

Introduced: 1/20/89
Referred: Health, Education &
Social Services and Judiciary

go00579h

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

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HOUSE BILL NO. 98

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SIXTEENTH LEGISLATURE - FIRST SESSION

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A BILL

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For an Act entitled: "An Act modifying procedures for juvenile delinquency
detention hearings; and changing Alaska Supreme Court
Delinquency Rule 10(c)."

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

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* Section 1. AS 47.10.140 is amended to read:

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Sec. 47.10.140. TEMPORARY DETENTION AND DETENTION HEARING. (a)

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A peace officer may arrest a minor who violates a law or ordinance in
the officer's presence, or whom the officer reasonably believes is a
fugitive from justice. A peace officer may continue a lawful arrest
made by a citizen. The officer may have the minor detained in a
juvenile detention facility if in the officer's opinion it is neces-
sary to do so to protect the minor or the community.

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(b) A peace officer who has a minor detained under (a) of this
section shall immediately, and in no event more than 12 hours later,
notify the court, the minor's parents or guardian, and the Department
of Health and Social Services of the officer's action. The department
may file with the court a petition alleging delinquency before the
detention hearing.

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(c) The court shall immediately, and in no event more than 48
hours later, hold a hearing at which the minor and the minor's parents
or guardian if they can be found shall be present. The court shall
determine whether probable cause exists for believing the minor to be
delinquent. The court shall inform the minor of the reasons alleged
to constitute probable cause and the reasons alleged to authorize the

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1 minor's detention. The determination of probable cause may be based
2 on (1) a warrant to take custody, (2) affidavits filed with the peti-
3 tion for adjudication as a delinquent or with the petition for modi-
4 fication or revocation of probation, or (3) the sworn statement of the
5 arresting officer. The minor is entitled to a further hearing to be
6 held within five court days after arrest, at which the minor has a
7 right to confront adverse witnesses. The minor is entitled to counsel
8 at all proceedings [AND TO CONFRONTATION OF ADVERSE WITNESSES].

9 (d) If the court finds that probable cause exists, it shall
10 determine whether the minor should be detained pending the hearing on
11 the petition or released. It may either order the minor held in
12 detention or released to the custody of a suitable person pending the
13 hearing on the petition. If the court finds no probable cause, it
14 shall order the minor released and close the case.

15 (e) Except for temporary detention pending a detention hearing,
16 a minor may be detained only by court order.

17 * Sec. 2. Alaska Supreme Court Delinquency Rule 10 is amended to read:

18 Rule 10. EVIDENCE. (a) APPLICABILITY OF EVIDENCE RULES. The
19 Alaska Rules of Evidence apply to delinquency proceedings to the same
20 extent that they apply to criminal proceedings, except as otherwise
21 provided by these rules.

22 (b) DISPOSITION AND REVIEW OF DISPOSITION ORDERS. The parties
23 may submit information through reports, statements, affidavits and
24 testimony at the disposition hearing and in review of a disposition
25 order. Hearsay which is not otherwise admissible under a recognized
26 exception to the hearsay rule may be admissible at disposition and in
27 review of a disposition order if the hearsay is probative of a materi-
28 al fact, has circumstantial guarantees of trustworthiness, and the
29 appearing parties are given a fair opportunity to meet it.

1 (c) TEMPORARY DETENTION HEARING. The determination of probable
2 cause may be based on (1) a warrant to take custody, (2) affidavits
3 filed with the petition for adjudication as a delinquent or with the
4 petition for modification or revocation of probation, or (3) the sworn
5 statement of the arresting officer. The minor is entitled to a fur-
6 ther hearing to be held within five court days after arrest, at which
7 the minor has a right to confront adverse witnesses. Inadmissible
8 [HEARSAY WHICH IS NOT OTHERWISE ADMISSIBLE UNDER THE EVIDENCE RULES IS
9 NOT ADMISSIBLE TO PROVE PROBABLE CAUSE AT A TEMPORARY DETENTION HEAR-
10 ING. HOWEVER, OTHERWISE INADMISSIBLE] hearsay may be admitted under
11 the standard stated in paragraph (b) of this rule on the issue of
12 whether the minor should be removed from the home or detained.