

CS FOR HOUSE BILL NO. 195(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered: 4/19/93
Referred: Finance**

Sponsor(s): REPRESENTATIVES SITTON, Ulmer, Willis, Foster, Brown, B.Davis, Olberg, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing youth courts by which to provide for peer adjudication of
2 minors who have allegedly committed violations of state or municipal laws, and
3 renaming the community legal assistance grant fund and amending the purposes
4 for which grants may be made from that fund in order to provide financial
5 assistance for organization and initial operation of youth courts."

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

7 * Section 1. PURPOSE OF ACT. The purpose of this Act is to provide a means by which
8 young people under the age of 18, with the concurrence of the juvenile intake unit of the
9 Department of Health and Social Services, may choose to work with their peers and with
10 interested adults in order to resolve their legal problems without receiving a criminal record.

11 * Sec. 2. CONSIDERATIONS RELATING TO THE ACT'S ADOPTION. (a) ". . .
12 [P]ursuant to [state] constitutional authority granting rulemaking power to the Alaska supreme
13 court," the Alaska Court System has adopted a body of rules applicable to the practice and

1 procedures governing certain juvenile proceedings, the Alaska Delinquency Rules. To the
2 extent of any inconsistency between them, the supreme court has observed, the delinquency
3 rules supersede and prevail over related procedural provisions of the state statutes.

4 (b) The court's delinquency rules authorize the informal disposition of alleged juvenile
5 delinquency matters before the filing with the court of a petition for juvenile delinquency
6 adjudication. They assign primary responsibility for those informal dispositions to the juvenile
7 intake unit of the Department of Health and Social Services.

8 (c) The authorization and expansion of the youth court model made by this Act as a
9 pre-petition diversion program is prompted by the success enjoyed by the Anchorage Youth
10 Court model since its inception in 1989. In the Anchorage Youth Court model, interested
11 young people and adults, with the generous support and assistance of the juvenile intake
12 office, Department of Health & Social Services, the Alaska Court System, the Alaska Bar
13 Association, the Anchorage Bar Association, law enforcement and school district officials,
14 professionals, and parents, have developed and implemented a mechanism by which to respond
15 to juvenile legal problems and to adjudicate them informally, promptly, and effectively, in a
16 way that is meaningful to the offender, the victim, and the community.

17 (d) This Act is adopted in furtherance of the recommendation expressed in Legislative
18 Resolve 61 adopted by the Seventeenth Alaska State Legislature urging expanded use of youth
19 courts within the state.

20 * Sec. 3. AS 18.05 is amended by adding a new section to read:

21 ARTICLE 2. YOUTH COURTS.

22 Sec. 18.05.100. YOUTH COURTS. (a) The department may use youth courts
23 to hear, determine, and dispose of cases involving a minor whose alleged act that
24 brings the minor within the jurisdiction of AS 47.10.010 - 47.10.142 constitutes a
25 violation of a state or municipal law.

26 (b) Unless otherwise directed by the commissioner, the jurisdiction of a youth
27 court is coextensive with the boundaries of the municipality in which the youth court
28 is located. Only one youth court may be established within the boundaries of a
29 municipality. Nothing in this subsection prohibits two or more municipalities from
30 operating a single youth court for the municipalities by agreement between them.

31 (c) A nonprofit corporation may obtain recognition from the commissioner to

1 serve as a youth court. The corporation may exercise only the powers that are
2 delegated to a youth court by the commissioner, and shall exercise those powers as
3 authorized by the corporation's articles of incorporation and bylaws. The bylaws of
4 the corporation must set out standards and procedures by which the corporation, in its
5 capacity as a youth court,

6 (1) guarantees the constitutional rights of the juvenile that are
7 guaranteed by the state and federal constitutions;

8 (2) may secure jurisdiction over a juvenile;

9 (3) sets out the process for disposing of matters referred to it for
10 resolution;

11 (4) provides a process for appeal of a verdict or sentence, and defines
12 the basis for appeals; and

13 (5) prepares and delivers a report of the disposition of the matter
14 referred to it for resolution to the commissioner.

15 (d) Subject to the privileges that witnesses have in the courts of this state, the
16 commissioner may compel by subpoena, at a specified time and place, the

17 (1) appearance and sworn testimony of a person who the commissioner
18 reasonably believes may be able to give information relating to a matter before a youth
19 court; and

20 (2) production by a person of a record or object that the commissioner
21 reasonably believes may relate to a matter before a youth court.

22 (e) If a person refuses to comply with a subpoena issued under (d) of this
23 section, the superior court may, upon application of the commissioner, compel
24 obedience by proceedings for contempt in the same manner as in the case of
25 disobedience to the requirements of a subpoena issued by the court or refusal to testify
26 in the court.

27 (f) The commissioner shall make and keep records of all cases referred to a
28 youth court. The records of a youth court proceeding must be afforded at least the
29 same protection and are subject to the same procedural safeguards in matters relating
30 to access, use, and security as they would be under AS 47.10.090.

31 * Sec. 4. AS 44.47.200 is amended to read:

1 Sec. 44.47.200. [COMMUNITY] LEGAL ASSISTANCE AND JUVENILE
2 JUSTICE GRANT FUND. There is created in the department the [COMMUNITY]
3 legal assistance and juvenile justice grant fund. From legislative appropriations to the
4 fund, the department shall make grants

5 (1) to eligible communities and regions for the purpose of enabling
6 them to obtain legal assistance; and

7 (2) to a nonprofit corporation established under AS 18.05.100 to
8 operate as a youth court.

9 * Sec. 5. AS 44.47.210 is amended to read:

10 Sec. 44.47.210. ELIGIBILITY. First and second class cities and
11 unincorporated villages, and regional associations of those communities, may apply to
12 the department for a grant under AS 44.47.200(1) [AS 44.47.200]. Grants shall be
13 made only to those communities or regions that would otherwise be unable to obtain
14 legal assistance. A regional or village corporation formed under 43 U.S.C. 1601 -
15 1608 (Alaska Native Claims Settlement Act) is not eligible for a grant under
16 AS 44.47.200(1) [AS 44.47.200].

17 * Sec. 6. AS 44.47.210 is amended by adding a new subsection to read:

18 (b) Nonprofit corporations proposing to establish and operate youth courts
19 under AS 18.05.100 may apply to the department for an organizational grant under
20 AS 44.47.200(2). A grant under this subsection must be matched on a dollar-for-dollar
21 basis by the grantee in cash or in kind. The commissioner may waive the match
22 required under this subsection on a showing satisfactory to the commissioner by the
23 prospective applicant that matching funds are not available.

24 * Sec. 7. AS 44.47.220 is amended to read:

25 Sec. 44.47.220. GRANTS. Grants made under AS 44.47.200(1)
26 [AS 44.47.200] shall be used for a single legal project and not for the provision of
27 general legal counsel. The department shall assure that the grant is spent for necessary
28 legal assistance and that appropriate accounting procedures are maintained. Grants
29 made under AS 44.47.200(1) and this subsection may not exceed \$20,000.

30 * Sec. 8. AS 44.47.220 is amended by adding a new subsection to read:

31 (b) Grants made under AS 44.47.200(2) shall be used to defray the costs of

1 organization of youth courts under AS 18.50.100. The department shall assure that the
2 grant is spent for necessary organizational assistance and that appropriate accounting
3 procedures are maintained. Grants made under AS 44.47.200(2) and this subsection
4 may not exceed \$5,000. Only one grant may be made to a grantee under authority of
5 this subsection.