

**HOUSE BILL NO. 101**

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES DONLEY, Ulmer, Larson, Barnes, G.Phillips, Sharp, Martin, Leman, Zawacki, B.Davis

Introduced: 2/4/91

Referred: Health, Education and Social Services, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to criminal charges brought against minors, and providing that minors  
2 convicted as adults may be confined in juvenile facilities."

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

4 \* **Section 1.** AS 12.55.015 is amended by adding a new subsection to read:

5 (g) If a minor under the age of 18 has been convicted as an adult under AS 47.10.010(b),  
6 (e), (f), or (g), or following a waiver of juvenile jurisdiction under AS 47.10.060, the court may  
7 order the defendant committed to the custody of the Department of Health and Social Services  
8 until the minor's 18th birthday. The minor shall be placed in a secure facility, and may not be  
9 released except upon an order of the court. A minor in the custody of the Department of Health  
10 and Social Services under this subsection shall be transferred to the custody of the Department  
11 of Corrections when the minor reaches 18 years of age.

12 \* **Sec. 2.** AS 47.10.010 is amended by adding new subsections to read:

13 (e) Unless ordered by the court under (h) of this section, the procedure prescribed in  
14 AS 47.10.020 - 47.10.090 may not be followed when a minor is 14 years of age and older and

1 is charged with

2 (1) the offense of murder in the first degree under AS 11.41.100 or attempted  
3 murder in the first degree;

4 (2) an unclassified or a class A felony, and the minor has been previously  
5 adjudicated as a delinquent in this or another jurisdiction for conduct that would have been a  
6 felony under the laws of this state if committed by an adult;

7 (3) a felony of any degree, and the minor has been previously

8 (A) twice adjudicated as a delinquent in this or another jurisdiction for  
9 conduct that would have been a felony under the laws of this state if committed by an  
10 adult; or

11 (B) prosecuted and convicted as an adult for a felony in this or another  
12 jurisdiction.

13 (f) If a minor is charged under (e) of this section, the procedure prescribed in  
14 AS 47.10.020 - 47.10.090 may not be followed with regard to all charges that are properly joined  
15 to the offense described in (e)(1), (2), or (3) of this section, unless otherwise ordered by the court  
16 under (h) of this section.

17 (g) A minor accused of an offense specified in (e) or (f) of this section shall be charged,  
18 prosecuted, and sentenced in the superior court in the same manner as an adult, unless otherwise  
19 ordered by the court under (h) of this section. If a minor is accused of an offense specified in  
20 (e)(2) or (3) of this section, the charging document shall be accompanied by an sworn statement  
21 stating that the minor has been previously convicted as an adult for a felony or adjudicated as  
22 a delinquent for conduct that would allow charges to be brought under (e)(2) or (3) of this  
23 section.

24 (h) If a minor is charged as an adult under (e) or (f) of this section, the minor may file  
25 with the court a petition seeking to have the charges heard under the procedure prescribed in  
26 AS 47.10.020 - 47.10.090. The minor shall file a petition under this subsection within 10 days  
27 of the date that the minor is charged that alleges that

28 (1) the minor is amenable to treatment under this chapter before the minor's 20th  
29 birthday; or

30 (2) the allegations in a sworn statement filed under (g) of this section are not true.

31 (i) Upon the filing of a petition under (h)(1) of this section, the court shall appoint a

1 qualified psychiatrist or a forensic psychologist certified by the American Board of Forensic  
2 Psychology to examine the minor and report to the court in writing on the minor's amenability  
3 to treatment under this chapter before the minor's 20th birthday. The court shall supply a copy  
4 of the report to the attorney for the state and to the minor or the minor's counsel.

5 (j) At a hearing on a petition under (h) of this section, the minor bears the burden of  
6 proving by a preponderance of the evidence that the minor is amenable to treatment under this  
7 chapter before reaching 20 years of age, and the state bears the burden of proving by a  
8 preponderance of the evidence that the allegations of a sworn statement under (g) of this section  
9 are true. In ruling on a petition alleging amenability to treatment, the court shall consider the  
10 factors set out in AS 47.10.060(d).

11 (k) Nothing in this section limits the right of a party to an action under this chapter to  
12 seek waiver of jurisdiction under AS 47.10.060(a).

13 \* **Sec. 3.** AS 47.10.080 is amended by adding a new subsection to read:

14 (o) A minor who is charged and prosecuted as an adult under AS 47.10.010(e) - (g) but  
15 who is convicted only of offenses with which the minor could not be charged under  
16 AS 47.10.010(e) shall be treated as though the charges had been heard under this chapter, and  
17 the court shall order disposition of the charges of which the minor is convicted under the  
18 provisions of (b) of this section. However, if any of the charges of which the minor is convicted  
19 is a felony, the state may petition the court to sentence the minor as an adult. If the court finds  
20 that the minor is not amenable to treatment under this chapter, as defined in AS 47.10.060(d),  
21 the court may grant the petition. The court shall employ the same standards and consider the  
22 same factors as it would in determining a petition for waiver of juvenile jurisdiction under  
23 AS 47.10.060.

24 \* **Sec. 4. APPLICABILITY.** Sections 2 and 3 of this Act apply to offenses committed after the  
25 effective date of this Act.