

SENATE CS FOR CS FOR HOUSE BILL NO. 195(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/5/94
Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

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

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

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

12 * Sec. 2. CONSIDERATIONS RELATING TO THE ACT'S ADOPTION. (a) ". . .
13 [P]ursuant to [state] constitutional authority granting rulemaking power to the Alaska supreme

1 court," the Alaska Court System has adopted a body of rules applicable to the practice and
2 procedures governing certain juvenile proceedings, the Alaska Delinquency Rules. To the
3 extent of any inconsistency between them, the supreme court has observed, the delinquency
4 rules supersede and prevail over related procedural provisions of the state statutes.

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

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

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

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

22 **ARTICLE 2. YOUTH COURTS.**

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

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

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

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

9 (2) may secure jurisdiction over a juvenile;

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

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

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

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

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

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

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

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

1 * Sec. 4. AS 18.05.100(f) is repealed and reenacted to read:

2 (f) The commissioner shall make and retain records of all cases referred to
3 youth court. The records of a youth court proceeding are agency records subject to
4 AS 47.10.093.

5 * Sec. 5. AS 44.47.200 is amended to read:

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

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

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

14 * Sec. 6. AS 44.47.210 is amended to read:

15 Sec. 44.47.210. ELIGIBILITY. First and second class cities and
16 unincorporated villages, and regional associations of those communities, may apply to
17 the department for a grant under AS 44.47.200(1) [AS 44.47.200]. Grants shall be
18 made only to those communities or regions that would otherwise be unable to obtain
19 legal assistance. A regional or village corporation formed under 43 U.S.C. 1601 -
20 1608 (Alaska Native Claims Settlement Act) is not eligible for a grant under
21 AS 44.47.200(1) [AS 44.47.200].

22 * Sec. 7. AS 44.47.210 is amended by adding a new subsection to read:

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

29 * Sec. 8. AS 44.47.220 is amended to read:

30 Sec. 44.47.220. GRANTS. Grants made under AS 44.47.200(1)
31 [AS 44.47.200] shall be used for a single legal project and not for the provision of

1 general legal counsel. The department shall assure that the grant is spent for necessary
2 legal assistance and that appropriate accounting procedures are maintained. Grants
3 made under AS 44.47.200(1) and this subsection may not exceed \$20,000.

4 * Sec. 9. AS 44.47.220 is amended by adding a new subsection to read:

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

11 * Sec. 10. Section 4 of this Act takes effect only if Senate Bill 54 of the Eighteenth Alaska
12 State Legislature becomes law.

13 * Sec. 11. If sec. 4 of this Act takes effect, it takes effect on the later of the effective date
14 of this Act or the effective date of the version of Senate Bill 54 that becomes law.