

SENATE BILL NO. 88

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR RODEY

Introduced: 1/25/91

Referred: Judiciary and Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act relating to the treatment of minors for substance abuse; and amending Rule 38
2 of the Alaska Rules of Civil Procedure."

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

4 * Section 1. AS 47.10 is amended by adding new sections to read:

5 ARTICLE 5A. TREATMENT OF MINORS FOR SUBSTANCE ABUSE.

6 Sec. 47.10.500. APPLICABILITY. (a) The provisions of AS 47.10.500 - 47.10.590
7 apply to a minor

8 (1) who, due to substance abuse, has threatened to inflict, attempted to inflict, or
9 inflicted physical harm

10 (A) on the minor's own person, or is likely to inflict physical harm on the
11 minor's person unless treatment is secured; or

12 (B) on another, or is likely to inflict physical harm on another unless
13 treatment is secured; or

14 (2) whose judgment is so impaired by the effects of substance abuse that the

1 minor is incapable of realizing a need for treatment and is unable to make a rational decision
2 about the need for treatment.

3 (b) The provisions of AS 47.10.010 - 47.10.290 do not apply to a minor who is the
4 subject of an application or petition brought under AS 47.10.500 - 47.10.590.

5 Sec. 47.10.505. EMERGENCY ADMISSION PROCEDURES. (a) A minor, the minor's
6 spouse, parent, guardian, or physician, or any other responsible person, may make written
7 application under this section for emergency admission of the minor to a substance abuse
8 treatment program. The application must

9 (1) be directed to the director of a substance abuse treatment program;

10 (2) state facts sufficient to support the need for emergency treatment of the minor
11 under AS 47.10.500;

12 (3) be supported by a physician's certificate stating that the physician has
13 examined the minor sought to be admitted to the substance abuse treatment program and
14 providing evidence sufficient to support the need of the minor for emergency treatment.

15 (b) The administrator of the substance abuse treatment program may refuse to admit the
16 minor if the administrator believes that the application and physician's certificate fail to sustain
17 the grounds for the minor's admission.

18 (c) If the application submitted under (a) of this section is approved by the administrator
19 of the substance abuse treatment program, the minor may be brought to the program facility. The
20 minor shall be retained at the facility to which the minor was admitted or may be transferred to
21 another appropriate substance abuse treatment program until discharged under AS 47.10.510 -
22 47.10.515.

23 (d) Within 24 hours of admission of a minor to a substance abuse treatment program
24 under (c) of this section, the administrator of the program shall provide the minor

25 (1) copies of the written application for admission and the physician's certificate;

26 and

27 (2) a written explanation of the minor's right to legal counsel.

28 (e) The administrator of a substance abuse treatment program to which a minor is
29 admitted under (c) of this section shall provide the minor reasonable opportunity to consult with
30 legal counsel.

31 Sec. 47.10.510. JUDICIAL REVIEW OF EMERGENCY ADMISSION. If a minor has

1 been admitted to a substance abuse treatment program under AS 47.10.505 and the administrator
2 intends to detain the minor for more than 48 hours, the administrator of the program shall seek
3 review of the admission by the court. A minor may not be detained in the program for more
4 than 48 hours unless a court has reviewed and approved the admission application.

5 Sec. 47.10.515. DISCHARGE OF MINOR FROM EMERGENCY ADMISSION. (a)
6 Except as provided in (b) of this section, a minor admitted to a substance abuse treatment
7 program under AS 47.10.505 may not be detained in the program for more than five days.

8 (b) If a petition for involuntary admission has been filed under AS 47.10.520 within the
9 period provided in (a) of this section, the program administrator may detain the minor until the
10 petition has been heard and determined, but for not more than 10 days after filing the petition,
11 if the administrator finds that the reasons for emergency admission still exist.

12 Sec. 47.10.520. PETITION FOR INVOLUNTARY ADMISSION. (a) The minor's
13 spouse, parent, guardian, or physician, or the administrator of a substance abuse treatment
14 program admitting a minor under AS 47.10.505 may submit a petition under this section for the
15 minor's involuntary admission to a substance abuse treatment program. The petition must

16 (1) be filed with the superior court;

17 (2) state facts sufficient to support the need for treatment of the minor for
18 substance abuse;

19 (3) be supported by a physician's certificate stating that the physician has
20 examined the minor sought to be admitted to the substance abuse treatment program and
21 providing evidence sufficient to support the need of the minor for treatment for substance abuse;
22 and

23 (4) provide the names and addresses of persons who must be served by the clerk
24 of the court under (b)(1) - (4) of this section.

25 (b) When a petition is filed under (a) of this section, the court shall set a date for hearing
26 the petition. The hearing shall be held no later than 10 days after the petition was filed. The
27 clerk of the court shall deliver or mail copies of the petition and notice of the hearing, including
28 the date set by the court to hear the petition, to

29 (1) the petitioner;

30 (2) the minor who is the subject of the petition;

31 (3) the next of kin of the minor;

1 (4) the administrator in charge of the substance abuse treatment program to which
2 the minor was admitted, if the minor was admitted to the program for emergency treatment under
3 AS 47.10.505; and

4 (5) any other person the court considers appropriate.

5 (c) The court shall consider the petition without a jury. However, if, not less than two
6 days before the date set for hearing the petition, the minor or the minor's legal counsel files a
7 written request with the superior court, the court shall summon and impanel a jury to hear and
8 consider evidence concerning the condition of the minor sought to be admitted.

9 Sec. 47.10.525. HEARING ON PETITION AND DETERMINATION. (a) At the
10 hearing under AS 47.10.520, the court, or the jury if one is impanelled under AS 47.10.520(c),
11 shall hear all relevant testimony, including, if possible, the testimony of at least one licensed
12 physician who has examined the minor whose admission to the substance abuse treatment
13 program is sought in the petition.

14 (b) The minor who is the subject of the petition shall be present at the hearing unless the
15 court believes that the minor's being present is likely to be injurious to the minor or dangerous
16 to others. If the minor is not present, the court shall appoint a guardian ad litem to represent the
17 best interests of the minor throughout the proceeding.

18 (c) If the minor has refused to be examined by a licensed physician, the court shall give
19 the minor an opportunity to request an examination by a court-appointed licensed physician. If
20 the minor fails to request a medical examination and there is sufficient evidence to believe that
21 the allegations of the petition are true, or if the court believes that additional medical evidence
22 is necessary, the court may issue a temporary order admitting the minor to a facility for a period
23 of not more than five days for purposes of diagnostic examination.

24 (d) If, after hearing all relevant evidence, including a diagnostic examination, the court
25 or the jury finds that grounds for admission of the minor to the substance abuse treatment
26 program under AS 47.10.500 have been established by a preponderance of the evidence, the court
27 shall issue an order of admission to the substance abuse treatment program. The court may not
28 order the minor's admission to the substance abuse treatment program unless it determines that
29 the program is able to provide adequate and appropriate treatment for the minor.

30 Sec. 47.10.530. DURATION OF TREATMENT UNDER INVOLUNTARY ADMIS-
31 SION. A minor ordered admitted to a substance abuse treatment program under AS 47.10.525

1 may not be ordered into the custody of the program for substance abuse treatment for a period
2 of more than 30 days, exclusive of admission under AS 47.10.505, if any. At the end of the 30-
3 day period, the minor shall be discharged unless the person who petitioned for the minor's
4 admission obtains a court order under AS 47.10.535 for extended admission and treatment of the
5 minor.

6 Sec. 47.10.535. EXTENDED ADMISSION. (a) A minor admitted to a substance abuse
7 treatment program under AS 47.10.525 or the person who petitioned for the minor's admission
8 to the program under AS 47.10.525 may petition for the minor's extended admission to the
9 substance abuse treatment program. The provisions of AS 47.10.520 and 47.10.525 apply to a
10 petition that is filed under this subsection.

11 (b) Upon a showing of one or more of the reasons set out in AS 47.10.500, the court
12 may order the minor's extended admission to the substance abuse treatment program for a period
13 not to exceed 90 additional days, as the court may determine.

14 Sec. 47.10.540. TREATMENT AUTHORIZED. (a) A substance abuse treatment
15 program is required to provide adequate and appropriate substance abuse treatment to a minor
16 admitted to the program under AS 47.10.505, 47.10.525, or 47.10.535.

17 (b) A substance abuse treatment program may transfer a minor in its custody to another
18 program if a transfer is medically advisable. A program receiving a minor transferred under this
19 subsection must meet the requirements of (a) of this section. If a minor is transferred under this
20 subsection, the substance abuse treatment program making the transfer shall provide notice of the
21 transfer to the petitioner and to the court.

22 Sec. 47.10.545. EARLY DISCHARGE. A minor admitted to a substance abuse treatment
23 program under AS 47.10.505, 47.10.525, or 47.10.535 shall be discharged from the program at
24 any time before the end of the period for which the minor has been admitted if

- 25 (1) the conditions specified in AS 47.10.500 no longer exist;
26 (2) treatment of the minor is no longer adequate or appropriate; or
27 (3) treatment of the minor would not likely cause a significant improvement in
28 the minor's condition.

29 Sec. 47.10.550. PROCEDURAL GUARANTEES. (a) A minor whose emergency
30 admission to a substance abuse treatment program is to be extended for more than 48 hours under
31 AS 47.10.510 or whose involuntary admission or extended admission to a substance abuse

1 treatment program is sought under AS 47.10.520 - 47.10.545 has the right to

2 (1) contest the admission;

3 (2) be represented by counsel at every stage of the proceedings;

4 (3) have counsel appointed by the court or provided by the court if the minor is
5 unable to obtain counsel;

6 (4) a jury trial if applicable and requested under AS 47.10.520(c).

7 (b) The court shall inform the minor of the rights granted by (a) of this section.

8 (c) If the court believes that the minor requires the assistance of counsel, the court shall
9 require counsel, by appointment if necessary, regardless of the minor's objection.

10 (d) The court shall inform the minor whose admission or extended admission is sought
11 of the right to be examined by a licensed physician of the minor's choice. If the minor is unable
12 to obtain a licensed physician and requests examination by a physician, the court shall employ
13 a licensed physician to conduct the examination.

14 (e) A minor may at any time seek discharge from an emergency, involuntary, or extended
15 admission under AS 47.10.500 - 47.10.545 by a writ of habeas corpus under the provisions of
16 AS 12.75.

17 (f) The court may require the parent, guardian, or other person responsible for the minor
18 to pay the costs of persons appointed or employed under (c) and (d) of this section.

19 Sec. 47.10.555. COMMUNICATION INVOLVING A MINOR. (a) A minor admitted
20 to a substance abuse treatment program under AS 47.10.500 - 47.10.590 shall be granted
21 reasonable opportunities for adequate consultation with counsel, and for continuing contact with
22 family and friends if contact is consistent with an effective substance abuse treatment program
23 provided to the minor.

24 (b) Except when authorized by the court or when the director of the substance abuse
25 treatment program reasonably determines that communication to or from the minor is not in the
26 best interest of the minor, mail and other communication to or from a minor while admitted to
27 a substance abuse treatment program under AS 47.10.505, 47.10.525, or 47.10.535 may not be
28 intercepted, read, or censored.

29 Sec. 47.10.560. RECORDS. The provisions of AS 47.10.090 apply to the registration
30 and other records of substance abuse treatment programs provided to a minor. The minor may
31 claim the privilege.

1 Sec. 47.10.565. PAYMENT FOR TREATMENT. The parent, guardian, or other person
2 responsible for a minor who is admitted to a substance abuse treatment program under
3 AS 47.10.500 - 47.10.590 is responsible to provide for the cost of the minor's treatment in that
4 program.

5 Sec. 47.10.590. DEFINITIONS. In AS 47.10.500 - 47.10.590

6 (1) "controlled substance" has the meaning given in AS 11.71.900;

7 (2) "minor" means a person under 18 years of age, but does not include a minor
8 who has been emancipated under AS 09.55.590 or who has achieved the age of majority under
9 AS 25.20.020;

10 (3) "substance abuse" means

11 (A) a physiological or psychological dependency, or both, on one or more
12 controlled substances;

13 (B) habitual lack of self-control in using one or more controlled substances
14 to the extent that the minor's health is substantially impaired or the minor's social or
15 economic function is substantially disrupted; or

16 (C) intentional misuse of a hazardous volatile material or substance; in this
17 subparagraph, "hazardous volatile material or substance"

18 (i) means a material or substance that is readily vaporizable
19 at room temperature and whose vapors or gases, when inhaled, pose an immediate
20 threat to the life or health of the minor, or are likely to have adverse delayed
21 effects on the minor's health;

22 (ii) includes, but is not limited to, gasoline, materials and
23 substances containing petroleum distillates, and common household materials and
24 substances whose containers bear a notice warning that inhalation of the vapors
25 or gases may cause physical harm;

26 (4) "treatment" means services and care extended to a minor to overcome the
27 effects of substance abuse; the term includes

28 (A) diagnostic evaluation of the minor;

29 (B) medical, psychiatric, and psychological care;

30 (C) vocational rehabilitation; and

31 (D) counseling.

1 * Sec. 2. AS 47.10.520(c), added by sec. 1 of this Act, amends Rule 38 of the Alaska Rules of Civil
2 Procedure by limiting the time in which demand for jury trial on a petition for involuntary admission
3 must be filed.