

HOUSE BILL NO. 262

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE R. PHILLIPS

Introduced: 4/5/91

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to persons under 21 years of age."

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

3 * Section 1. AS 11.51.130(a) is amended to read:

4 (a) A person commits the crime of contributing to the delinquency of a minor if, being
5 19 years of age or older, the person

6 (1) aids, induces, causes, or encourages a child under 18 years of age to do any
7 act prohibited by ~~state law~~;

8 (2) ~~REPEALED~~

9 (3)] aids, induces, causes, or encourages a child under 18 years of age to enter
10 or remain in the same room in a building where the unlawful sale of a drug occurs; or

11 (3) [(4) REPEALED

12 (5)] aids, induces, causes, or encourages a child under 18 [16] years of age to be
13 absent from the custody of a parent, guardian, or custodian or to be repeatedly absent from
14 school, without just cause, unless the child's disabilities of minority have been removed for

1 general purposes under AS 09.55.590.

2 * Sec. 2. AS 11.51 is amended by adding a new section to read:

3 Sec. 11.51.135. EVADING LEGAL CUSTODY; CURFEW. (a) A person under 18
4 years of age for whom the disabilities of minority have not been removed for general purposes
5 under AS 09.55.590 may not

6 (1) without the consent of the person's legal custodian, leave and remain away
7 from the custody of the legal custodian; or

8 (2) congregate, loiter, wander, stroll, stand, or play in or upon the public streets,
9 highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant
10 lots, or a public place in the state, either on foot or upon a conveyance being driven or parked
11 thereon, between the hours of 11:00 p.m. and 5:00 a.m. of the following day unless accompanied
12 by the person's legal custodian or another adult having the legal duty to care for or control the
13 person.

14 (b) It is an affirmative defense to finding a violation under (a) of this section that the
15 minor is a child in need of aid because of conduct or lack of conduct by the legal custodian.

16 (c) Violation of (a) of this section is punishable by a fine of up to \$300 or detention for
17 up to 30 days, or both.

18 * Sec. 3. AS 11.61.220(a) is amended to read:

19 (a) A person commits the crime of misconduct involving weapons in the third degree if
20 the person

21 (1) knowingly possesses a deadly weapon, other than an ordinary pocket knife,
22 that is concealed on the person;

23 (2) knowingly possesses a loaded firearm on the person in any place where
24 intoxicating liquor is sold for consumption on the premises; [OR]

25 (3) being a person [AN UNEMANCIPATED MINOR] under 21 [16] years of
26 age, possesses a firearm without the written consent of a parent or guardian of the person; or

27 (4) with criminal negligence sells or delivers or offers to sell or deliver a
28 firearm to a person under 21 years of age without the written consent of a parent or
29 guardian of the person [MINOR].

30 * Sec. 4. AS 12.62.035(f)(1) is amended to read:

31 (1) "contributing to the delinquency of a minor" means a conviction for a

1 violation or attempted violations of AS 11.51.130(a), [AS 11.51.130(a)(1), (3), OR (5);] former
2 AS 11.40.130, [;] or the laws of another jurisdiction if the offense would have been a crime in
3 this state under AS 11.51.130(a) [AS 11.51.130(a)(1), (3), OR (5)] or former AS 11.40.130 if
4 committed in the state;

5 * Sec. 5. AS 23.10.350 is amended by adding a new subsection to read:

6 (c) A minor for whom the disabilities of minority have not been removed for general
7 purposes under AS 09.55.590 may not be employed or allowed to work

8 (1) without the written permission of the minor's legal custodian; or

9 (2) after 10:00 p.m. on the night before school is in session unless the minor has
10 graduated from secondary school or its equivalent.

11 * Sec. 6. AS 34.50.020(a) is amended to read:

12 (a) Except as provided in (c) of this section, a [A] person, municipal corporation,
13 association, village, school district, or religious or charitable organization, incorporated or
14 unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and
15 court costs, from either parent or both parents or the legal guardian or person having the legal
16 custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully
17 destroys real or personal property belonging to the person, municipal corporation, association,
18 village, school district, or religious or charitable organization.

19 * Sec. 7. AS 34.50.020 is amended by adding new subsections to read:

20 (c) A parent, legal guardian, or person having the legal custody of an unemancipated
21 minor under the age of 18 years, is not liable under (a) of this section if the destructive acts of
22 the minor occurred while the minor was in violation of AS 11.51.135(a)(1).

23 (d) In this section, "unemancipated minor" means a minor for whom the disabilities of
24 minority have not been removed for general purposes under AS 09.55.590.

25 * Sec. 8. AS 47.10.010(a) is amended to read:

26 (a) Proceedings relating to a minor under 18 years of age residing or found in the state
27 are governed by this chapter, except as otherwise provided in this chapter, when the court finds
28 the minor

29 (1) to be a delinquent minor as a result of violating a criminal law of the state
30 or a municipality of the state; or

31 (2) to be a child in need of aid as a result of

1 (A) the child [BEING HABITUALLY ABSENT FROM HOME OR
2 REFUSING TO ACCEPT AVAILABLE CARE, OR] having no parent, guardian,
3 custodian, or relative caring or willing to provide care, including physical abandonment
4 by

5 (i) both parents,

6 (ii) the surviving parent, or

7 (iii) one parent if the other parent's rights and responsibilities have
8 been terminated under AS 25.23.180(c) or AS 47.10.080 or voluntarily
9 relinquished;

10 (B) the child being in need of medical treatment to cure, alleviate, or
11 prevent substantial physical harm, or in need of treatment for mental harm as evidenced
12 by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive
13 behavior or hostility toward others, and the child's parent, guardian, or custodian has
14 knowingly failed to provide the treatment;

15 (C) the child having suffered substantial physical harm or if there is an
16 imminent and substantial risk that the child will suffer such harm as a result of the actions
17 done by or conditions created by the child's parent, guardian, or custodian or the failure
18 of the parent, guardian, or custodian adequately to supervise the child;

19 (D) the child having been, or being in imminent and substantial danger of
20 being, sexually abused either by the child's parent, guardian, or custodian, or as a result
21 of conditions created by the child's parent, guardian, or custodian, or by the failure of the
22 parent, guardian, or custodian adequately to supervise the child;

23 (E) the child committing delinquent acts as a result of pressure, guidance,
24 or approval from the child's parents, guardian, or custodian;

25 (F) the child having suffered substantial physical abuse or neglect as a
26 result of conditions created by the child's parent, guardian, or custodian.

27 * Sec. 9. AS 47.10.060(a) is amended to read:

28 (a) If the court finds at a hearing on a petition that there is probable cause for believing
29 that a minor is delinquent and finds that the minor (1) is not amenable to treatment under this
30 chapter or (2) committed the alleged delinquent act while in violation of AS 11.51.135(a)(1).
31 it shall order the case closed. After a case is closed under this subsection, the minor may be

1 prosecuted as an adult.

2 * Sec. 10. AS 47.10.141(b) is amended to read:

3 (b) A peace officer shall take into protective custody a minor described in (a) of this
4 section if the minor is not [OTHERWISE] subject to arrest or detention under a law other than
5 AS 11.51.135(a)(1). Until a judicial determination can be made about whether the minor
6 has violated AS 11.51.135(a)(1), the [. THE] peace officer shall honor the minor's preference
7 to (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take
8 the minor to a nearby location agreed to by the minor and the legal custodian; or (3) take the
9 minor to an office specified by the Department of Health and Social Services, a program for
10 runaway minors licensed by the department under AS 47.10.310, or a facility or contract agency
11 of the department. If an office specified by the department, a licensed program for runaway
12 minors, or a facility or contract agency of the department does not exist in the community, the
13 officer shall take the minor to another suitable location and promptly notify the department. A
14 minor under protective custody may not be housed in a jail or other detention facility.
15 Immediately upon taking a minor into protective custody, the officer shall advise the minor orally
16 and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer
17 shall advise the legal custodian that the minor has been taken into protective custody.

18 * Sec. 11. AS 47.10.141(c) is amended to read:

19 (c) A minor may be taken into emergency protective custody by a peace officer and
20 placed into temporary detention in a juvenile detention home in the local community if there has
21 been an order issued by a court under a finding of probable cause that (1) the minor is a runaway
22 in violation of AS 11.51.135(a)(1) or a runaway in wilful violation of a valid court order issued
23 under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and
24 imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists
25 within the community. For the purposes of this subsection, a risk may not be considered severe
26 and imminent solely because of the general conditions for runaway minors in the community, but
27 shall be assessed in view of the specific behavior and situation of the minor. A minor detained
28 under this subsection shall be brought before a court on the day the minor is detained, or if that
29 is not possible, within 24 hours after the detention for a hearing to determine the most
30 appropriate placement in the best interests of the minor. A minor taken into emergency protective
31 custody under this subsection may not be detained for more than 24 hours, except as provided

1 under AS 47.10.140. Emergency protective custody may not include placement of a minor in a
2 jail or secure facility other than a juvenile detention home, nor may an order for protective
3 custody be enforced against a minor who is residing in a licensed program for runaway minors,
4 as defined in AS 47.10.390.

5 * Sec. 12. AS 47.10.390(2) is amended to read:

6 (2) "runaway minor" means a person under 18 years of age who

7 (A) is habitually absent from home and has not been determined to be
8 in violation of AS 11.51.135(a)(1):

9 (B) refuses to accept available care and has not been determined to be
10 in violation of AS 11.51.135(a)(1):

11 (C) has no parent, guardian, custodian, or relative able or willing to
12 provide care; or

13 (D) has been physically abandoned by

14 (i) both parents;

15 (ii) the surviving parent; or

16 (iii) one parent if the other parent's rights and responsibilities have
17 been terminated under AS 25.23.180(c) or AS 47.10.080 or voluntarily
18 relinquished.