

HOUSE CS FOR CS FOR SENATE BILL NO. 55 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/10/92

Referred: Rules

Sponsor(s): SENATOR DUNCAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the detention and incarceration of minors."

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

3 * Section 1. PURPOSE. The purpose of this Act is to improve the state's juvenile justice system
4 by

5 (1) ending, with minor exceptions, the practice of allowing the confinement of children
6 in adult correctional facilities, jails, prisons, and rural lock-ups, however operated, based on evidence
7 that the practice often leads to aggravated emotional problems and depression in, and suicide attempts
8 by, the children who are confined;

9 (2) conforming state law and policy relating to the confinement of children to the
10 requirements of 42 U.S.C. 5633(a)(13) and (14) (Juvenile Justice and Delinquency Prevention Act of
11 1974, as amended), taking into consideration the dislocations that may arise from distance, weather, and
12 lack of means to transport minor children to suitable places for the care and custody of minors.

13 * Sec. 2. AS 47.10.130 is repealed and reenacted to read:

14 Sec. 47.10.130. DETENTION. (a) A minor may not be incarcerated in a correctional

1 facility that houses adult prisoners.

2 (b) When a minor is detained under this chapter, the person having responsibility for the
3 facility in which the minor is detained shall immediately notify the minor's parent, guardian, or
4 custodian of the minor's detention.

5 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a correctional
6 facility

7 (1) if the minor is the subject of a petition filed with the court under this chapter
8 seeking adjudication of the minor as a delinquent minor or if the minor is in official detention
9 pending the filing of that petition; however, detention in a correctional facility under this
10 paragraph may not exceed the lesser of

11 (A) six hours; or

12 (B) the time necessary to arrange the minor's transportation to a juvenile
13 detention home or comparable facility for the detention of minors;

14 (2) if, in response to a petition of delinquency filed under this chapter, the court
15 has entered an order closing the case under AS 47.10.060(a), allowing the minor to be prosecuted
16 as an adult; or

17 (3) if the incarceration constitutes a protective custody detention of the minor that
18 is authorized by AS 47.37.170(b).

19 (d) When a minor is detained under (c)(1) or (c)(3) of this section and incarcerated in
20 a correctional facility, the minor shall be

21 (1) assigned to quarters in the correctional facility that are separate from quarters
22 used to house adult prisoners so that the minor cannot communicate with or view adults who are
23 in official detention;

24 (2) provided admission, health care, hygiene, and food services and recreation and
25 visitation opportunities separate from services and opportunities provided to adults who are in
26 official detention.

27 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section, a minor
28 whose detention is authorized by (c)(1) of this section may be detained in a correctional facility
29 for more than six hours if transportation to a juvenile detention home or comparable facility for
30 the detention of minors is not available. The minor's detention for more than six hours is
31 authorized by this subsection only if the person having responsibility for the facility in which the

1 minor is detained

2 (1) documents the reason that transportation of the minor to a juvenile detention
3 home or comparable facility is not available; and

4 (2) during the minor's detention, after learning that transportation is not available,
5 promptly notifies the appropriate officials or employees of the department and the Alaska court
6 system of the lack of available transportation.

7 (f) A detention authorized by (e) of this section may not exceed the time necessary to
8 satisfy the requirement of (c)(1)(B) of this section.

9 (g) The provisions of AS 47.37.170(i) apply to a minor incarcerated in a correctional
10 facility when authorized by (c)(3) of this section.

11 (h) In a proceeding relating to the minor on the petition filed under this chapter or in the
12 prosecution of the minor as an adult, a court may not order the suppression of evidence as a
13 remedy for a failure to comply with a requirement of this section unless the person on whom the
14 requirement is imposed has failed to make a good faith effort to comply with the requirement.

15 (i) In this section

16 (1) "correctional facility" has the meaning given in AS 33.30.901 whether the
17 facility is operated by the state, a municipality, a village, or another entity;

18 (2) "official detention" has the meaning given in AS 11.81.900.

19 * Sec. 3. AS 47.10.190 is amended to read:

20 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court commits
21 a minor to the custody of the department, except when detention in a correctional facility is
22 authorized by AS 47.10.130(c), the department shall arrange to place the juvenile in a detention
23 home [, FACILITY] or another suitable place that the department designates for that purpose. [A
24 JUVENILE DETAINED IN A JAIL OR SIMILAR INSTITUTION AT THE REQUEST OF THE
25 DEPARTMENT SHALL BE HELD IN CUSTODY IN A ROOM OR OTHER PLACE APART
26 AND SEPARATE FROM ADULTS.]