

Offered: 2/19/88
Referred: Judiciary

5-0310N

Original sponsors: Rodey, Faiks,
Fischer, et al.

1 IN THE SENATE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 79 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to runaway and missing minors."
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
8 * Section 1. AS 47.10.141 is amended to read:
9 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving
10 a written or telephonic request to locate a minor evading the minor's
11 legal custodian or to locate a minor otherwise missing, a law enforce-
12 ment agency shall make reasonable efforts to locate the minor and
13 shall immediately complete a missing person's report containing infor-
14 mation necessary for the identification of the minor. As soon as
15 practicable, but not later than 24 hours after completing the report,
16 the agency shall transmit the report for entry into the Alaska Public
17 Safety Information Network and the National Crime Information Center
18 computer system. As soon as practicable, but not later than 24 hours
19 after the agency learns that the minor has been located, it shall
20 request that the Department of Public Safety and the Federal Bureau of
21 Investigation remove the information from the computer systems.
22 (b) A peace officer shall take into protective custody a minor
23 described in (a) of this section if the minor is not otherwise subject
24 to arrest or detention. The peace officer shall honor the minor's
25 preference to [EITHER] (1) return the minor to the legal custodian if
26 the legal custodian consents to the return; (2) take the minor to a
27 nearby location agreed to by the minor and the legal custodian; or (3)
28 [(2)] take the minor to an office specified by the Department of
29 Health and Social Services, a program for runaway minors approved by

1 the department under AS 47.10.310, or a facility or contract agency of
2 the department. If an office specified by the department or a facili-
3 ty or contract agency of the department does not exist in the communi-
4 ty, the officer shall take the minor to another suitable location and
5 promptly notify the department. A minor under protective custody may
6 not be housed in a jail or, except as provided in (c) of this section,
7 in a [OTHER] detention facility. Immediately upon taking a minor int
8 protective custody the officer shall advise the minor orally and in
9 writing of the right to social services under AS 47.10.142(b), and, if
10 known, the officer shall advise the legal custodian that the minor has
11 been taken into protective custody.

12 * Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

13 (c) A minor may be taken into protective custody by a peace
14 officer and placed into temporary detention in a juvenile detention
15 home if there has been an order issued by a court upon a finding of
16 probable cause that (1) the minor is a runaway in violation of a valid
17 court order issued under AS 47.10.142(f), (2) the minor's current
18 situation poses a severe and imminent risk to the minor's health or
19 safety, and (3) no reasonable placement alternative exists within the
20 community. For the purposes of this subsection, a risk may not be
21 considered severe and imminent solely because of the general con-
22 ditions for runaway minors in the community, but shall be assessed in
23 view of the specific behavior and situation of the minor. A minor
24 detained under this subsection shall be brought before a court within
25 48 hours after the detention for a hearing to determine whether the
26 minor is in civil contempt of court under AS 09.50.010(5). Protective
27 custody may not include placement of a minor in a jail or secure
28 facility other than a juvenile detention home, nor may an order for
29 protective custody be enforced against a minor who is residing in an

1 approved program for runaway minors, as defined in AS 47.10.390.

2 * Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

3 (f) When a minor is committed to the department for temporary
4 placement under (e) of this section, the court order shall specify the
5 terms, conditions, and duration of placement. The court shall require
6 the minor to remain in the placement provided by the department and
7 shall clearly state in the order the consequences of violating the
8 order, including the possibility of detention under AS 47.10.141(c).

9 * Sec. 4. AS 47.10 is amended by adding new sections to read:

10 ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

11 Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The de-
12 partment shall

13 (1) review, inspect, and approve or disapprove proposed or
14 established programs for runaway minors;

15 (2) maintain a register of approved programs for runaway
16 minors;

17 (3) award grants for the establishment or operation of
18 approved programs for runaway minors;

19 (4) submit to the legislature and governor each January a
20 report on programs for runaway minors in the state;

21 (5) adopt regulations for the administration of AS 47.10.-
22 300 - 47.10.390, including regulations providing for the coordination
23 of services to be provided by approved programs for runaway minors and
24 by the department.

25 Sec. 47.10.310. APPROVAL OF PROGRAMS FOR RUNAWAY MINORS. (a)
26 The department may approve a program for runaway minors under AS 47.-
27 10.300 - 47.10.390 only if the program

28 (1) is operated by a corporation organized under AS 10.20
29 or a municipality; and

- 1 (2) meets the requirements of (b) of this section.
- 2 (b) A program for runaway minors shall
- 3 (1) explain to a minor who seeks assistance from the pro-
- 4 program the legal rights and responsibilities of runaway minors and the
- 5 services and assistance provided for runaway minors by the program and
- 6 by the state or local municipality;
- 7 (2) attempt to determine why a minor in the program is a
- 8 runaway;
- 9 (3) provide or help arrange for the provision of services
- 10 necessary to promote the health and welfare of a minor in the program
- 11 and, if appropriate, members of the minor's family; services may
- 12 include, but are not limited to, the provision of food, shelter,
- 13 clothing, medical care, and individual or family counseling;
- 14 (4) promptly inform the department of a minor in the pro-
- 15 gram who claims to be the victim of child abuse or neglect, as defined
- 16 in AS 47.17.070, or whom an employee of the program has cause to
- 17 believe has been a victim of child abuse or neglect;
- 18 (5) be operated with the goal of reuniting runaway minors
- 19 with their families, except in cases in which reunification is clearly
- 20 contrary to the health and welfare of the minor; and
- 21 (6) maintain adequate staffing and accommodations to ensure
- 22 physical security and to provide crisis services to minors residing in
- 23 a facility operated by the program; residents under 18 years of age
- 24 shall be segregated from residents who are 18 years of age or older.
- 25 (c) A program for runaway minors may provide services for the
- 26 protection of the health and welfare of a person under 21 years of age
- 27 who is in need of the services and who is without a place of shelter
- 28 in which supervision and care of the person are available.

29 Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES.

1 A runaway minor may maintain residency for a period not exceeding 45
2 days at a facility operated as part of an approved program for runaway
3 minors. The minor may maintain residency without the consent of the
4 person or agency having custody of the minor, except that if the court
5 has ordered the minor committed to the custody of the department,
6 written consent of the department is required. The residency may be
7 extended for an additional period of 45 days with the written consent
8 of the person or agency having custody of the minor. A minor may not
9 maintain residency beyond the 90th day following admission to an
10 approved program for runaway minors without the written consent of the
11 person or agency having custody of the minor and the written consent
12 of the department.

13 Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The
14 director of an approved program for runaway minors shall make a good
15 faith effort to notify a minor's legal custodian within 72 hours after
16 the minor is admitted to the program, unless there are compelling
17 circumstances that justify withholding notice. The notice must de-
18 scribe the minor's physical and emotional condition and the circum-
19 stances surrounding the minor's admission to the program.

20 (b) The director of an approved program for runaway minors shall
21 promptly notify a minor's legal custodian if the minor is released
22 from the program into the custody of a person other than the legal
23 custodian or a person representing the legal custodian.

24 Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of an
25 approved program for runaway minors that identify a minor who has been
26 admitted to or has sought assistance from the program are confidential
27 and are not subject to inspection or copying under AS 09.25.110 -
28 09.25.120, unless

29 (1) the minor consents in writing to the disclosure of the

1 records;

2 (2) the records are relevant to an investigation or pro-
3 ceeding involving child abuse or neglect or a child in need of aid
4 petition; or

5 (3) disclosure of the records is necessary to protect the
6 life or health of the minor.

7 Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers,
8 directors, and employees of an approved program for runaway minors are
9 not liable for civil damages as a result of an act or omission in
10 admitting a minor to the program or releasing a minor from the program
11 into the custody of a person other than the minor's legal custodian.

12 (b) This section does not preclude liability for civil damages
13 as a result of recklessness or intentional misconduct.

14 Sec. 47.10.360. PROGRAMS EXEMPT FROM LICENSING. An approved
15 program for runaway minors is not subject to licensing or regulation
16 under AS 47.35.

17 Sec. 47.10.370. MUNICIPAL POWERS. Authority to establish and
18 operate an approved program for runaway minors is granted to munic-
19 ipalities that do not otherwise have that authority.

20 Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

21 (1) "approved program for runaway minors" means a residen-
22 tial or nonresidential program approved by the department under
23 AS 47.10.310;

24 (2) "runaway minor" means a person under 18 years of age
25 who

26 (A) is habitually absent from home;

27 (B) refuses to accept available care;

28 (C) has no parent, guardian, custodian, or relative
29 able or willing to provide care; or

1 (D) has been physically abandoned by
2 (i) both parents;
3 (ii) the surviving parent; or
4 (iii) one parent if the other parent's rights and
5 responsibilities have been terminated under AS 25.23.180(c)
6 or AS 47.10.080 or voluntarily relinquished.