

SENATE BILL NO. 45

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATORS PHILLIPS, Halford, Kelly, Miller, Leman, Sharp

Introduced: 1/13/93
Referred: HES, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to persons under 21 years of age; providing for designation of
2 'safe homes' for runaway minors; and providing for an effective date."

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

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

11 (b) It is the intent of legislature that the Department of Health and Social Services,
12 in implementing secs. 16 - 19 of this Act, adopt regulations under which interested nonprofit
13 corporations could be approved by the department for the purpose of designating "safe
14 homes." Oversight of the safe homes by the nonprofit corporations and the state should

1 involve less regulation than is required for licensed programs for runaways under
2 AS 47.10.310 while still requiring the homes to meet health and safety standards designed to
3 protect the runaway minor in the safe home.

4 * Sec. 2. AS 09.55.590(a) is amended to read:

5 (a) A minor who is a resident of this state and is at least 16 years of age, who
6 is living separate and apart from the parents or guardian of the minor, capable of
7 self-support and of managing one's own financial affairs, or the legal custodian of
8 such a minor, may petition the superior court to have the disabilities of minority
9 removed for limited or general purposes.

10 * Sec. 3. AS 09.55.590(b) is amended to read:

11 (b) A minor or the legal custodian of a minor may institute a [THIS] petition
12 under this section in the name of the minor.

13 * Sec. 4. AS 09.55.590(c) is amended to read:

14 (c) The petition for removal of disabilities of minority must state [:]
15 (1) the name, age, and residence address of the minor [PETITIONER];
16 (2) the name and address of each living parent;
17 (3) the name and address of the guardian of the person and the
18 guardian of the estate, if any;
19 (4) the reasons why removal would be in the best interest of the minor
20 [CHILD]; and
21 (5) the purposes for which removal is sought.

22 * Sec. 5. AS 09.55.590(d) is amended to read:

23 (d) The person who institutes a petition under this section [PETITIONER]
24 must obtain the consent of each living parent or guardian having control of the person
25 or property of the minor [PETITIONER]. If the person who is to consent to the
26 petition is unavailable or the whereabouts of that person are unknown, or if a parent
27 or guardian unreasonably withholds consent, the court, acting in the best interest of the
28 minor [PETITIONER], may waive this requirement of consent as to that parent or
29 guardian.

30 * Sec. 6. AS 09.55.590(e) is amended to read:

31 (e) The court may appoint an attorney or a guardian ad litem to represent the

1 interests of the minor [PETITIONER] at the hearing. Appointment of an attorney or
2 guardian ad litem shall be made in accordance with AS 25.24.310.

3 * Sec. 7. AS 09.55.590(f) is amended to read:

4 (f) The court may remove the disabilities of minority as requested in the
5 petition if found to be in the best interest of the minor [PETITIONER], after a
6 hearing. The removal may be for general purposes or the limited purposes specified
7 in the decree.

8 * Sec. 8. AS 11.51.130(a) is amended to read:

9 (a) A person commits the crime of contributing to the delinquency of a minor
10 if, being 19 years of age or older, the person aids, induces, causes, or encourages a
11 child

12 (1) [AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD]
13 under 18 years of age to do any act prohibited by state law;

14 (2) [REPEALED]

15 (3) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under
16 18 years of age to enter or remain in the same room in a building where the unlawful
17 sale of a drug occurs;

18 ~~(3)~~ [OR (4) REPEALED]

19 (5) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under
20 16 years of age to be [ABSENT FROM THE CUSTODY OF A PARENT,
21 GUARDIAN, OR CUSTODIAN OR TO BE] repeatedly absent from school, without
22 just cause; or

23 (4) under 18 years of age to be absent from the custody of a parent,
24 guardian, or custodian without just cause, unless the child's disabilities of
25 minority have been removed for general purposes under AS 09.55.590 or the
26 person has immunity under AS 47.10.398(a).

27 * Sec. 9. AS 11.61.220(a) is amended to read:

28 (a) A person commits the crime of misconduct involving weapons in the fifth
29 degree if the person

30 (1) knowingly possesses a deadly weapon, other than an ordinary
31 pocketknife or a defensive weapon, that is concealed on the person;

1 (2) knowingly possesses a loaded firearm on the person in any place
2 where intoxicating liquor is sold for consumption on the premises;

3 (3) being a person [AN UNEMANCIPATED MINOR] under 21 [16]
4 years of age, possesses a firearm without the written consent of a parent or guardian
5 of the person [MINOR];

6 (4) knowingly possesses a firearm

7 (A) or a defensive weapon within the grounds of or on a
8 parking lot immediately adjacent to a public or private preschool, elementary,
9 junior high, or secondary school without the permission of the chief
10 administrative officer of the school or district or the designee of the chief
11 administrative officer, except that a person 21 years of age or older may
12 possess

13 (i) an unloaded firearm in the trunk of a motor vehicle
14 or encased in a closed container in a motor vehicle;

15 (ii) a defensive weapon; or

16 (B) within the grounds of or on a parking lot immediately
17 adjacent to a center, other than a private residence, licensed under
18 AS 47.35.010 - 47.35.075 or recognized by the federal government for the care
19 of children; [OR]

20 (5) possesses or transports a switchblade or a gravity knife; or

21 (6) with criminal negligence sells or delivers or offers to sell or
22 deliver a firearm to a person under 21 years of age without the written consent
23 of a parent or guardian of the person.

24 * Sec. 10. AS 12.62.035(f)(1) is amended to read:

25 (1) "contributing to the delinquency of a minor" means a conviction for
26 a violation or attempted violations of AS 11.51.130(a) [AS 11.51.130(a)(1), (3), OR
27 (5)]; former AS 11.40.130; or the laws of another jurisdiction if the offense would
28 have been a crime in this state under AS 11.51.130(a) [AS 11.51.130(a)(1), (3), OR
29 (5)] or former AS 11.40.130 if committed in the state;

30 * Sec. 11. AS 23.10.350 is amended by adding a new subsection to read:

31 (f) A minor for whom the disabilities of minority have not been removed for

1 general purposes under AS 09.55.590 may not be employed or allowed to work

2 (1) without the written permission of the minor's legal custodian; or

3 (2) after 10:00 p.m. on the night before school is in session unless the
4 minor has graduated from secondary school or its equivalent; however, a minor under
5 16 years of age may not be employed to work after 9:00 o'clock in the evening, as
6 provided in AS 23.10.340.

7 * Sec. 12. AS 34.50.020(b) is amended to read:

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

15 * Sec. 13. AS 47.10 is amended by adding new sections to read:

16 ARTICLE 4A. SAFE HOMES FOR RUNAWAY MINORS.

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

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

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

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

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

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

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

31 (c) The provider of a safe home shall make good faith efforts to ensure that

1 notice of the minor's presence in a safe home is given to the minor's legal custodian
2 as soon as possible after the minor is admitted to the home. The notice need not
3 specify the location of the safe home. The provider may give the notice, or the
4 provider may request the appropriate law enforcement agency to give the notice. If
5 requested by the provider, the law enforcement agency shall make good faith efforts
6 to give the notice required under this subsection.

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

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

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

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

19 Sec. 47.10.398. IMMUNITY FROM LIABILITY. (a) A person in a safe
20 home, or in a home for which an application to be designated a safe home is being
21 considered by a nonprofit corporation licensed for that purpose by the department, that
22 is operated in a manner that is consistent with AS 47.10.392 - 47.10.399 and
23 regulations adopted under those sections is not criminally liable under
24 AS 11.51.130(a)(4).

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

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

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

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

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

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

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

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

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

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

13 * Sec. 14. AS 47.10.141(b) is amended to read:

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

1 * Sec. 15. AS 47.10.142(b) is amended to read:

2 (b) A minor who has left home and is evading the person having legal custody
3 of the minor may obtain the services of the department. The department shall assess
4 the situation and furnish the minor with the social services it considers appropriate to
5 protect the well-being of the minor and to preserve the minor's family life if
6 preserving it is considered desirable under the circumstances. The department shall
7 also offer counseling services to the person having legal custody of the minor and
8 to the members of the minor's household if it determines that counseling services
9 would be appropriate in the situation. If, after assessing the situation, considering
10 the wishes of the minor, offering counseling services to the legal custodian and the
11 minor's household, and furnishing appropriate social services to the minor, the
12 department considers it necessary, the department may take emergency custody of the
13 minor.

14 * Sec. 16. AS 47.35.020 is amended to read:

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

17 (1) maintain or conduct, for more than 90 days, a boarding home, foster
18 home, group home, institution, or other place for the regular reception or care of
19 children under 16 years of age, or a foster home, group home, or institution for the
20 care of dependent adults; [OR]

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

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

27 * Sec. 17. AS 47.35 is amended by adding a new section to read:

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

31 (b) The department shall also adopt regulations setting health and safety

1 standards for safe homes. The regulations adopted under this subsection must

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

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

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

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

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

22 * Sec. 18. AS 47.35.100(a) is amended to read:

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

26 (1) the placement of children for foster home care;

27 (2) the placement of children for adoption; [OR]

28 (3) individual and family counseling; or

29 (4) designation and supervision of safe homes for runaway minors

30 under AS 47.35.085.

31 * Sec. 19. AS 47.35.900 is amended by adding new paragraphs to read:

- 1 (7) "runaway minor" has the meaning given in AS 47.10.390;
2 (8) "safe home for runaway minors" or "safe home" means a private
3 residence whose legal occupant agrees to shelter, without compensation, a runaway
4 minor accepted into the residence, subject to the limitations imposed under this chapter
5 and AS 47.10.392 - 47.10.399.
6 * Sec. 20. This Act takes effect immediately under AS 01.10.070(c).