

CS FOR HOUSE BILL NO. 262 (HES)

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/6/92

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES R.PHILLIPS, M.A.Miller, Leman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to persons under 21 years of age; providing for designation of 'safe
2 homes' for runaway minors; and providing for an effective date."

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

4 * **Section 1. LEGISLATIVE FINDINGS; INTENT.** (a) The legislature finds that licensed programs
5 for runaway minors need not be the only sources of government-encouraged assistance for runaway
6 minors. There exist many concerned citizens in the state who, with appropriate oversight and certain
7 limitations of their liability, would volunteer to assist runaway minors in their private residences. It
8 would be in the public interest to encourage properly qualified private citizens to seek designation of
9 their homes as "safe homes" where runaway minors could seek temporary, short-term shelter and other
10 care.

11 (b) It is the intent of legislature that the Department of Health and Social Services, in
12 implementing secs. 16 - 19 of this Act, adopt regulations under which interested nonprofit corporations
13 could be approved by the department for the purpose of designating "safe homes." Oversight of the safe
14 homes by the nonprofit corporations and the state should involve less regulation than is required for

1 licensed programs for runaways under AS 47.10.310 while still requiring the homes to meet health and
2 safety standards designed to protect the runaway minor in the safe home.

3 * Sec. 2. AS 09.55.590(a) is amended to read:

4 (a) A minor who is a resident of this state and is at least 16 years of age, who is living
5 separate and apart from the parents or guardian of the minor, capable of self-support and of
6 managing one's own financial affairs, or the legal custodian of such a minor, may petition the
7 superior court to have the disabilities of minority removed for limited or general purposes.

8 * Sec. 3. AS 09.55.590(b) is amended to read:

9 (b) A minor or the legal custodian of a minor may institute a [THIS] petition under
10 this section in the name of the minor.

11 * Sec. 4. AS 09.55.590(c) is amended to read:

12 (c) The petition for removal of disabilities of minority must state [:]

13 (1) the name, age, and residence address of the minor [PETITIONER];

14 (2) the name and address of each living parent;

15 (3) the name and address of the guardian of the person and the guardian of the
16 estate, if any;

17 (4) the reasons why removal would be in the best interest of the minor [CHILD];

18 and

19 (5) the purposes for which removal is sought.

20 * Sec. 5. AS 09.55.590(d) is amended to read:

21 (d) The person who institutes a petition under this section [PETITIONER] must obtain
22 the consent of each living parent or guardian having control of the person or property of the
23 minor [PETITIONER]. If the person who is to consent to the petition is unavailable or the
24 whereabouts of that person are unknown, or if a parent or guardian unreasonably withholds
25 consent, the court, acting in the best interest of the minor [PETITIONER], may waive this
26 requirement of consent as to that parent or guardian.

27 * Sec. 6. AS 09.55.590(e) is amended to read:

28 (e) The court may appoint an attorney or a guardian ad litem to represent the interests
29 of the minor [PETITIONER] at the hearing. Appointment of an attorney or guardian ad litem
30 shall be made in accordance with AS 25.24.310.

31 * Sec. 7. AS 09.55.590(f) is amended to read:

1 (f) The court may remove the disabilities of minority as requested in the petition if found
2 to be in the best interest of the minor [PETITIONER], after a hearing. The removal may be for
3 general purposes or the limited purposes specified in the decree.

4 * Sec. 8. AS 11.51.130(a) is amended to read:

5 (a) A person commits the crime of contributing to the delinquency of a minor if, being
6 19 years of age or older, the person aids, induces, causes, or encourages a child

7 (1) [AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under 18 years
8 of age to do any act prohibited by state law;

9 (2) [REPEALED

10 (3) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under 18 years
11 of age to enter or remain in the same room in a building where the unlawful sale of a drug
12 occurs;

13 (3) [OR (4) REPEALED

14 (5) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under 16 years
15 of age to be [ABSENT FROM THE CUSTODY OF A PARENT, GUARDIAN, OR
16 CUSTODIAN OR TO BE] repeatedly absent from school, without just cause; or

17 (4) under 18 years of age to be absent from the custody of a parent,
18 guardian, or custodian without just cause, unless the child's disabilities of minority have
19 been removed for general purposes under AS 09.55.590 or the person has immunity under
20 AS 47.10.398(a).

21 * Sec. 9. AS 11.61.220(a) is amended to read:

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

24 (1) knowingly possesses a deadly weapon, other than an ordinary pocket knife or
25 a defensive weapon, that is concealed on the person;

26 (2) knowingly possesses a loaded firearm on the person in any place where
27 intoxicating liquor is sold for consumption on the premises;

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

31 (4) knowingly possesses a firearm

1 (A) within the grounds of or on a parking lot immediately adjacent to a
2 public or private preschool, elementary, junior high, or secondary school, without the
3 permission of the chief administrative officer of the school or district or the designee of
4 the chief administrative officer, except that a person 21 years of age or older may possess
5 an unloaded firearm in the trunk of a motor vehicle or encased in a closed container in
6 a motor vehicle; or

7 (B) within the grounds of or on a parking lot immediately adjacent to a
8 center, other than a private residence, licensed under AS 47.35.010 - 47.35.075 or
9 recognized by the federal government for the care of children; [OR]

10 (5) possesses or transports a switchblade or a gravity knife; or

11 (6) with criminal negligence sells or delivers or offers to sell or deliver a
12 firearm to a person under 21 years of age without the written consent of a parent or
13 guardian of the person.

14 * Sec. 10. AS 12.62.035(f)(1) is amended to read:

15 (1) "contributing to the delinquency of a minor" means a conviction for a
16 violation or attempted violations of AS 11.51.130(a) [AS 11.51.130(a)(1), (3), OR (5)]; former
17 AS 11.40.130; or the laws of another jurisdiction if the offense would have been a crime in this
18 state under AS 11.51.130(a) [AS 11.51.130(a)(1), (3), OR (5)] or former AS 11.40.130 if
19 committed in the state;

20 * Sec. 11. AS 23.10.350 is amended by adding a new subsection to read:

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

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

24 (2) after 10:00 p.m. on the night before school is in session unless the minor has
25 graduated from secondary school or its equivalent; however, a minor under 16 years of age may
26 not be employed to work after 9:00 o'clock in the evening, as provided in AS 23.10.340.

27 * Sec. 12. AS 34.50.020(b) is amended to read:

28 (b) A state agency or its agents, including a person working in or responsible for the
29 operation of a foster, receiving, or detention home, or children's institution, is not liable for the
30 acts of unemancipated minors in its charge or custody. A state agency or an agent of a state
31 agency, including a nonprofit corporation that designates safe homes under AS 47.10.392 -

1 **47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of**
2 **a minor sheltered in a safe home, as defined in AS 47.10.399.**

3 * Sec. 13. AS 47.10 is amended by adding new sections to read:

4 ARTICLE 4A. SAFE HOMES FOR RUNAWAY MINORS.

5 Sec. 47.10.392. CERTIFICATE REQUIRED. A private residence may not be held out
6 publicly as a safe home for runaway minors unless the residence

7 (1) is designated a safe home by a nonprofit corporation that is licensed to make
8 the designation under AS 47.35.085; and

9 (2) has a valid permit from the department signifying that designation.

10 Sec. 47.10.394. OPERATION OF SAFE HOME. (a) A safe home may not shelter a
11 runaway minor for more than seven days unless the department determines that

12 (1) the minor is the subject of exceptional circumstances; or

13 (2) another appropriate setting is not available for the minor.

14 (b) The provider of a safe home shall promptly inform the department of a runaway
15 minor in the home who claims to be the victim of child abuse or neglect, as defined in
16 AS 47.17.290, or whom the provider has reasonable cause to suspect has been a victim of child
17 abuse or neglect.

18 (c) The provider of a safe home shall make good faith efforts to ensure that notice of the
19 minor's presence in a safe home is given to the minor's legal custodian as soon as possible after
20 the minor is admitted to the home. The notice need not specify the location of the safe home.
21 The provider may give the notice, or the provider may request the appropriate law enforcement
22 agency to give the notice. If requested by the provider, the law enforcement agency shall make
23 good faith efforts to give the notice required under this subsection.

24 Sec. 47.10.396. CONFIDENTIALITY. If the department requires record keeping by a
25 safe home or by a nonprofit corporation that is licensed to designate safe homes, records of the
26 home and the nonprofit corporation that identify a runaway minor who has been sheltered in a
27 safe home or has sought assistance from a safe home are confidential and are not subject to
28 inspection or copying under AS 09.25.110 - 09.25.120 unless

29 (1) after being informed of the minor's right to privacy, the minor consents in
30 writing to the disclosure of the records;

31 (2) the records are relevant to an investigation or proceeding involving child abuse

1 or neglect or a child in need of aid petition; or

2 (3) disclosure of the records is necessary to protect the life or health of the minor.

3 Sec. 47.10.398. IMMUNITY FROM LIABILITY. (a) A person in a safe home, or in
4 a home for which an application to be designated a safe home is being considered by a nonprofit
5 corporation licensed for that purpose by the department, that is operated in a manner that is
6 consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those sections is not
7 criminally liable under AS 11.51.130(a)(4).

8 (b) Except as provided in (c) of this section, the provider of a safe home, or of a home
9 for which an application to be designated a safe home is being considered by a nonprofit
10 corporation approved for that purpose by the department, and the members of the provider's
11 household, other than a runaway minor, are not liable for civil damages as a result of an act or
12 omission

13 (1) in admitting or refusing to admit a runaway minor to the home; or

14 (2) by a runaway minor who is sheltered in the home.

15 (c) The provisions of (b) of this section do not preclude liability for civil damages as a
16 result of recklessness or intentional misconduct.

17 Sec. 47.10.399. DEFINITIONS. In AS 47.10.392 - 47.10.399,

18 (1) "runaway minor" has the meaning given in AS 47.10.390;

19 (2) "safe home" means a private residence whose legal occupant agrees to shelter,
20 without compensation, a runaway minor accepted into the residence by the legal occupant and
21 that

22 (A) is not simultaneously licensed under AS 47.10.310 as a program for
23 runaway minors;

24 (B) has been designated a safe home by a nonprofit corporation licensed
25 for that purpose under AS 47.35.085; and

26 (C) has a permit issued by the department under AS 47.35.085.

27 * Sec. 14. AS 47.10.141(b) is amended to read:

28 (b) A peace officer shall take into protective custody a minor described in (a) of this
29 section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor
30 the minor's preference to (1) return the minor to the legal custodian if the legal custodian
31 consents to the return; (2) take the minor to a nearby location agreed to by the minor and the

1 legal custodian; or (3) take the minor to an office specified by the Department of Health and
2 Social Services, a program for runaway minors licensed by the department under AS 47.10.310,
3 a safe home that has a permit from the department under AS 47.35.085 that agrees to
4 shelter the minor, or a facility or contract agency of the department. If an office specified by
5 the department, a licensed program for runaway minors, a safe home that will accept the minor,
6 or a facility or contract agency of the department does not exist in the community, the officer
7 shall take the minor to another suitable location and promptly notify the department. A minor
8 under protective custody may not be housed in a jail or other detention facility. Immediately
9 upon taking a minor into protective custody, the officer shall advise the minor orally and in
10 writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall
11 advise the legal custodian that the minor has been taken into protective custody and that
12 counseling services for the custodian and the minor's household are available under
13 AS 47.10.142(b).

14 * Sec. 15. AS 47.10.142(b) is amended to read:

15 (b) A minor who has left home and is evading the person having legal custody of the
16 minor may obtain the services of the department. The department shall assess the situation and
17 furnish the minor with the social services it considers appropriate to protect the well-being of the
18 minor and to preserve the minor's family life if preserving it is considered desirable under the
19 circumstances. The department shall also offer counseling services to the person having legal
20 custody of the minor and to the members of the minor's household if it determines that
21 counseling services would be appropriate in the situation. If, after assessing the situation,
22 considering the wishes of the minor, offering counseling services to the legal custodian and
23 the minor's household, and furnishing appropriate social services to the minor, the department
24 considers it necessary, the department may take emergency custody of the minor.

25 * Sec. 16. AS 47.35.020 is amended to read:

26 Sec. 47.35.020. LICENSE OR PERMIT REQUIRED FOR CERTAIN CARE
27 FACILITIES. A person may not, without a license or permit to do so,

28 (1) maintain or conduct, for more than 90 days, a boarding home, foster home,
29 group home, institution, or other place for the regular reception or care of children under 16 years
30 of age, or a foster home, group home, or institution for the care of dependent adults; [OR]

31 (2) engage in the business of receiving or caring for children under 14 years of

1 age, with or without compensation, in a nursery in which five or more children not related by
2 blood or marriage, or legal adoption, to the owner, operator, or manager of the business are
3 lodged; or

4 (3) hold out publicly that the person's residence is a safe home for runaway
5 minors.

6 * Sec. 17. AS 47.35 is amended by adding a new section to read:

7 Sec. 47.35.085. SAFE HOMES FOR RUNAWAY MINORS. (a) The department shall
8 adopt regulations under which a nonprofit corporation may apply for a license to designate and
9 supervise safe homes for runaway minors.

10 (b) The department shall also adopt regulations setting health and safety standards for
11 safe homes. The regulations adopted under this subsection must

12 (1) involve less regulation than is required for programs for runaways licensed
13 under AS 47.10.310 and foster homes licensed under this chapter;

14 (2) provide that they will be enforced by persons licensed under (a) of this section
15 except as provided in (d) of this section; and

16 (3) require that a nonprofit corporation licensed under (a) of this section inspect
17 the safe homes, perform criminal background checks of its residents, keep records, and meet
18 other requirements only to the extent that they are necessary to ensure the health and safety of
19 a runaway minor in the home.

20 (c) If a person licensed under (a) of this section certifies to the department that a home
21 meets the standards set under (b) of this section, the department shall issue the home a permit
22 authorizing it to be a safe home for runaway minors. The permit may not be transferred to a
23 different facility or owner.

24 (d) Upon notice from a person licensed under (a) of this section that a safe home is not
25 in compliance with AS 47.10.392 - 47.10.399 or the regulations of the department adopted under
26 (b) of this section, the department may revoke a permit issued under this subsection or modify
27 it to provisional status. The department shall give written notice of revocation or modification
28 under this subsection at least 30 days before the effective date of the action. However, if the
29 health or well-being of a child is in jeopardy, the revocation or modification action is effective
30 immediately upon the issuance of written notice by the department.

31 * Sec. 18. AS 47.35.100(a) is amended to read:

1 (a) Without a license issued by the department in accordance with its regulations a person
2 may not operate an agency providing any of the following services:

3 (1) the placement of children for foster home care;

4 (2) the placement of children for adoption; [OR]

5 (3) individual and family counseling; or

6 (4) designation and supervision of safe homes for runaway minors under

7 AS 47.35.085.

8 * Sec. 19. AS 47.35.900 is amended by adding new paragraphs to read:

9 (7) "runaway minor" has the meaning given in AS 47.10.390;

10 (8) "safe home for runaway minors" or "safe home" means a private residence
11 whose legal occupant agrees to shelter, without compensation, a runaway minor accepted into the
12 residence, subject to the limitations imposed under this chapter and AS 47.10.392 - 47.10.399.

13 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).