

Introduced: 5/3/85
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY SHULTZ AND MARROU

2

HOUSE BILL NO. 423

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the release of certain dangerous
7 persons and liability for their conduct following
8 release."

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

10 * Section 1. AS 12.30 is amended by adding a new section to read:

11 Sec. 12.30.045. RELEASE OF A PERSON WHO REQUIRES MEDICATION;
12 LIABILITY. (a) If a court finds that a person poses a danger of
13 violent behavior unless the person receives medication prescribed to
14 deter that behavior, the court may not release the person under
15 AS 12.30.010 - 12.30.040 unless

16 (1) the court places the person with a suitable custodian
17 who agrees to supervise the person and to require that the person
18 maintain the prescribed schedule of medication; and

19 (2) the designated custodian acknowledges in court the
20 custodian's potential liability under this section for damages that
21 result from the violent behavior of the person if the person fails to
22 maintain the prescribed schedule of medication during the period of
23 release to the custodian.

24 (b) An individual or organization that accepts custody of a
25 person under (a) of this section and negligently fails to require that
26 the person maintain a prescribed schedule of medication to deter
27 violent behavior may be held civilly liable for damages that result
28 from the violent behavior of the person during the period of release
29 to the custodian.

1 (c) For purposes of (b) of this section a person acts
2 "negligently" with respect to a result or to a circumstance described
3 in this section if the person fails to perceive a risk that the result
4 will occur or that the circumstance exists; the risk must be of such a
5 nature and degree that the failure to perceive it constitutes a
6 deviation from the standard of care that a reasonable person would
7 observe in the situation.

8 * Sec. 2. AS 12.55.015 is amended by adding new subsections to read:

9 (e) A court that sentences a defendant found to pose a danger of
10 violent behavior unless the defendant receives medication prescribed
11 to deter that behavior may prohibit the release of the defendant on
12 probation unless

13 (1) a suitable custodian agrees to supervise the defendant
14 and to require that the defendant maintain a prescribed schedule of
15 medication; and

16 (2) the designated custodian acknowledges in court the
17 custodian's potential liability under (f) of this section for damages
18 that result from the violent behavior of the defendant if the
19 defendant fails to maintain a prescribed schedule of medication during
20 the period of release to the custodian.

21 (f) An individual or organization that accepts custody of a
22 defendant under (e) of this section and negligently fails to require
23 that the defendant maintain a prescribed schedule of medication to
24 deter violent behavior may be held civilly liable for damages that
25 result from the violent behavior of the defendant during the period of
26 release to the custodian.

27 (g) For purposes of (f) of this section a person acts
28 "negligently" with respect to a result or to a circumstance described
29 in this section if the person fails to perceive a risk that the result

1 will occur or that the circumstance exists; the risk must be of such a
2 nature and degree that the failure to perceive it constitutes a deviat-
3 tion from the standard of care that a reasonable person would observe
4 in the situation.

5 * Sec. 3. AS 33.15.080 is amended by adding new subsections to read:

6 (b) If the board finds that a prisoner poses a danger of violent
7 behavior unless the prisoner receives medication prescribed to deter
8 that behavior, the board may not release the prisoner on parole unless

9 (1) the board places the parolee with a suitable custodian
10 who agrees to supervise the parolee and to require that the parolee
11 maintain the prescribed schedule of medication; and

12 (2) the designated custodian acknowledges to the board the
13 custodian's potential liability under (c) of this section for damages
14 that result from the violent behavior of the parolee if the parolee
15 fails to maintain the prescribed schedule of medication during the
16 period of release to the custodian.

17 (c) An individual or organization that accepts custody of a
18 parolee under (b) of this section and negligently fails to require
19 that the parolee maintain a prescribed schedule of medication to deter
20 violent behavior may be held civilly liable for damages that result
21 from the violent behavior of the parolee during the period of release
22 to the custodian.

23 (d) For purposes of (c) of this section a person acts
24 "negligently" with respect to a result or to a circumstance described
25 in this section if the person fails to perceive a risk that the result
26 will occur or that the circumstance exists; the risk must be of such a
27 nature and degree that the failure to perceive it constitutes a
28 deviation from the standard of care that a reasonable person would
29 observe in the situation.