

## SENATE BILL NO. 153

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR POURCHOT BY REQUEST

Introduced: 3/1/91  
 Referred: HES and Judiciary

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to mental health; and amending Rule 3, Alaska Rules of Civil  
 2 Procedure."

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

4 \* Section 1. AS 47.30.660 is amended by adding a new paragraph to read:

5 (15) set standards under which each designated treatment facility shall provide  
 6 programs to meet patients' medical, psychological, social, vocational, educational, and  
 7 recreational needs.

8 \* Sec. 2. AS 47.30.800(b) is amended to read:

9 (b) Upon making the findings specified in (a) of this section, the provisions of  
 10 AS 47.30.795(c) [AS 47.30.795(b)] relating to notice and AS 47.30.745 relating to hearing apply.

11 \* Sec. 3. AS 47.30.825(b) is amended to read:

12 (b) A patient, a mental health professional previously engaged in the patient's care,  
 13 and a representative of the patient's choice are [OR THE PATIENT'S COUNSEL,  
 14 GUARDIAN, OR THE ADULT DESIGNATED IN ACCORDANCE WITH AS 47.30.725 IF

1 THE PATIENT IS MENTALLY INCAPABLE OF PARTICIPATION, IS] entitled to participate  
2 in formulating the patient's individualized treatment plan and to participate in the evaluation  
3 process as much as possible, at minimum to the extent of requesting specific forms of therapy,  
4 inquiring why specific therapies are or are not included in the treatment program, and being  
5 informed as to the patient's present medical and psychological condition and prognosis. The  
6 treating physician may not withhold any of this information from the patient.

7 \* Sec. 4. AS 47.30.825(d) is amended to read:

8 (d) A locked quiet room, or other form of physical restraint, may not be used, except as  
9 provided in this subsection, unless a patient is likely to physically harm self or others unless  
10 restrained. The form of restraint used shall be that which is in the patient's best interest and  
11 which constitutes the least restrictive alternative available. When practicable, the patient shall  
12 be consulted as to the patient's preference among forms of adequate, medically advisable  
13 restraints including medication, and that preference shall be honored [CONSIDERED]. Nothing  
14 in this section is intended to limit the right of staff to use a quiet room at the patient's request  
15 or with the patient's knowing concurrence when considered in the best interests of the patient.  
16 Patients placed in a quiet room or other physical restraint shall be checked at least every 15  
17 minutes or more often if good medical practice so indicates. Patients in a quiet room must be  
18 visited by a staff member at least once every hour and must be given adequate food and drink  
19 and access to bathroom facilities. At no time may a patient be kept in a quiet room or other  
20 form of physical restraint against the patient's will longer than necessary to accomplish the  
21 purposes set out in this subsection. All uses of a quiet room or other restraint shall be recorded  
22 in the patient's medical record, the information including but not limited to the reasons for its  
23 use, the duration of use, and the name of the authorizing staff member.

24 \* Sec. 5. AS 47.30.825(e) is amended to read:

25 (e) A patient has the right to be free from unnecessary or excessive medication.  
26 Psychotropic medication may be administered only on the order of a licensed physician when the  
27 physician determines that this medication is in the best interest of the patient, or will prevent  
28 serious harm to the patient or others.

29 \* Sec. 6. AS 47.30.840(a) is amended to read:

30 (a) A person undergoing evaluation or treatment under AS 47.30.660 - 47.30.915

31 (1) may not be photographed without the person's consent and that of the person's

1 guardian if a minor, except that the person may be photographed upon admission to a facility for  
2 identification and for administrative purposes of the facility; all photographs shall be confidential  
3 and may only be released by the facility to the patient or the patient's designee unless a court  
4 orders otherwise;

5 (2) at the time of admission to an evaluation or treatment facility, shall have  
6 reasonable precautions taken by the staff to inventory and safeguard the patient's personal  
7 property; a copy of the inventory signed by the staff member making it shall be given to the  
8 patient and made available to the patient's attorney and any other person authorized by the  
9 patient to inspect the document;

10 (3) shall have access to an individual storage space for the patient's private use  
11 while undergoing evaluation or treatment;

12 (4) shall be permitted to wear personal clothing, to keep and use personal  
13 possessions including toilet articles if they are not considered unsafe for the patient or other  
14 patients who might have access to them, and to keep and be allowed to spend a reasonable sum  
15 of the patient's own money for the patient's needs and comfort;

16 (5) shall be allowed to have visitors at reasonable times;

17 (6) shall have ready access to letter writing materials, including stamps, and have  
18 the right to send and receive unopened mail;

19 (7) shall have reasonable access to a telephone, both to make and receive  
20 confidential calls;

21 (8) has the right to be free of corporal punishment;

22 (9) has the right to indoor and outdoor exercise and recreation;

23 (10) has the right, at any time, to have a telephone conversation with or be visited  
24 by an attorney;

25 (11) may not be retaliated against or subjected to any adverse change of  
26 conditions or treatment solely because of assertion of rights under this section.

27 \* Sec. 7. AS 47.30 is amended by adding new sections to read:

28 Sec. 47.30.847. PATIENTS' GRIEVANCE PROCEDURES. (a) A patient has the right  
29 to bring grievances about the patient's treatment, care, or rights to an impartial body within the  
30 designated treatment facility.

31 (b) A designated treatment facility shall have a formal grievance procedure for patient

1 grievances brought under (a) of this section. The facility shall inform each patient of the  
2 existence and contents of the grievance procedure.

3 (c) A designated treatment facility that has an average patient population over 50 shall  
4 have on staff a consumer advocate to assist patients in bringing grievances or pursuing other  
5 redress for complaints concerning care, treatment, and rights.

6 Sec. 47.30.848. JUDICIAL REMEDIES FOR PATIENTS. (a) After completing the  
7 grievance procedure established under AS 47.30.847, a patient or the patient's representative has  
8 the right to file a petition in the superior court that is nearest to where the facility is located  
9 alleging that the patient is being unjustly denied a right or privilege granted under this chapter  
10 or that a procedure authorized by this chapter is being abused. This remedy is in addition to any  
11 other remedy provided by law.

12 (b) When acting upon a petition filed under this section, the court may conduct a judicial  
13 inquiry and issue appropriate orders to correct an abuse under this chapter.

14 \* Sec. 8. AS 47.30.850 is amended to read:

15 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge of a  
16 respondent from a treatment facility or the issuance of a court order denying a petition for  
17 commitment, the respondent may at any time move to have all court records pertaining to the  
18 proceedings expunged on condition that the respondent file a full release of all claims of  
19 whatever nature arising out of the proceedings and the statements and actions of persons and  
20 facilities in connection with the proceedings. Upon the filing of the motion and full release,  
21 the court shall order the court records expunged.

22 \* Sec. 9. AS 47.30.848, enacted by sec. 7 of this Act, has the effect of amending Rule 3, Alaska  
23 Rules of Civil Procedure, by limiting where particular types of actions can be commenced.