

Introduced: 4/5/89  
Referred: Health, Education and  
Social Services and Judiciary

6-1006A

1 IN THE SENATE BY POURCHOT BY REQUEST  
2 SENATE BILL NO. 262  
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 mental health; and amending Rule  
7 3, Alaska Rules of Civil Procedure."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 47.30.660 is amended by adding a new paragraph to read:  
10 (15) set standards under which each designated treatment  
11 facility shall provide programs to meet patients' medical, psychologi-  
12 cal, social, vocational, educational, and recreational needs.  
13 \* Sec. 2. AS 47.30.800(b) is amended to read:  
14 (b) Upon making the findings specified in (a) of this section,  
15 the provisions of AS 47.30.795(c) [AS 47.30.795(b)] relating to notice  
16 and AS 47.30.745 relating to hearing apply.  
17 \* Sec. 3. AS 47.30.825(b) is amended to read:  
18 (b) A patient, a mental health professional previously engaged  
19 in the patient's care, and a representative of the patient's choice  
20 are [OR THE PATIENT'S COUNSEL, GUARDIAN, OR THE ADULT DESIGNATED IN  
21 ACCORDANCE WITH AS 47.30.725 IF THE PATIENT IS MENTALLY INCAPABLE OF  
22 PARTICIPATION, IS] entitled to participate in formulating the  
23 patient's individualized treatment plan and to participate in the  
24 evaluation process as much as possible, at minimum to the extent of  
25 requesting specific forms of therapy, inquiring why specific therapies  
26 are or are not included in the treatment program, and being informed  
27 as to the patient's present medical and psychological condition and  
28 prognosis. The treating physician may not withhold any of this infor-  
29 mation from the patient.

1 \* Sec. 4. AS 47.30.825(d) is amended to read:

2 (d) A locked quiet room, or other form of physical restraint,  
3 may not be used, except as provided in this subsection, unless a  
4 patient is likely to physically harm self or others unless restrained.  
5 The form of restraint used shall be that which is in the patient's  
6 best interest and which constitutes the least restrictive alternative  
7 available. When practicable, the patient shall be consulted as to the  
8 patient's preference among forms of adequate, medically advisable  
9 restraints including medication, and that preference shall be honored  
10 [CONSIDERED]. Nothing in this section is intended to limit the right  
11 of staff to use a quiet room at the patient's request or with the  
12 patient's knowing concurrence when considered in the best interests of  
13 the patient. Patients placed in a quiet room or other physical re-  
14 straint shall be checked at least every 15 minutes or more often if  
15 good medical practice so indicates. Patients in a quiet room must be  
16 visited by a staff member at least once every hour and must be given  
17 adequate food and drink and access to bathroom facilities. At no time  
18 may a patient be kept in a quiet room or other form of physical re-  
19 straint against the patient's will longer than necessary to accomplish  
20 the purposes set out in this subsection. All uses of a quiet room or  
21 other restraint shall be recorded in the patient's medical record, the  
22 information including but not limited to the reasons for its use, the  
23 duration of use, and the name of the authorizing staff member.

24 \* Sec. 5. AS 47.30.825(e) is amended to read:

25 (e) A patient has the right to be free from unnecessary or  
26 excessive medication. Psychotropic medication shall be administered  
27 only on the order of a licensed physician when the physician deter-  
28 mines that this medication is in the best interest of the patient,  
29 or will prevent serious harm to the patient or others.

1 \* Sec. 6. AS 47.30.840(a) is amended to read:

2 (a) A person undergoing evaluation or treatment under AS 47.30.-  
3 660 - 47.30.915

4 (1) may not be photographed without the person's consent  
5 and that of the person's guardian if a minor, except that the person  
6 may be photographed upon admission to a facility for identification  
7 and for administrative purposes of the facility; all photographs shall  
8 be confidential and may only be released by the facility to the  
9 patient or the patient's designee unless a court orders otherwise;

10 (2) at the time of admission to an evaluation or treatment  
11 facility, shall have reasonable precautions taken by the staff to  
12 inventory and safeguard the patient's personal property; a copy of the  
13 inventory signed by the staff member making it shall be given to the  
14 patient and made available to the patient's attorney and any other  
15 person authorized by the patient to inspect the document;

16 (3) shall have access to an individual storage space for  
17 the patient's private use while undergoing evaluation or treatment;

18 (4) shall be permitted to wear personal clothing, to keep  
19 and use personal possessions including toilet articles if they are not  
20 considered unsafe for the patient or other patients who might have  
21 access to them, and to keep and be allowed to spend a reasonable sum  
22 of the patient's own money for the patient's needs and comfort;

23 (5) shall be allowed to have visitors at reasonable times;

24 (6) shall have ready access to letter writing materials,  
25 including stamps, and have the right to send and receive unopened  
26 mail;

27 (7) shall have reasonable access to a telephone, both to  
28 make and receive confidential calls;

29 (8) has the right to be free of corporal punishment;

1           (9) has the right to indoor and outdoor exercise and recre-  
2           ation;

3           (10) has the right, at any time, to have a telephone conver-  
4           sation with or be visited by an attorney;

5           (11) may not be retaliated against or subjected to any  
6           adverse change of conditions or treatment solely because of assertion  
7           of rights under this section.

8       \* Sec. 7. AS 47.30 is amended by adding new sections to read:

9           Sec. 47.30.847. PATIENTS' GRIEVANCE PROCEDURES. (a) A patient  
10          has the right to bring grievances about the patient's treatment, care,  
11          or rights to an impartial body within the designated treatment facil-  
12          ity.

13          (b) A designated treatment facility shall have a formal griev-  
14          ance procedure for patient grievances brought under (a) of this sec-  
15          tion. The facility shall inform each patient of the existence and  
16          contents of the grievance procedure.

17          (c) A designated treatment facility that has an average patient  
18          population over 50 shall have on staff a consumer advocate to assist  
19          patients in bringing grievances or pursuing other redress for com-  
20          plaints concerning care, treatment, and rights.

21          Sec. 47.30.848. JUDICIAL REMEDIES FOR PATIENTS. (a) After  
22          completing the grievance procedure established under AS 47.30.847, a  
23          patient or the patient's representative has the right to file a peti-  
24          tion in the superior court that is nearest to where the facility is  
25          located alleging that the patient is being unjustly denied a right or  
26          privilege granted under this chapter or that a procedure authorized by  
27          this chapter is being abused. This remedy is in addition to any other  
28          remedy provided by law.

29          (b) When acting upon a petition filed under this section, the

1 court may conduct a judicial inquiry and issue appropriate orders to  
2 correct an abuse under this chapter.

3 \* Sec. 8. AS 47.30.850 is amended to read:

4 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge  
5 of a respondent from a treatment facility or the issuance of a court  
6 order denying a petition for commitment, the respondent may at any  
7 time move to have all court records pertaining to the proceedings  
8 expunged on condition that the respondent file a full release of all  
9 claims of whatever nature arising out of the proceedings and the  
10 statements and actions of persons and facilities in connection with  
11 the proceedings. Upon the filing of the motion and full release, the  
12 court shall order the court records expunged.

13 \* Sec. 9. AS 47.30.848, enacted by sec. 7 of this Act, has the effect  
14 of amending Rule 3, Alaska Rules of Civil Procedure, by limiting where  
15 particular types of actions can be commenced.