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Referred: Judiciary and Finance

Original sponsors: Rodey, Faiks,
Abood, et al

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2

CS FOR SENATE BILL NO. 264 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the waiver of children's court
7 jurisdiction, and to the detention, fingerprinting,
8 and sentencing of minors; and amending Rule 24 of the
9 Alaska Rules of Children's Procedure."

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

11 * Section 1. AS 12.55.015 is amended by adding a new subsection to
12 read:

13 (e) If the court sentences a defendant to a term of imprisonment
14 and the defendant is a minor over whom children's court jurisdiction
15 is waived under AS 47.10.060, the court shall

16 (1) order that the defendant be confined in an institution
17 designated by the Department of Health and Social Services for offend-
18 ers under 18 years of age; and

19 (2) order that the defendant be transferred to an adult
20 correctional facility when the defendant reaches 18 years of age if
21 more than one year then remains of the defendant's term of imprison-
22 ment.

23 * Sec. 2. AS 12.55.125 is amended by adding a new subsection to read:

24 (j) A person convicted of a first felony offense after waiver of
25 children's court jurisdiction under AS 47.10.060 is not subject to the
26 mandatory minimum and presumptive sentences required for first offen-
27 ders.

28 * Sec. 3. AS 47.10.060 is repealed and reenacted to read:

29 Sec. 47.10.060. WAIVER OF JURISDICTION. (a) The court shall

1 order a case closed, and a minor may be prosecuted as an adult, if the
2 court finds at a hearing on a petition

3 (1) that the minor was 16 years of age or older at the time
4 of the offense and that there is probable cause to believe that the
5 minor has violated AS 11.41.100, 11.41.110, 11.41.300, 11.41.410, or
6 11.41.434; or

7 (2) that the minor is not amenable to treatment under this
8 chapter and there is probable cause to believe that the minor is
9 delinquent.

10 (b) In determining whether a minor is amenable to treatment
11 under this chapter, the court shall consider

12 (1) the seriousness of the offense;

13 (2) whether the offense constituted a substantial danger to
14 the public;

15 (3) whether the offense was committed in an aggressive,
16 violent, premeditated, or wilful manner;

17 (4) whether the offense was against persons or against
18 property, greater weight being given to an offense against persons,
19 especially if personal injury resulted;

20 (5) whether the offense is a part of a repetitive pattern
21 of delinquent acts, even though previous offenses may have been less
22 serious;

23 (6) the age, maturity, educational background, and degree
24 of criminal sophistication of the minor;

25 (7) the success of any previous attempts to rehabilitate
26 the minor;

27 (8) whether children's court jurisdiction over the minor
28 can be retained long enough to allow for effective treatment or reha-
29 bilitation; and

1 (9) the treatment resources available under children's
2 court proceedings.

3 (c) The court shall determine the weight to be given to each of
4 the factors listed in (b) of this section and shall issue a written
5 decision. A finding that a minor is not amenable to treatment under
6 this chapter may be based on any one or a combination of the factors.

7 (d) A minor ordered held pending trial or sentencing as an adult
8 under (a) of this section shall be confined in an institution desig-
9 nated by the Department of Health and Social Services for offenders
10 under 18 years of age.

11 * Sec. 4. AS 47.10 is amended by adding a new section to read:

12 Sec. 47.10.125. FINGERPRINTING OF MINORS. (a) A law enforce-
13 ment agency or the Department of Health and Social Services may fin-
14 gerprint a minor only

15 (1) in accordance with a search warrant;

16 (2) if children's court jurisdiction over the minor has
17 been waived under AS 47.10.060(a) and the minor is being prosecuted as
18 an adult;

19 (3) if the minor is adjudicated a delinquent for the
20 commission of an offense that would constitute a felony if committed
21 by an adult;

22 (4) with the consent of the minor and a parent or legal
23 guardian of the minor, both of whom shall have been advised that the
24 fingerprints may not be taken without their consent; or

25 (5) by order of the court.

26 (b) Fingerprints of a minor shall be kept separate from those of
27 adults, shall be kept within the state rather than at a federal cen-
28 tral depository, and shall be made available on request only to the
29 following:

1 (1) a public agency for use in the investigation and prose-
2 cution of criminal offenses for which the fingerprinted minor is a
3 suspect;

4 (2) the minor or the minor's attorney.

5 (c) Fingerprints of a minor taken under this section shall be
6 destroyed by the authority charged with their maintenance

7 (1) if the minor is adjudicated for the offense regarding
8 which the minor's fingerprints were taken and is found not to be
9 within the jurisdiction of the court for the offense; or

10 (2) if the minor is not adjudicated for the offense regard-
11 ing which the minor's fingerprints were taken within two years of the
12 date the fingerprints were taken.

13 * Sec. 5. AS 47.10.130 is amended to read:

14 Sec. 47.10.130. DETENTION. A [NO] minor under 18 years of age
15 who is detained pending hearing may not be incarcerated in a jail
16 unless assigned to separate quarters so that the minor cannot communi-
17 cate with or view prisoners 18 years of age or older except those
18 incarcerated under AS 47.10.100 [ADULT PRISONERS CONVICTED OF, UNDER
19 ARREST FOR, OR CHARGED WITH A CRIME]. When a minor is detained pend-
20 ing hearing, the minor's parent, guardian, or custodian shall be
21 notified immediately.

22 * Sec. 6. AS 47.10.190 is amended to read:

23 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court
24 commits a minor to the custody of the department, the department shall
25 arrange to place the minor [JUVENILE] in a detention home, facility or
26 another suitable place that [WHICH] the department designates for that
27 purpose. A minor [JUVENILE] detained in a jail or similar institution
28 at the request of the department shall be held in custody in a room or
29 other place apart and separate from prisoners 18 years of age or older

1 except those incarcerated under AS 47.10.100 [ADULTS].

2 * Sec. 7. Rule 24, Alaska Rules of Children's Procedure, is amended to
3 read:

4 No child shall be [FINGERPRINTED OR] photographed while in custo-
5 dy except with the consent of the children's court upon good cause
6 shown. Such cause exists where the child is in custody for a serious
7 offense against persons or property or where identification of the
8 child appears necessary for the safety of the child or others.

9 * Sec. 8. Section 7 amends Rule 24 of the Alaska Rules of Children's
10 Procedure by deleting the reference to fingerprints.

11 * Sec. 9. Rule 24, Alaska Rules of Children's Procedure, is amended by
12 adding a new subsection to read:

13 (b) A child may not be fingerprinted while in custody except in
14 accordance with AS 47.10.125.

15 * Sec. 10. Section 9 amends Rule 24 of the Alaska Rules of Children's
16 Procedure by incorporating the statutory requirements for obtaining finger-
17 prints from a child in custody.