

SENATE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS DUNCAN, Lincoln

Introduced: 1/11/93
Referred: HES, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the detention and incarceration of minors."

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

3 * **Section 1. PURPOSE.** The purpose of this Act is to improve the state's juvenile justice
4 system by

5 (1) ending, with minor exceptions, the practice of allowing the confinement
6 of children in adult correctional facilities, jails, prisons, and rural lock-ups, however operated,
7 based on evidence that the practice often leads to aggravated emotional problems and
8 depression in, and suicide attempts by, the children who are confined;

9 (2) conforming state law and policy relating to the confinement of children to
10 the requirements of 42 U.S.C. 5633(a)(13) and (14) (**Juvenile Justice and Delinquency**
11 **Prevention Act of 1974, as amended**), taking into consideration the dislocations that may arise
12 from distance, weather, and lack of means to transport minor children to suitable places for
13 the care and custody of minors.

14 * **Sec. 2.** AS 47.10.130 is repealed and reenacted to read:

1 **Sec. 47.10.130. DETENTION. (a) A minor may not be incarcerated in a**
2 **correctional facility that houses adult prisoners.**

3 **(b) When a minor is detained under this chapter, the person having**
4 **responsibility for the facility in which the minor is detained shall immediately notify**
5 **the minor's parent, guardian, or custodian of the minor's detention.**

6 **(c) Notwithstanding (a) of this section, a minor may be incarcerated in a**
7 **correctional facility**

8 **(1) if the minor is the subject of a petition filed with the court under**
9 **this chapter seeking adjudication of the minor as a delinquent minor or if the minor**
10 **is in official detention pending the filing of that petition; however, detention in a**
11 **correctional facility under this paragraph may not exceed the lesser of**

12 **(A) six hours; or**

13 **(B) the time necessary to arrange the minor's transportation to**
14 **a juvenile detention home or comparable facility for the detention of minors;**

15 **(2) if, in response to a petition of delinquency filed under this chapter,**
16 **the court has entered an order closing the case under AS 47.10.060(a), allowing the**
17 **minor to be prosecuted as an adult; or**

18 **(3) if the incarceration constitutes a protective custody detention of the**
19 **minor that is authorized by AS 47.37.170(b).**

20 **(d) When a minor is detained under (c)(1) or (c)(3) of this section and**
21 **incarcerated in a correctional facility, the minor shall be**

22 **(1) assigned to quarters in the correctional facility that are separate**
23 **from quarters used to house adult prisoners so that the minor cannot communicate with**
24 **or view adults who are in official detention;**

25 **(2) provided admission, health care, hygiene, and food services and**
26 **recreation and visitation opportunities separate from services and opportunities**
27 **provided to adults who are in official detention.**

28 **(e) Notwithstanding the limitation on detention set out in (c)(1) of this section,**
29 **a minor whose detention is authorized by (c)(1) of this section may be detained in a**
30 **correctional facility for more than six hours if transportation to a juvenile detention**
31 **home or comparable facility for the detention of minors is not available. The minor's**

1 detention for more than six hours is authorized by this subsection only if the person
2 having responsibility for the facility in which the minor is detained

3 (1) documents the reason that transportation of the minor to a juvenile
4 detention home or comparable facility is not available; and

5 (2) during the minor's detention, after learning that transportation is not
6 available, promptly notifies the appropriate officials or employees of the department
7 and the Alaska court system of the lack of available transportation.

8 (f) A detention authorized by (e) of this section may not exceed the time
9 necessary to satisfy the requirement of (c)(1)(B) of this section.

10 (g) The provisions of AS 47.37.170(i) apply to a minor incarcerated in a
11 correctional facility when authorized by (c)(3) of this section.

12 (h) In this section

13 (1) "correctional facility" has the meaning given in AS 33.30.901
14 whether the facility is operated by the state, a municipality, a village, or another entity;

15 (2) "official detention" has the meaning given in AS 11.81.900.

16 * Sec. 3. AS 47.10.190 is amended to read:

17 Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court
18 commits a minor to the custody of the department, except when detention in a
19 correctional facility is authorized by AS 47.10.130(c), the department shall arrange
20 to place the juvenile in a detention home [, FACILITY] or another suitable place that
21 the department designates for that purpose. [A JUVENILE DETAINED IN A JAIL OR
22 SIMILAR INSTITUTION AT THE REQUEST OF THE DEPARTMENT SHALL BE
23 HELD IN CUSTODY IN A ROOM OR OTHER PLACE APART AND SEPARATE
24 FROM ADULTS.]