 [21] days;

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

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

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

9 \* Sec. 12. AS 47.30.735 is amended to read:

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

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

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

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

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

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

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

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

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

10          (8) to remain silent;

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

13          (c) At the conclusion of the hearing the court may commit the  
14 respondent to a treatment facility for not more than 30 [21] days if  
15 it finds, by clear and convincing evidence, that the respondent is  
16 mentally ill and as a result is likely to cause harm to the respondent  
17 [HIMSELF] or others or is gravely disabled.

18          (d) If the court finds that there is a viable less restrictive  
19 alternative available and that the respondent has been advised of and  
20 refused voluntary treatment through the alternative, the court may  
21 order the less restrictive alternative treatment for not more than 30  
22 [21] days if the program accepts the respondent.

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

27 \* Sec. 13. AS 47.30.740 is amended to read:

28           Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY  
29 [21-DAY] COMMITMENT. (a) At any time during the respondent's 30-day

1 [21-day] commitment, the professional person in charge, or that per-  
2 son's [HIS] professional designee, may file with the court a petition  
3 for a 90-day commitment of that respondent. The petition must include  
4 all material required under AS 47.30.730(a) except that references to  
5 "30 days" ["21 DAYS"] shall be read as "90 days"; and

6 (1) allege that the respondent has attempted to inflict or  
7 has inflicted serious bodily harm upon the respondent [HIMSELF] or  
8 another since the respondent's [HIS] acceptance for evaluation, or  
9 that the respondent [HE] was committed initially as a result of con-  
10 duct in which the respondent [HE] attempted or inflicted serious  
11 bodily harm upon the respondent [HIMSELF] or another, or that the  
12 respondent [HE] continues to be gravely disabled, or that the respon-  
13 dent [HE] demonstrates a current intent to carry out plans of serious  
14 harm to the respondent [HIMSELF] or another;

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

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

21 (b) The court shall have copies of the petition for 90-day  
22 commitment served upon the respondent, the respondent's [HIS] attor-  
23 ney, and the respondent's [HIS] guardian, if any. The petition for  
24 90-day commitment and proofs of service shall be filed with the clerk  
25 of the court, and a date for hearing shall be set, by the end of the  
26 next judicial day, for not later than five judicial days from the date  
27 of filing of the petition. The clerk shall notify the respondent, the  
28 respondent's [HIS] attorney, and the petitioner of the hearing date at  
29 least three judicial days in advance of the hearing.

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

6 \* Sec. 14. AS 47.30.745(b) is amended to read:

7 (b) Unless the respondent is released or is admitted voluntarily  
8 [ADMITS HIMSELF] following the filing of a petition and before the  
9 hearing, the respondent [HE] is entitled to a judicial hearing within  
10 five judicial days of the filing of the petition as set out in AS 47.-  
11 30.740(b) to determine if the respondent [HE] is mentally ill and as a  
12 result is likely to cause harm to self [HIMSELF] or others, or if the  
13 respondent [HE] is gravely disabled. If the respondent is admitted  
14 voluntarily [ADMITS HIMSELF] following the filing of the petition, the  
15 voluntary admission constitutes a waiver of any hearing rights under  
16 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-  
17 dent's voluntary admission under this subsection, the respondent  
18 submits to the facility a written request [NOTICE OF INTENT] to leave,  
19 the professional person in charge may file with the court a petition  
20 for a 180-day [120-DAY] commitment of the respondent under AS 47.30.-  
21 770. The 180-day [120-DAY] commitment hearing shall be scheduled for  
22 a date not later [EARLIER] than 90 days after the respondent's volun-  
23 tary admission.

24 \* Sec. 15. AS 47.30.770 is amended to read:

25 Sec. 47.30.770. ADDITIONAL 180-DAY [120-DAY] COMMITMENT. (a)  
26 The respondent shall be released from involuntary treatment at the  
27 expiration of 90 days unless the professional person in charge files a  
28 petition for a 180-day [120-DAY] commitment conforming to the require-  
29 ments of AS 47.30.740(a) except that all references to "30-day

1        commitment ["21-DAY COMMITMENT"] shall be read as "the previous  
2        90-day commitment" and all references to "90-day commitment" shall be  
3        read as "180-day commitment" ["120-DAY COMMITMENT"].

4            (b) The procedures for service of the petition, notification of  
5        rights, and judicial hearing shall be as set out in AS 47.30.740 -  
6        47.30.750. If the court or jury finds by clear and convincing evidence  
7        that the grounds for 90-day commitment as set out in AS 47.30.755 are  
8        present, the court may order the respondent committed for an addition-  
9        al treatment period not to exceed 180 [120] days from the date on  
10       which the first 90-day treatment period would have expired.

11           (c) Successive 180-day [120-DAY] commitments are permissible on  
12       the same ground and under the same procedures as the original 180-day  
13       [120-DAY] commitment. An order of commitment may not exceed 180 [120]  
14       days.

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

21       \* Sec. 16. AS 47.30 is amended by adding a new section to read:

22            Sec. 47.30.772. MEDICATION AND TREATMENT. A designated treat-  
23       ment facility may administer medication or other treatment to an  
24       involuntarily committed patient consistent with the provisions of  
25       AS 47.30.825 - 47.30.865.

26       \* Sec. 17. AS 47.30.790 is amended to read:

27            Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE; NOTICE OF  
28       ABSENCE. When a respondent undergoing involuntary treatment on an  
29       inpatient basis is absent from the treatment facility without, or in

1 excess of, authorization under AS 47.30.785, the professional person  
2 in charge, or that person's [HIS] professional designee, may contact  
3 the appropriate peace officers who shall take the respondent into  
4 custody and return the respondent [HIM] to the treatment facility. If  
5 it is determined by the professional person in charge to be necessary,  
6 a member of the treatment facility staff shall accompany the peace  
7 officers when they take the respondent into custody. In addition, the  
8 family or guardian of the patient and any person known to have been  
9 threatened by the patient shall be notified of the patient's  
10 unauthorized absence immediately upon its discovery.

11 \* Sec. 18. AS 47.30 is amended by adding a new section to read:

12 Sec. 47.30.803. CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS.

13 A patient subject to involuntary hospitalization under AS 47.30.705,  
14 47.30.735, or AS 47.30.755 may at any time convert to voluntary status  
15 if the responsible physician agrees that

16 (1) the patient is an appropriate patient for voluntary  
17 hospitalization; and

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

19 \* Sec. 19. AS 47.30.805(a) is amended to read:

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

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

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

28 (3) a 90-day commitment period expires at the end of the  
29 90th day after the expiration of a 30-day [21-DAY] period of

1 treatment;

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

6 \* Sec. 20. AS 47.30.815(b) is amended to read:

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

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

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

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

19 (4) a peace officer or mental health professional responsi-  
20 ble for detaining or transporting a person under AS 47.30.700 -  
21 47.30.915.

22 \* Sec. 21. AS 47.30.825(8) is amended to read:

23 (8) A patient upon discharge shall be given a discharge  
24 plan specifying the kinds and amount of care and treatment the patient  
25 [HE] should have after discharge and such other steps as the patient  
26 [HE] might take to benefit the patient's [HIS] mental health after  
27 leaving the facility. The patient shall have the right to partici-  
28 pate, as far as practicable, in formulating the patient's [HIS] dis-  
29 charge plan. A copy of the plan shall be given to the patient, the

1 patient's [HIS] guardian, an adult designated in accordance with  
2 AS 47.30.725, the court if appropriate, and any follow-up agencies.

3 \* Sec. 22. AS 47.30 is amended by adding a new section to read:

4 Sec. 47.30.833. NUTRITIONAL EVALUATION; RIGHT TO PROPER DIET.

5 (a) A treatment facility shall conduct a nutritional evaluation of a  
6 person admitted or committed to a treatment facility for evaluation or  
7 treatment, whether the person is a voluntary or involuntary patient.  
8 The evaluation shall be conducted within the first week after the  
9 patient is admitted or committed.

10 (b) Notwithstanding (a) of this section, a treatment facility is  
11 not required to conduct a nutritional evaluation of a patient who is  
12 released within 72 hours of arrival.

13 (c) A patient has the right to a nutritionally sound and medi-  
14 cally appropriate diet. After conducting the nutritional evaluation  
15 required under (a) of this section, the treatment facility shall take  
16 appropriate steps to correct the patient's nutritional deficiencies.

17 \* Sec. 23. AS 47.30.840 is amended to read:

18 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A  
19 person undergoing evaluation or treatment under AS 47.30.660 -  
20 47.30.915 [SHALL]

21 (1) may not be photographed without the person's [HIS]  
22 consent and that of the person's [HIS] guardian if a minor, except  
23 that the person [HE] may be photographed upon admission to a facility  
24 for identification and for administrative purposes of the facility;  
25 all photographs shall be confidential and may only be released by the  
26 facility to the patient or the patient's [HIS] designee unless a court  
27 orders otherwise;

28 (2) at the time of admission to an evaluation or treatment  
29 facility, shall have reasonable precautions taken by the staff to

1 inventory and safeguard the patient's [HIS] personal property; a copy  
2 of the inventory signed by the staff member making it shall be given  
3 to the patient and made available to the patient's [HIS] attorney and  
4 any other person authorized by the patient to inspect the document;

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

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

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

15 (6) shall have ready access to letter writing materials,  
16 including stamps, and have the right to send and receive unopened  
17 mail;

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

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

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

22 (10) has the right, at any time, to have a telephone conver-  
23 sation with or be visited by an attorney;

24 (11) may not be retaliated against or subjected to any  
25 adverse change of conditions or treatment solely because of assertion  
26 of rights under this section.

27 \* Sec. 24. AS 47.30.840 is amended by adding a new subsection to read:

28 (b) The patient's rights under (a)(4), (5), (7) and (9) of this  
29 section may be suspended temporarily, following the initial evaluation

1 period, if the professional person in charge of the patient determines  
2 that granting the patient those rights will pose a threat to the  
3 safety or well-being of the patient or others.

4 \* Sec. 25. AS 47.30.845 is amended to read:

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

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

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

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

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

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

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

29 (7) a law enforcement agency when there is substantiated

1 concern over imminent danger to the community by a presumed mentally  
2 ill person.

3 \* Sec. 26. AS 47.30.915(5) is amended to read:

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

8 \* Sec. 27. AS 47.30.915(7) is amended to read:

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

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

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

20 \* Sec. 28. AS 47.30.915(10) is amended to read:

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

22 (A) poses a substantial risk of [IMMINENT AND SUBSTAN-  
23 TIAL] bodily harm to that person's self [HIMSELF], as manifested  
24 by recent behavior causing, attempting or threatening that [A-  
25 TEMPTS AT SUICIDE OR BODILY] harm;

26 (B) poses a substantial risk of [IMMINENT AND SUBSTAN-  
27 TIAL BODILY] harm to others [ONE OR MORE OTHER PERSONS] as mani-  
28 fested by recent behavior causing, [OR] attempting, or threaten-  
29 ing harm, and is likely in the near future to cause physical

1 injury, physical abuse or substantial property damage to another  
2 person [INCLUDING, IN REGARD TO EVALUATIONS, AT LEAST ONE INCI-  
3 DENT WITHIN 30 DAYS BEFORE THE FILING OF A PETITION FOR EMERGENCY  
4 HOSPITALIZATION]; or

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

8 \* Sec. 29. AS 47.30.915(11) is amended to read:

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  
12 Board of Psychologists and Psychological Associate Examiners; a psy-  
13 chological associate trained in [WITH A] clinical psychology and [OR  
14 COUNSELING SPECIALTY] licensed by the Board of Psychologists and  
15 Psychological Associate Examiners; a registered nurse with a master's  
16 degree in psychiatric nursing, licensed by the State Board of Nursing;  
17 and a social worker with a master's degree in social work and sub-  
18 stantial experience in the field of mental health [ILLNESS];

19 \* Sec. 30. AS 47.30.915(12) is amended to read:

20 (12) "mental illness" means an organic, mental, or emotional  
21 impairment that has substantial adverse effects on an individual's  
22 ability to exercise conscious control of [HIS] the individual's  
23 actions or ability to perceive reality or to reason or understand;  
24 mental retardation, epilepsy, drug addiction, and alcoholism do not  
25 per se constitute mental illness, although persons suffering from  
26 these conditions may also be suffering from mental illness;

27 \* Sec. 31. SPECIAL REPORT. The Department of Health and Social Ser-  
28 vices, division of mental health and developmental disabilities, shall  
29 review the literature concerning orthomolecular psychiatric methods in

1 order to determine their potential uses in the diagnosis and treatment of  
2 mentally ill persons in the state. The division shall submit a report of  
3 its findings to the legislature by February 1, 1985.