

Introduced: 1/9/89  
Referred: Health, Education and  
Social Services, Judiciary  
and Finance

6-0224A

1 IN THE SENATE

BY HALFORD

2

SENATE BILL NO. 67

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to retention of court jurisdiction  
7 of minors after the minor's 18th birthday, and auth-  
8 orizing extended detention of delinquent minors who  
9 are dangerous; amending Rule 25(c) of the Alaska  
10 Delinquency Rules; and providing for an effective  
11 date."

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

13 \* Section 1. AS 47.10.080(b) is amended to read:

14 (b) If the court finds that the minor is delinquent, it shall

15 (1) order the minor committed to the Department of Health  
16 and Social Services; in a commitment under this paragraph, the depart-  
17 ment shall place the minor in a juvenile facility that the department  
18 considers appropriate, including a juvenile correctional school,  
19 detention home, or detention facility; the department may release the  
20 minor from placement or detention and, on order of the court, may  
21 place the minor on probation; the department may, in its discretion,  
22 release the minor under AS 47.10.200; a commitment under this para-  
23 graph may not [FOR A PERIOD OF TIME NOT TO] exceed two years or in any  
24 event extend past the day the minor becomes 19, except that the de-  
25 partment may petition for and the court may grant in a hearing

26 (A) two-year extensions of commitment which do not  
27 extend beyond the child's 19th birthday if the extension is in  
28 the best interests of the minor and the public; [AND]

29 (B) an additional one-year period of supervision past

1 age 19 if continued supervision is in the best interests of the  
2 person and the person consents to it; and

3 (C) additional supervision under AS 47.10.102 - 47.-  
4 10.108 if the court believes that discharge of the minor or  
5 person who was a minor would present a danger to the public [THE  
6 DEPARTMENT SHALL PLACE THE MINOR IN THE JUVENILE FACILITY WHICH  
7 THE DEPARTMENT CONSIDERS APPROPRIATE AND WHICH MAY INCLUDE A  
8 JUVENILE CORRECTIONAL SCHOOL, DETENTION HOME, OR DETENTION FACIL-  
9 ITY; THE MINOR MAY BE RELEASED FROM PLACEMENT OR DETENTION AND  
10 PLACED ON PROBATION ON ORDER OF THE COURT AND MAY ALSO BE RE-  
11 LEASED BY THE DEPARTMENT, IN ITS DISCRETION, UNDER AS 47.10.200];

12 (2) order the minor placed on probation, to be supervised  
13 by the department, and released to the minor's parents, guardian, or a  
14 suitable person; if the court orders the minor placed on probation, it  
15 may specify the terms and conditions of probation; the probation may  
16 be for a period of time, not to exceed two years and in no event  
17 extend past the day the minor becomes 19, except that the department  
18 may petition for and the court may grant in a hearing

19 (A) two-year extensions of supervision which do not  
20 extend beyond the child's 19th birthday if the extension is in  
21 the best interests of the minor and the public; [AND]

22 (B) an additional one-year period of supervision past  
23 age 19 if the continued supervision is in the best interests of  
24 the person and the person consents to it; and

25 (C) additional supervision under AS 47.10.102 - 47.-  
26 10.108 if the court believes that discharge of the minor or  
27 person who was a minor would present a danger to the public;

28 (3) order the minor committed to the department and placed  
29 on probation, to be supervised by the department, and released to the

1 minor's parents, guardian, other suitable person, or suitable nonde-  
2 tention setting such as a family home, group care facility, or child  
3 care facility, whichever the department considers appropriate to  
4 implement the treatment plan of the predisposition report; if the  
5 court orders the minor placed on probation, it may specify the terms  
6 and conditions of probation; the department may transfer the minor, in  
7 the minor's best interests, from one of the probationary placement  
8 settings listed in this paragraph to another, and the minor, the  
9 minor's parents or guardian, and the minor's attorney are entitled to  
10 reasonable notice of the transfer; the probation may be for a period  
11 of time, not to exceed two years and in no event extend past the day  
12 the minor becomes 19, except that the department may petition for and  
13 the court may grant in a hearing

14 (A) two-year extensions of commitment which do not  
15 extend beyond the child's 19th birthday if the extension is in  
16 the best interests of the minor and the public; [AND]

17 (B) an additional one-year period of supervision past  
18 age 19 if the continued supervision is in the best interests of  
19 the person and the person consents to it; and

20 (C) additional supervision under AS 47.10.102 - 47.-  
21 10.108 if the court believes that discharge of the minor or  
22 person who was a minor would present a danger to the public; [OR]

23 (4) order the minor to make suitable restitution in lieu of  
24 or in addition to the court's order under (1), (2), or (3) of this  
25 subsection; or [.]

26 (5) order the minor committed to the Department of Health  
27 and Social Services for placement in an adventure-based education  
28 program established under AS 47.21.020 with conditions the court  
29 considers appropriate concerning release upon satisfactory completion

1 of the program or commitment under (1) of this subsection if the  
2 program is not satisfactorily completed.

3 \* Sec. 2. AS 47.10.100(a) is amended to read:

4 (a) The court retains jurisdiction over the case and may at any  
5 time stay execution, modify, set aside, revoke, or enlarge a judgment  
6 or order, or grant a new hearing, in the exercise of its power of  
7 protection over the minor and for the minor's best interest. Unless  
8 the minor is sooner discharged by the court, the court retains juris-  
9 isdiction of the minor [,] for a period of time not to exceed two years  
10 or not to [IN ANY EVENT] extend past the day the person who was a  
11 minor becomes 19, whichever is earlier [UNLESS SOONER DISCHARGED BY  
12 THE COURT, EXCEPT THAT THE DEPARTMENT MAY APPLY FOR AND THE COURT MAY  
13 GRANT AN ADDITIONAL ONE-YEAR PERIOD OF SUPERVISION PAST AGE 19 IF  
14 CONTINUED SUPERVISION IS IN THE BEST INTERESTS OF THE PERSON AND THE  
15 PERSON CONSENTS TO IT]. An application for any of these purposes may  
16 be made by the parent, guardian, or custodian acting in behalf of the  
17 minor, or the court may, on its own motion, and after reasonable  
18 notice to interested parties and the appropriate department, take  
19 action that [WHICH] it considers appropriate.

20 \* Sec. 3. AS 47.10.100(c) is amended to read:

21 (c) If a minor is adjudicated a delinquent or a child in need of  
22 aid before the minor's 18th birthday, the court may retain jurisdic-  
23 tion over the minor after the minor's 18th birthday for the purpose of  
24 supervising the minor's rehabilitation, but the court's jurisdiction  
25 over the minor under this subsection may not extend past the day the  
26 person who was a minor becomes 19 [CHAPTER NEVER EXTENDS BEYOND THE  
27 MINOR'S 19TH BIRTHDAY, EXCEPT THAT THE DEPARTMENT MAY APPLY FOR AND  
28 THE COURT MAY GRANT AN ADDITIONAL ONE-YEAR PERIOD OF SUPERVISION PAST  
29 AGE 19 IF CONTINUED SUPERVISION IS IN THE BEST INTERESTS OF THE PERSON

1 AND THE PERSON CONSENTS TO IT]. The department may retain jurisdic-  
2 tion over a person who was a minor [CHILD] between the person's  
3 [CHILD'S] 18th and 19th birthdays for the purpose of supervising the  
4 person's [CHILD'S] rehabilitation, if the person who was a minor was  
5 [CHILD HAS BEEN] placed under the supervision of the department before  
6 the minor's [CHILD'S] 18th birthday [, EXCEPT THAT THE DEPARTMENT MAY  
7 APPLY FOR AND THE COURT MAY GRANT AN ADDITIONAL ONE-YEAR PERIOD OF  
8 SUPERVISION PAST AGE 19 IF CONTINUED SUPERVISION IS IN THE BEST INTER-  
9 ESTS OF THE PERSON AND THE PERSON CONSENTS TO IT].

10 \* Sec. 4. AS 47.10.100 is amended by adding new subsections to read:

11 (d) In addition to extension of the court's jurisdiction over a  
12 person who was a minor until the person's 19th birthday when author-  
13 ized under (a) and (c) of this section, the court may grant an addi-  
14 tional one-year period of supervision of a person who was a minor past  
15 the person's 19th birthday. If the person who was a minor has been  
16 adjudicated a delinquent or a child in need of aid, the department may  
17 apply to the court for the extension authorized by this subsection,  
18 the application may be brought by the parent, guardian, or custodian  
19 acting on behalf of the person who was a minor, or the court may act  
20 on its own motion, after giving reasonable notice to interested  
21 parties and the appropriate department. When considering an extention  
22 requested under this subsection, the court shall grant the additional  
23 period of supervision if the court determines that continued super-  
24 vision is in the best interests of the person who was a minor and the  
25 person consents to it.

26 (e) The court's jurisdiction under this section over the person  
27 who was a minor may not extend beyond the person's 20th birthday.

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

29 Sec. 47.10.102. EXTENDED DETENTION OF DANGEROUS MINORS OR

1 PERSONS: PETITION AND PRELIMINARY DETERMINATION. (a) If the depart-  
2 ment determines that there are reasonable grounds to believe that the  
3 discharge at the time required by AS 47.10.100 of a delinquent minor  
4 or person who, as a minor, was adjudicated a delinquent would present  
5 a danger to the public, the commissioner shall petition the court for  
6 an order directing that the person remain subject to the court's  
7 control beyond the date of discharge.

8 (b) A petition filed under (a) of this section shall be

9 (1) filed at least 30 days before the date of discharge of  
10 the minor or person;

11 (2) accompanied by a written statement of the facts upon  
12 which the commissioner bases the conclusion that the minor or person  
13 who was a minor would present a danger to the public.

14 (c) When a petition is filed under (b) of this section, the  
15 commissioner shall promptly notify the person who is the subject of  
16 the petition and, if the petition concerns a minor, the parents or  
17 guardians of the minor. The commissioner shall give notice in accor-  
18 dance with applicable court rule.

19 (d) The minor or person who was a minor is entitled to a hearing  
20 on the petition within 20 days after the filing of the petition. If,  
21 after hearing, the court believes the discharge of the minor or person  
22 who was a minor would not present a danger to the public, the court  
23 shall deny the petition.

24 (e) If, at the conclusion of the hearing provided in (d) of this  
25 section, the court believes the discharge of the minor or person who  
26 was a minor would present a danger to the public, the court shall  
27 enter an order continuing the commissioner's supervision of the minor  
28 or person.

29 Sec. 47.10.104. EXTENDED DETENTION OF DANGEROUS MINORS OR

1 PERSONS: JURY TRIAL. (a) The minor or person who was a minor who is  
2 the subject of an order entered by the court under AS 47.10.102(e) is  
3 entitled to a jury trial on the question of whether the minor or  
4 person who was a minor, if discharged from the jurisdiction of the  
5 court and the supervision of the commissioner, would present a danger  
6 to the public. The person or, if the person is a minor, the parent or  
7 guardian of the minor, may request the jury trial.

8 (b) The request for a jury trial shall be filed with the court  
9 not later than 10 days after entry of the order under AS 47.10.102(e).  
10 If a jury trial is requested, the court shall summon and impanel a  
11 jury not less than 10 or more than 20 days after the date the request  
12 was filed.

13 (c) At a trial required under this section,

14 (1) the minor or person who was a minor is entitled to all  
15 constitutional guarantees of due process;

16 (2) the rules of evidence apply;

17 (3) the court order entered under AS 47.10.102(e) may not  
18 be received into evidence or alluded to during the course of the  
19 trial;

20 (4) the jury shall determine whether the minor or person  
21 who was a minor, if discharged from the jurisdiction of the court and  
22 the supervision of the commissioner, would present a danger to the  
23 public; a determination under this paragraph that the minor or person  
24 who was a minor would present a danger to the public requires a unani-  
25 mous jury verdict employing the standard of proof beyond a reasonable  
26 doubt.

27 Sec. 47.10.106. IMPLEMENTATION OF EXTENDED DETENTION OF DANGER-  
28 OUS MINORS OR PERSONS. (a) If the court or jury determines that a  
29 minor or person who was a minor would present a danger to the public,

1 the court shall enter an order for continuing supervision of the minor  
2 or person who was a minor by the commissioner. The provisions of  
3 AS 47.10.080 apply to an order entered by the court under this sec-  
4 tion.

5 (b) An order for continuing supervision entered by the court  
6 under (a) of this section may not exceed two years or a period not in  
7 excess of the maximum term of imprisonment that could be imposed upon  
8 an adult convicted of the same offense or offenses, whichever is less.  
9 Unless a new petition is filed under (c) of this section, a minor or  
10 person who was a minor is discharged from the jurisdiction of the  
11 court and the supervision of the commissioner at the end of the period  
12 covered by the order.

13 (c) If, at the end of the period stated in the order for con-  
14 tinuing supervision, there remains a period not in excess of the  
15 maximum term of imprisonment that could be imposed upon an adult  
16 convicted of the same offense or offenses, the commissioner may file a  
17 new petition under AS 47.10.102(a).

18 (d) The commissioner may file petitions under this section as  
19 often as the commissioner believes may be necessary for the protection  
20 of the public.

21 (e) The commissioner may transfer custody of a person who was a  
22 minor and who is over 21 years of age to the commissioner of correc-  
23 tions for placement in an appropriate correctional institution.

24 Sec. 47.10.108. DETERMINATION OF DANGER TO PUBLIC. In making a  
25 determination under AS 47.10.102 - 47.10.108 that a minor or person  
26 who was a minor would present a danger to the public, the court or  
27 jury shall evaluate both the magnitude of the risk that the defendant  
28 will commit an act threatening the public peace or safety and the  
29 magnitude of the harm that could be expected to result from this

1       conduct. A finding that a minor or person who was a minor would  
2       present a danger to the public may be based on a great risk of rela-  
3       tively slight harm to persons or property, or may be based on a rela-  
4       tively slight risk of substantial harm to persons or property.

5       \* Sec. 6. AS 47.10.290 is amended to read:

6               Sec. 47.10.290. DEFINITIONS. In this chapter, unless the con-  
7       text otherwise requires,

8               (1) "care" or "caring" under AS 47.10.010(a)(2)(A), 47.10.-  
9       120(a), and 47.10.230(c)[,] means to provide for the physical, emo-  
10      tional, mental, and social needs of the child;

11              (2) "child in need of aid" means a minor found to be within  
12      the jurisdiction of the court under AS 47.10.010(a)(2);

13              (3) "commissioner" means the commissioner of health and  
14      social services;

15              (4) "court" means the superior court of the state;

16              (5) [(4)] "delinquent minor" means a minor found to be  
17      within the jurisdiction of the court under AS 47.10.010(a)(1);

18              (6) [(5)] "department" means the Department of Health and  
19      Social Services;

20              (7) [(6)] "juvenile detention facility" means separate  
21      quarters within a city jail used for the detention of delinquent  
22      minors;

23              (8) [(7)] "juvenile detention home" or "detention home"  
24      means [IS] a separate establishment[,] exclusively devoted to the  
25      detention of minors on a short-term basis and not part of an adult  
26      jail;

27              (9) [(8)] "minor" means [IS] a person under 18 years of age;

28              (10) "person who was a minor" means a person who at the time  
29      of becoming subject to the jurisdiction of the court under AS

1       47.10.010(a) was a minor but who is 18 years of age or older at the  
2       time of proceedings under AS 47.10.100 - 47.10.108.

3       \* Sec. 7. APPLICABILITY. The provisions of AS 47.10.102 - 47.10.108,  
4 added by sec. 5 of this Act, apply to minors who are adjudicated as delin-  
5 quent after June 30, 1989.

6       \* Sec. 8. AS 47.10.102 - 47.10.108, added by sec. 5 of this Act, amends  
7 Rule 25(c) of the Alaska Delinquency Rules by authorizing extension of  
8 court supervision over a dangerous minor or person who was a minor beyond  
9 the individual's 19th birthday without the consent of that individual.

10      \* Sec. 9. This Act takes effect July 1, 1989.