

BY REP. DONLEY, Larson, Swackhammer, Barnes, Collins, Foster, Hudson,  
Miller, Zawacki, Sharp

1 IN THE HOUSE

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HOUSE BILL NO. 487

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act relating to adjudications of delinquency  
involving minors; and amending Rules 8(d) and 20 of  
the Alaska Delinquency Rules."

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

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\* Section 1. AS 47.10.020(a) is amended to read:

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(a) Whenever a person informs the court of [THE] facts that

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[WHICH] bring a minor within this chapter, the court shall appoint a

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competent person or agency to make a preliminary inquiry and report

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for the information of the court to determine whether the interests of

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the public or of the minor require that further action be taken. Upon

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the receipt of the report, unless a referral is required by AS 47.-

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10.055, the court may informally adjust or dispose of the matter

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without a hearing, or it may authorize the person having knowledge of

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the facts of the case to file with the court a petition setting out

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the facts. If [WHERE] the court informally adjusts or disposes of the

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matter, the minor may not be detained or taken into the custody of the

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court, and the matter shall be closed by the court upon adjustment or

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disposition.

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\* Sec. 2. AS 47.10 is amended by adding a new section to read:

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Sec. 47.10.055. REFERRAL FOR PROSECUTION. If, on the basis of

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the preliminary inquiry and report prepared under AS 47.10.020(a) or

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on the basis of other information, there is a reasonable basis to

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charge a violation of a criminal law that is a felony by a minor for

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whom a court has at least twice previously entered adjudications of

1 delinquency for violation of a criminal law that is a felony, the  
2 court shall direct the person preparing the report or having knowledge  
3 of the information to file a delinquency petition. When the petition  
4 has been filed, the court shall refer the petition to the attorney  
5 general. If the attorney general finds evidence sufficient to warrant  
6 prosecution of the minor, the attorney general shall prosecute the  
7 minor as an adult.

8 \* Sec. 3. AS 47.10.060(a) is amended to read:

9 (a) Except for petitions for which disposition is required by  
10 AS 47.10.055, if [IF] the court finds at a hearing on a petition that  
11 there is probable cause for believing that the minor is delinquent and  
12 finds that the minor is not amenable to treatment under this chapter,  
13 it shall order the case closed. After a case is closed under this  
14 subsection, the minor may be prosecuted as an adult.

15 \* Sec. 4. AS 47.10.060(e) is amended to read:

16 (e) A person who has been tried as an adult under AS 47.10.055  
17 or this section, or the Department of Health and Social Services on  
18 the person's behalf, may petition the superior court to seal the  
19 records of all criminal proceedings, except traffic offenses, initi-  
20 ated against the person, and all punishments assessed against the  
21 person, while the person was a minor. A petition under this sub-  
22 section may not be filed until five years after the completion of the  
23 sentence imposed for the offense for which the person was tried as an  
24 adult. If the superior court finds that the punishment assessed  
25 against the person has had its intended rehabilitative effect, the  
26 superior court shall order the record of proceedings and the record of  
27 punishments sealed. Sealing the records restores civil rights removed  
28 because of a conviction. A person may not use these sealed records  
29 for any purpose except that the court may order their use for good

1 cause shown or may order their use by an officer of the court in  
2 making a presentencing report for the court.

3 \* Sec. 5. AS 47.10.070 is amended to read:

4 Sec. 47.10.070. ADJUDICATORY HEARING [HEARINGS]. The court may  
5 conduct an adjudicatory [THE] hearing on a petition that is not dis-  
6 posed of under AS 47.10.055 or 47.10.060(a) in an informal manner in  
7 the courtroom or in chambers. A hearing may be held before a young  
8 adult advisory panel in accordance with AS 47.10.075. The court shall  
9 give notice of the hearing to the department and it may send a repre-  
10 sentative to the hearing. The court shall also transmit a copy of the  
11 petition to the department. The representative of the department may  
12 also be heard at the hearing. The public shall be excluded from the  
13 hearing, but the court, in its discretion, may permit individuals to  
14 attend a hearing, if their attendance is compatible with the best  
15 interests of the minor. Nothing in this section may be applied in  
16 such a way as to deny a child's rights to a public trial and to a  
17 trial by jury.

18 \* Sec. 6. AS 47.10.075(a) is amended to read:

19 (a) In a hearing scheduled under AS 47.10.070, unless [UNLESS]  
20 the minor objects, the court may select a young adult advisory panel  
21 to hear the case and advise the court of a recommended judgment and  
22 order. The court may consider any of the panel recommendations in  
23 making its judgment and order in the case.

24 \* Sec. 7. AS 47.10.080(a) is amended to read:

25 (a) The court, at the conclusion of the hearing held under  
26 AS 47.10.070, or thereafter as the circumstances of the case may  
27 require, shall find and enter a judgment that the minor is or is not  
28 delinquent or a child in need of aid.

29 \* Sec. 8. APPLICABILITY. The amendments to AS 47.10, made by secs. 1 -

1 7 of this Act apply to a minor as to whom a report of or petition for  
2 delinquency is filed under AS 47.10.020 after the effective date of this  
3 Act.

4 \* Sec. 9. The amendments made by secs. 1 - 3 of this Act amend Rule  
5 8(d) of the Alaska Delinquency Rules by setting constraints on dismissals  
6 of petitions for adjudications involving minors who are charged with vio-  
7 lations of a criminal law that is a felony and Rule 20 of the Alaska Delin-  
8 quency Rules by requiring referral of certain delinquency adjudications  
9 involving minors who are charged with violations of a criminal law that is  
10 a felony to the attorney general for prosecution of the minor as an adult  
11 by automatic waiver of juvenile jurisdiction.