

CS FOR SENATE BILL NO. 412 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/25/92

Referred: Finance

Sponsor(s): SENATORS FISCHER, Pearce

A BILL

FOR AN ACT ENTITLED

1 "An Act directing the Department of Health and Social Services to adopt regulations under
 2 which a nonprofit corporation could become licensed by the department for the purpose
 3 of designating 'safe homes' for runaway minors; relating to licensure of facilities; and
 4 providing for an effective date."

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

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

13 (b) It is the intent of legislature that the Department of Health and Social Services, in
 14 implementing this Act, adopt regulations under which interested nonprofit corporations could be

1 approved by the department for the purpose of designating "safe homes." Oversight of the safe homes
2 by the nonprofit corporations and the state should involve less regulation than is required for licensed
3 programs for runaways under AS 47.10.310 while still requiring the homes to meet health and safety
4 standards designed to protect the runaway minor in the safe home.

5 * Sec. 2. AS 34.50.020(b) is amended to read:

6 (b) A state agency or its agents, including a person working in or responsible for the
7 operation of a foster, receiving, or detention home, or children's institution, is not liable for the
8 acts of unemancipated minors in its charge or custody. A state agency or an agent of a state
9 agency, including a nonprofit corporation that designates safe homes under AS 47.10.392 -
10 47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of
11 a minor sheltered in a safe home, as defined in AS 47.10.399.

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

13 ARTICLE 4A. SAFE HOMES FOR RUNAWAY MINORS.

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

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

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

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

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

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

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

27 (c) The provider of a safe home shall make good faith efforts to ensure that notice of the
28 minor's presence in a safe home is given to the minor's legal custodian as soon as possible after
29 the minor is admitted to the home. The notice need not specify the location of the safe home.
30 The provider may give the notice, or the provider may request the appropriate law enforcement
31 agency to give the notice. If requested by the provider, the law enforcement agency shall make

1 good faith efforts to give the notice required under this subsection.

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

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

9 (2) the records are relevant to an investigation or proceeding involving child abuse
10 or neglect or a child in need of aid petition; or

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

12 Sec. 47.10.398. IMMUNITY FROM LIABILITY. (a) A person in a safe home, or in
13 a home for which an application to be designated a safe home is being considered by a nonprofit
14 corporation licensed for that purpose by the department, that is operated in a manner that is
15 consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those sections is not
16 criminally liable under AS 11.51.130(a)(5) unless the person aids, induces, causes, or encourages
17 a child under 16 years of age to be repeatedly absent from school without just cause.

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

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

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

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

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

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

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

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

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

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

6 * Sec. 4. AS 47.10.141(b) is amended to read:

7 (b) A peace officer shall take into protective custody a minor described in (a) of this
8 section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor
9 the minor's preference to (1) return the minor to the legal custodian if the legal custodian
10 consents to the return; (2) take the minor to a nearby location agreed to by the minor and the
11 legal custodian; or (3) take the minor to an office specified by the Department of Health and
12 Social Services, a program for runaway minors licensed by the department under AS 47.10.310,
13 a safe home that has a permit from the department under AS 47.35.085 that agrees to
14 shelter the minor, or a facility or contract agency of the department. If an office specified by
15 the department, a licensed program for runaway minors, a safe home that will accept the minor,
16 or a facility or contract agency of the department does not exist in the community, the officer
17 shall take the minor to another suitable location and promptly notify the department. A minor
18 under protective custody may not be housed in a jail or other detention facility. Immediately
19 upon taking a minor into protective custody, the officer shall advise the minor orally and in
20 writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall
21 advise the legal custodian that the minor has been taken into protective custody.

22 * Sec. 5. AS 47.35.020 is amended to read:

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

25 (1) maintain or conduct [, FOR MORE THAN 90 DAYS,] a boarding home,
26 foster home, group home, institution, or other place for the regular reception or care of children
27 under 16 years of age, or a foster home, group home, or institution for the care of dependent
28 adults; [OR]

29 (2) engage in the business of receiving or caring for children under 14 years of
30 age, with or without compensation, in a nursery in which five or more children not related by
31 blood or marriage, or legal adoption, to the owner, operator, or manager of the business are

1 lodged; or

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

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

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

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

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

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

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

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

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

29 * Sec. 7. AS 47.35.100(a) is amended to read:

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

- 1 (1) the placement of children for foster home care;
2 (2) the placement of children for adoption; [OR]
3 (3) individual and family counseling; or
4 (4) designation and supervision of safe homes for runaway minors under
5 AS 47.35.085.

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

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

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

11 * Sec. 9. This Act takes effect immediately under AS 01.10.070(c).