

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

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 5/9/91  
Referred: 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 under AS 11.41.100 - 11.41.110 or attempted or  
8 solicited murder;

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 prosecuted and  
13 convicted as an adult for a felony in this or another jurisdiction.

14 (f) If a minor is charged with an offense specified in (e) of this section, the procedure

1 prescribed in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules does not apply with  
2 regard to all charges that are properly joined to the offense described in (e)(1), (2), or (3) of this  
3 section, unless otherwise ordered by the court under (h) - (k) of this section.

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

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

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

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

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

22 (j) At a hearing on a petition under (h)(1) of this section, the minor may introduce as  
23 evidence the testimony or the report of a qualified psychiatrist or psychologist on the minor's  
24 amenability to treatment before reaching 20 years of age. Notice of intent to introduce this  
25 evidence shall be given to the court by the minor at least 20 days before the hearing. If the  
26 minor gives this notice and the state requests that the minor be examined by another psychiatrist  
27 or psychologist, the court shall order that the minor be examined by a qualified psychiatrist or  
28 psychologist selected by the state. A report by a psychiatrist or psychologist that either the minor  
29 or the state intends to introduce as evidence at the hearing shall be filed with the court and  
30 served on the opposing party at least 48 hours before the hearing.

31 (k) At a hearing on a petition under (h)(2) of this section, the state bears the burden of

1 proving by a preponderance of the evidence that the allegations of a sworn statement under (g)  
2 of this section are true.

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

5 \* Sec. 2. AS 47.10.060 is amended by adding a new subsection to read:

6 (f) At a hearing under (a) of this section, the minor may introduce as evidence the  
7 testimony or the report of a qualified psychiatrist or psychologist on the minor's amenability to  
8 treatment before reaching 20 years of age. Notice of intent to introduce this evidence shall be  
9 given to the court by the minor at least 20 days before the hearing. If the minor gives this notice  
10 and the state requests that the minor be examined by another psychiatrist or psychologist, the  
11 court shall order that the minor be examined by a qualified psychiatrist or psychologist selected  
12 by the state. A report by a psychiatrist or psychologist that either the minor or the state intends  
13 to introduce as evidence at the hearing shall be filed with the court and served on the opposing  
14 party at least 48 hours before the hearing.

15 \* Sec. 3. AS 47.10.080 is amended by adding new subsections to read:

16 (o) If a minor is charged and prosecuted as an adult under AS 47.10.010(e) - (g), and the  
17 most serious offense of which the minor is convicted is a misdemeanor, the minor shall be treated  
18 as though the charges had been heard under this chapter, and the court shall order disposition of  
19 the charges of which the minor is convicted under the provisions of (b) of this section.

20 (p) If a minor is charged and prosecuted as an adult under AS 47.10.010(e) - (g) and the  
21 most serious offense of which the minor is convicted is a felony with which the minor could not  
22 be charged under AS 47.10.010(e), and the minor did not file a petition in connection with those  
23 charges under AS 47.10.010(h)(1), the minor may within 10 days of the date that the minor is  
24 convicted file a petition for disposition of the charges under (b) of this section. The petition shall  
25 allege that the minor is amenable to treatment under this chapter before the minor's 20th  
26 birthday. A hearing on the petition shall be governed by the provisions of AS 47.10.010(i) - (j).

27 \* Sec. 4. APPLICABILITY. This Act applies to offenses committed after the effective date of this  
28 Act.