

CS FOR HOUSE BILL NO. 101 (HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/26/91
Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES DONLEY, Ulmer, Larson, Barnes, G.Phillips, Sharp, Martin, Leman, Zawacki,
B.Davis, Baker, R.Phillips

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to criminal charges brought against minors."

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

3 * Section 1. AS 47.10.010 is amended by adding new subsections to read:

4 (e) Unless ordered by the court under (h) - (k) of this section, the procedure prescribed
5 in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules does not apply when a minor is
6 14 years of age and older and is charged with

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

9 (2) an unclassified or a class A felony, and the minor has been previously
10 adjudicated as a delinquent in this or another jurisdiction as a result of violating a criminal law
11 that would have been a felony under the laws of this state if committed by an adult;

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

13 (A) twice adjudicated as a delinquent in this or another jurisdiction as a
14 result of violating a criminal law that would have been a felony under the laws of this

1 state if committed by an adult; or

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

4 (f) If a minor is charged with an offense specified in (e) of this section, the procedure
5 prescribed in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules does not apply with
6 regard to all charges that are properly joined to the offense described in (e)(1), (2), or (3) of this
7 section, unless otherwise ordered by the court under (h) - (k) of this section.

8 (g) A minor accused of an offense specified in (e) or (f) of this section shall be charged,
9 prosecuted, and sentenced in the superior court in the same manner as an adult, unless otherwise
10 ordered by the court under (h) - (k) of this section. If a minor is accused of an offense specified
11 in (e)(2) or (3) of this section, the charging document shall be accompanied by an sworn
12 statement stating that the minor has been previously convicted as an adult for a felony or
13 adjudicated as a delinquent for conduct that would allow charges to be brought under (e)(2) or
14 (3) of this section.

15 (h) If a minor is charged as an adult under (e) or (f) of this section, the minor may file
16 with the court a petition seeking to have the charges heard under the procedure prescribed in
17 AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules. The minor shall file a petition
18 under this subsection within 10 days of the date that the minor is charged that alleges that

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

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

22 (i) At a hearing on a petition under (h)(1) of this section, the minor bears the burden of
23 proving by a preponderance of the evidence that the minor is amenable to treatment under this
24 chapter before reaching 20 years of age. In ruling on the petition, the court shall consider the
25 factors set out in AS 47.10.060(d).

26 (j) At a hearing on a petition under (h)(1) of this section, the minor may introduce as
27 evidence the testimony or the report of a qualified psychiatrist or psychologist on the minor's
28 amenability to treatment before reaching 20 years of age. Notice of intent to introduce this
29 evidence shall be given to the court by the minor at least 20 days before the hearing. If the
30 minor gives this notice and the state requests that the minor be examined by another psychiatrist
31 or psychologist, the court shall order that the minor be examined by a qualified psychiatrist or

1 psychologist selected by the state. A report by a psychiatrist or psychologist that either the minor
2 or the state intends to introduce as evidence at the hearing shall be filed with the court and
3 served on the opposing party at least 48 hours before the hearing.

4 (k) At a hearing on a petition under (h)(2) of this section, the state bears the burden of
5 proving by a preponderance of the evidence that the allegations of a sworn statement under (g)
6 of this section are true.

7 (l) Nothing in this section limits the right of a party to an action under this chapter to
8 seek waiver of jurisdiction under AS 47.10.060(a).

9 * Sec. 2. AS 47.10.080 is amended by adding a new subsection to read:

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

20 * Sec. 3. APPLICABILITY. This Act applies to offenses committed after the effective date of this
21 Act.