

Offered: 4/22/88
Referred: Finance

5-0310T

Original sponsors: Rodey, Faiks,
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1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 79 (Judiciary)
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 47.10.050(b) is amended to read:

9 (b) In a contempt hearing under AS 47.10.141(c) and in all
10 proceedings initiated under a petition for delinquency, a minor shall
11 have the right to be represented by counsel and if indigent have
12 counsel appointed by the court. The court shall appoint counsel in
13 such cases unless it makes a finding on the record that the minor has
14 made a voluntary, knowing, and intelligent waiver of the right to
15 counsel and a parent or guardian with whom the child resides or re-
16 sided before the filing of the petition concurs with the waiver. In
17 cases in which it has been alleged that the minor has committed an act
18 which would be a felony if committed by an adult, waiver of counsel
19 shall not be accepted unless the court is satisfied that the minor has
20 consulted with an attorney before the waiver of counsel.

21 * Sec. 2. AS 47.10.141 is amended to read:

22 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving
23 a written, telephonic, or other request to locate a minor evading the
24 minor's legal custodian or to locate a minor otherwise missing, a law
25 enforcement agency shall make reasonable efforts to locate the minor
26 and shall immediately complete a missing person's report containing
27 information necessary for the identification of the minor. As soon as
28 practicable, but not later than 24 hours after completing the report,
29 the agency shall transmit the report for entry into the Alaska Public

1 Safety Information Network and the National Crime Information Center
2 computer system. As soon as practicable, but not later than 24 hours
3 after the agency learns that the minor has been located, it shall
4 request that the Department of Public Safety and the Federal Bureau of
5 Investigation remove the information from the computer systems.

6 (b) A peace officer shall take into protective custody a minor
7 described in (a) of this section if the minor is not otherwise subject
8 to arrest or detention. The peace officer shall honor the minor's
9 preference to [EITHER] (1) return the minor to the legal custodian if
10 the legal custodian consents to the return; (2) take the minor to a
11 nearby location agreed to by the minor and the legal custodian; or (3)
12 [(2)] take the minor to an office specified by the Department of
13 Health and Social Services, a program for runaway minors licensed by
14 the department under AS 47.10.310, or a facility or contract agency of
15 the department. If an office specified by the department, a licensed
16 program for runaway minors, or a facility or contract agency of the
17 department does not exist in the community, the officer shall take the
18 minor to another suitable location and promptly notify the department.
19 A minor under protective custody may not be housed in a jail or,
20 except as provided in (c) of this section, in a [OTHER] detention
21 facility. Immediately upon taking a minor into protective custody the
22 officer shall advise the minor orally and in writing of the right to
23 social services under AS 47.10.142(b), and, if known, the officer
24 shall advise the legal custodian that the minor has been taken into
25 protective custody.

26 * Sec. 3. AS 47.10.141 is amended by adding a new subsection to read:

27 (c) A minor may be taken into protective custody by a peace
28 officer and placed into temporary detention in a juvenile detention
29 home if there has been an order issued by a court upon a finding of

1 probable cause that (1) the minor is a runaway in wilful violation of
2 a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the
3 minor's current situation poses a severe and imminent risk to the
4 minor's health or safety, and (3) no reasonable placement alternative
5 exists within the community. For the purposes of this subsection, a
6 risk may not be considered severe and imminent solely because of the
7 general conditions for runaway minors in the community, but shall be
8 assessed in view of the specific behavior and situation of the minor.
9 A minor detained under this subsection shall be brought before a court
10 within 24 hours after the detention for a hearing to determine whether
11 the minor is in contempt of court under AS 09.50.010(5). Protective
12 custody may not include placement of a minor in a jail or secure
13 facility other than a juvenile detention home, nor may an order for
14 protective custody be enforced against a minor who is residing in a
15 licensed program for runaway minors, as defined in AS 47.10.390.

16 * Sec. 4. AS 47.10.142 is amended by adding a new subsection to read:

17 (f) When a minor is committed to the department for temporary
18 placement under (e) of this section, the court order shall specify the
19 terms, conditions, and duration of placement. The court shall require
20 the minor to remain in the placement provided by the department and
21 shall clearly state in the order the consequences of violating the
22 order, including the possibility of detention under AS 47.10.141(c).

23 * Sec. 5. AS 47.10 is amended by adding new sections to read:

24 ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

25 Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The de-
26 partment shall

27 (1) review, inspect, and approve or disapprove for licens-
28 ing proposed or established programs for runaway minors to ensure the
29 health and safety of minors in the program;

1 (2) maintain a register of licensed programs for runaway
2 minors;

3 (3) award grants for the establishment or operation of
4 licensed programs for runaway minors;

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

7 (5) adopt regulations for the administration of AS 47.10.-
8 300 - 47.10.390, including regulations providing for the coordination
9 of services to be provided by licensed programs for runaway minors and
10 by the department.

11 Sec. 47.10.310. LICENSING OF PROGRAMS FOR RUNAWAY MINORS. (a)
12 A person may not operate a program for runaway minors in the state
13 without a license issued under this section. A person who violates
14 this subsection is guilty of a violation.

15 (b) The department may license a program for runaway minors
16 under AS 47.10.300 - 47.10.390 only if the program

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

19 (2) meets the requirements of (c) of this section.

20 (c) A program for runaway minors shall

21 (1) explain to a minor who seeks assistance from the pro-
22 gram the legal rights and responsibilities of runaway minors and the
23 services and assistance provided for runaway minors by the program and
24 by the state or local municipality;

25 (2) attempt to determine why a minor in the program is a
26 runaway;

27 (3) provide or help arrange for the provision of services
28 necessary to promote the health and welfare of a minor in the program
29 and, if appropriate, members of the minor's family; services may

1 include, but are not limited to, the provision of food, shelter,
2 clothing, medical care, and individual or family counseling;

3 (4) promptly inform the department of a minor in the pro-
4 gram who claims to be the victim of child abuse or neglect, as defined
5 in AS 47.17.070, or whom an employee of the program has cause to
6 believe has been a victim of child abuse or neglect;

7 (5) be operated with the goal of reuniting runaway minors
8 with their families, except in cases in which reunification is clearly
9 contrary to the best interest of the minor; and

10 (6) maintain adequate staffing and accommodations to ensure
11 physical security and to provide crisis services to minors residing in
12 a facility operated by the program; residents under 18 years of age
13 shall be segregated from residents who are 18 years of age or older.

14 (d) A program for runaway minors may provide services for the
15 protection of the health and welfare of a person under 21 years of age
16 who is in need of the services and who is without a place of shelter
17 in which supervision and care of the person are available.

18 Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES.
19 A runaway minor may maintain residency for a period not exceeding 45
20 days at a facility operated as part of a licensed program for runaway
21 minors. The minor may maintain residency without the consent of the
22 person or agency having custody of the minor, except that if the court
23 has ordered the minor committed to the custody of the department,
24 written consent of the department is required. The residency may be
25 extended for an additional period of 45 days with the written consent
26 of the person or agency having custody of the minor. A minor may not
27 maintain residency beyond the 90th day following admission to a li-
28 censed program for runaway minors without the written consent of the
29 person or agency having custody of the minor and the written consent

1 of the department.

2 Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The
3 director of a program for runaway minors shall make a good faith
4 effort to notify a minor's legal custodian as soon as possible, but in
5 no event more than 48 hours after the minor is admitted to the pro-
6 gram, unless there are compelling circumstances that justify with-
7 holding notice. The notice must describe the minor's physical and
8 emotional condition and the circumstances surrounding the minor's
9 admission to the program.

10 (b) The director of a program for runaway minors shall promptly
11 notify a minor's legal custodian if the minor is released from the
12 program into the custody of a person other than the legal custodian or
13 a person representing the legal custodian.

14 Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of a li-
15 censed program for runaway minors that identify a minor who has been
16 admitted to or has sought assistance from the program are confidential
17 and are not subject to inspection or copying under AS 09.25.110 -
18 09.25.120, unless

19 (1) after being informed of the minor's right to privacy,
20 the minor consents in writing to the disclosure of the records;

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

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

26 Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers,
27 directors, and employees of a licensed program for runaway minors are
28 not liable for civil damages as a result of an act or omission in
29 admitting a minor to the program.

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

3 Sec. 47.10.360. MUNICIPAL POWERS. Authority to establish and
4 operate a licensed program for runaway minors is granted to munic-
5 ipalities that do not otherwise have that authority.

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

7 (1) "licensed program for runaway minors" means a residen-
8 tial or nonresidential program licensed by the department under
9 AS 47.10.310;

10 (2) "runaway minor" means a person under 18 years of age
11 who

12 (A) is habitually absent from home;

13 (B) refuses to accept available care;

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

16 (D) has been physically abandoned by

17 (i) both parents;

18 (ii) the surviving parent; or

19 (iii) one parent if the other parent's rights and
20 responsibilities have been terminated under AS 25.23.180(c)
21 or AS 47.10.080 or voluntarily relinquished.