

**HOUSE CS FOR CS FOR SENATE BILL NO. 45(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION**

BY THE HOUSE JUDICIARY COMMITTEE

**Offered: 2/7/94
Referred: Finance**

**Sponsor(s): SENATORS PHILLIPS, Halford, Kelly, Miller, Leman, Sharp
REPRESENTATIVE Kott**

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to persons under 21 years of age; relating to programs for
2 runaway minors; providing for designation of shelters for runaway minors; relating
3 to the detention and incarceration of minors."

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

5 * Section 1. LEGISLATIVE INTENT AND PURPOSE. (a) It is the intent of the
6 legislature that the Department of Health and Social Services encourage properly qualified
7 private citizens to seek designation of their homes as shelters for runaway and homeless
8 minors.

9 (b) It is the intent of the legislature that nothing in secs. 2 - 7 of this Act be construed
10 to subject an emancipated person to all liabilities of citizens of full age except those provided
11 in the proceeding held for the minor under AS 09.55.590.

12 (c) The purpose of secs. 12 and 16 of this Act is to conform state law and policy
13 relating to the confinement of children to the requirements of 42 U.S.C. 5633(a)(13) and (14)
14 (Juvenile Justice and Delinquency Prevention Act of 1974, as amended), taking into

1 consideration the dislocations that may arise from distance, weather, and lack of means to
2 transport minor children to suitable places for the care and custody of minors.

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

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

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

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

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

13 (c) The petition for removal of disabilities of minority must state [:]

14 (1) the name, age, and residence address of the minor [PETITIONER];

15 (2) the name and address of each living parent;

16 (3) the name and address of the guardian of the person and the
17 guardian of the estate, if any;

18 (4) the reasons why removal would be in the best interest of the minor
19 [CHILD]; and

20 (5) the purposes for which removal is sought.

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

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

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

30 (e) The court may appoint an attorney or a guardian ad litem to represent the
31 interests of the minor [PETITIONER] at the hearing. Appointment of an attorney or

1 guardian ad litem shall be made in accordance with AS 25.24.310.

2 * Sec. 7. AS 09.55.590(f) is repealed and reenacted to read:

3 (f) If the petition under this section is filed by a minor, the court may remove
4 the disabilities of minority as requested in the petition if the court finds on the record
5 after a hearing that the minor is a resident of the state, at least 16 years of age, living
6 separate and apart from the parent or guardian of the minor, and capable of sustained
7 self-support and managing the minor's own financial affairs. If the petition under this
8 section is filed by the legal custodian of a minor, the court may remove the disabilities
9 of minority as requested in the petition only if the minor consents on the record to the
10 removal of disabilities and the court, in addition to making the other findings required
11 under this subsection for a petition filed by a minor, makes a finding on the record that
12 there is interpersonal conflict involving the legal custodian and the minor that the
13 custodian and the minor have been unable to resolve satisfactorily through other
14 means; the finding must include a description of the efforts that were made by the
15 legal custodian to resolve the interpersonal conflict before the custodian filed the
16 petition under this section. If the court determines that removal of disabilities is in the
17 best interests of the minor, the court may waive the requirement for the minor's
18 consent that is otherwise imposed under this subsection. In making its decision under
19 this subsection, the court may consider whether a noncustodial parent of the minor is
20 able and willing to petition for custody of the minor.

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

22 (a) A person commits the crime of contributing to the delinquency of a minor
23 if, being 19 years of age or older or being under 19 years of age and having the
24 disabilities of minority removed for general purposes under AS 09.55.590, the
25 person aids, induces, causes, or encourages a child

26 (1) [AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD]
27 under 18 years of age to do any act prohibited by state law unless the child's
28 disabilities of minority have been removed for general purposes under
29 AS 09.55.590;

30 (2) [REPEALED

31 (3) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under

1 18 years of age to enter or remain in the same room in a building where the unlawful
2 sale of a drug occurs unless the child's disabilities of minority have been removed
3 for general purposes under AS 09.55.590:

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

5 (5) AIDS, INDUCES, CAUSES, OR ENCOURAGES A CHILD] under
6 16 years of age to be [ABSENT FROM THE CUSTODY OF A PARENT,
7 GUARDIAN, OR CUSTODIAN OR TO BE] repeatedly absent from school, without
8 just cause; or

9 (4) under 18 years of age to be absent from the custody of a parent,
10 guardian, or custodian without just cause, unless the child's disabilities of
11 minority have been removed for general purposes under AS 09.55.590 or the
12 person has immunity under AS 47.10.350(c) or 47.10.398(a).

13 * Sec. 9. AS 12.62.035(f)(1) is amended to read:

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

19 * Sec. 10. AS 23.10.350 is amended by adding a new subsection to read:

20 (f) A minor for whom the disabilities of minority have not been removed for
21 general purposes under AS 09.55.590 may not be employed or allowed to work after
22 10:00 p.m. on the night before the minor's school is in session unless the minor has
23 graduated from secondary school or its equivalent; however, a minor under 16 years
24 of age may not be employed to work after 9:00 p.m., as provided in AS 23.10.340.

25 * Sec. 11. AS 34.50.020(b) is amended to read:

26 (b) A state agency or its agents, including a person working in or responsible
27 for the operation of a foster, receiving, or detention home, or children's institution, is
28 not liable for the acts of unemancipated minors in its charge or custody. A state
29 agency or an agent of a state agency, including a nonprofit corporation that
30 designates shelters for runaways under AS 47.10.392 - 47.10.399 and employees
31 of or volunteers with that corporation, is not liable for the acts of a minor

1 sheltered in a shelter for runaways, as defined in AS 47.10.399.

2 * Sec. 12. AS 47.10.130 is repealed and reenacted to read:

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

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

8 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a
9 correctional facility

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

14 (A) six hours; or

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

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

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

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

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

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

30 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section,
31 a minor whose detention is authorized by (c)(1) of this section may be detained in a

1 correctional facility for more than six hours if transportation to a juvenile detention
2 home or comparable facility for the detention of minors is not available. The minor's
3 detention for more than six hours is authorized by this subsection only if the person
4 having responsibility for the facility in which the minor is detained

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

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

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

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

14 (h) In this section

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

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

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

19 (b) A peace officer shall take into protective custody a minor described in (a)
20 of this section if the minor is not otherwise subject to arrest or detention. Unless (c)
21 of this section applies, the [THE] peace officer shall exercise the officer's discretion
22 and [HONOR THE MINOR'S PREFERENCE TO] (1) return the minor to the legal
23 custodian if the legal custodian consents to the return except that the officer may not
24 use this option if the officer has reasonable cause to suspect that the minor has
25 experienced physical or sexual abuse in the legal custodian's household; or (2)
26 [TAKE THE MINOR TO A NEARBY LOCATION AGREED TO BY THE MINOR
27 AND THE LEGAL CUSTODIAN; OR (3)] take the minor to an office specified by
28 the Department of Health and Social Services, a program for runaway minors licensed
29 by the department under AS 47.10.310, a shelter for runaways that has a permit
30 from the department under AS 47.35.085 that agrees to shelter the minor, or a
31 facility or contract agency of the department. If an office specified by the department,

1 a licensed program for runaway minors, a shelter for runaways that will accept the
2 minor, or a facility or contract agency of the department does not exist in the
3 community, the officer shall take the minor to another suitable location and promptly
4 notify the department. A minor under protective custody may not be housed in a jail
5 or other detention facility. Immediately upon taking a minor into protective custody,
6 the officer shall advise the minor orally and in writing of the right to social services
7 under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that
8 the minor has been taken into protective custody and that counseling services for the
9 custodian and the minor's household may be available under AS 47.10.142(b).

10 * Sec. 14. AS 47.10.142(b) is amended to read:

11 (b) The department shall offer available counseling services to the person
12 having legal custody of a minor described in AS 47.10.141 and to the members of
13 the minor's household if it determines that counseling services would be
14 appropriate in the situation [A MINOR WHO HAS LEFT HOME AND IS
15 EVADING THE PERSON HAVING LEGAL CUSTODY OF THE MINOR MAY
16 OBTAIN THE SERVICES OF THE DEPARTMENT. THE DEPARTMENT SHALL
17 ASSESS THE SITUATION AND FURNISH THE MINOR WITH THE SOCIAL
18 SERVICES IT CONSIDERS APPROPRIATE TO PROTECT THE WELL-BEING OF
19 THE MINOR AND TO PRESERVE THE MINOR'S FAMILY LIFE IF
20 PRESERVING IT IS CONSIDERED DESIRABLE UNDER THE
21 CIRCUMSTANCES]. If, after assessing the situation, offering available counseling
22 services to the legal custodian and the minor's household, [CONSIDERING THE
23 WISHES OF THE MINOR,] and furnishing appropriate social services to the minor,
24 the department considers it necessary, the department may take emergency custody of
25 the minor.

26 * Sec. 15. AS 47.10.142(c) is amended to read:

27 (c) When a child is taken into custody under (a) or (b) of this section or when
28 the department is notified of a child's presence in either a program for runaway
29 minors under AS 47.10.300 - 47.10.390 or a shelter for runaway minors under
30 AS 47.10.392 - 47.10.399, the department shall immediately, and in no event more
31 than 12 hours later unless prevented by lack of communication facilities, notify the

1 parents or the person or persons having custody of the child. If the department
2 determines that continued custody is necessary to protect the child, the department
3 shall notify the court of the emergency custody by filing, within 12 hours after custody
4 was assumed, a petition alleging that the child is a child in need of aid. If the
5 department releases the child within 12 hours after taking the child into custody and
6 does not file a child in need of aid petition the department shall, within 12 hours after
7 releasing the child, file with the court a report explaining why the child was taken into
8 custody.

9 • Sec. 16. AS 47.10.190 is amended to read:

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

18 • Sec. 17. AS 47.10.310(c) is amended to read:

19 (c) A program for runaway minors shall

20 (1) explain to a minor who seeks assistance from the program the legal
21 rights and responsibilities of runaway minors and the services and assistance provided
22 for runaway minors by the program and by the state or local municipality;

23 (2) attempt to determine why a minor in the program is a runaway;

24 (3) provide or help arrange for the provision of services necessary to
25 promote the health and welfare of a minor in the program and, if appropriate, members
26 of the minor's family; services may include, but are not limited to, the provision of
27 food, shelter, clothing, medical care, and individual or family counseling;

28 (4) promptly inform the department of a minor in the program

29 (A) who claims to be the victim of child abuse or neglect, as
30 defined in AS 47.17.290; [, OR]

31 (B) whom an employee of the program has cause to believe has

1 been a victim of child abuse or neglect; or

2 **(C) whom an employee of the program has reason to believe**
3 **is evading the supervision of the department, the person to whom the**
4 **department has entrusted supervision, or the minor's legal guardian;**

5 (5) be operated with the goal of reuniting runaway minors with their
6 families, except in cases in which reunification is clearly contrary to the best interest
7 of the minor; and

8 (6) maintain adequate staffing and accommodations to ensure physical
9 security and to provide crisis services to minors residing in a facility operated by the
10 program; residents under 18 years of age shall be segregated from residents who are
11 18 years of age or older.

12 * Sec. 18. AS 47.10.350 is amended by adding a new subsection to read:

13 (c) The officers, directors, and employees of a licensed program for runaway
14 minors are not criminally liable under AS 11.51.130(a)(4) for assisting a minor in the
15 program.

16 * Sec. 19. AS 47.10 is amended by adding new sections to read:

17 ARTICLE 4A. SHELTERS FOR RUNAWAY MINORS.

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

20 (1) is designated a shelter for runaways by a nonprofit corporation that
21 is licensed to make the designation under AS 47.35.085; and

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

23 Sec. 47.10.394. OPERATION OF SHELTERS. (a) A shelter for runaways
24 may not shelter a runaway minor for more than seven days unless the department
25 determines that

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

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

28 (b) The provider of a shelter for runaways shall promptly, but within 48 hours,
29 inform the department of a runaway minor in the shelter

30 (1) who claims to be the victim of child abuse or neglect, as defined
31 in AS 47.17.290;

1 (2) whom the provider has reasonable cause to suspect has been a
2 victim of child abuse or neglect; or

3 (3) whom the provider has reason to believe is evading the supervision
4 of the department, the person to whom the department has entrusted supervision, or the
5 minor's legal guardian.

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

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

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

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

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

24 (b) Except as provided in (c) of this section, the provider of a shelter for
25 runaways, or of a home for which an application to be designated a shelter for
26 runaways is being considered by a nonprofit corporation approved for that purpose by
27 the department, that is operated in a manner that is consistent with AS 47.10.392 -
28 47.10.399 and regulations adopted under those sections, and the members of the
29 provider's household, other than a runaway minor, are not liable for civil damages as
30 a result of an act or omission

31 (1) in admitting or refusing to admit a runaway minor to the shelter or

1 home; or
2 (2) by a runaway minor who is sheltered in the shelter or home.
3 (c) The provisions of (b) of this section do not preclude liability for civil
4 damages as a result of recklessness or intentional misconduct.
5 Sec. 47.10.399. DEFINITIONS. In AS 47.10.392 - 47.10.399,
6 (1) "runaway minor" has the meaning given in AS 47.10.390;
7 (2) "shelter for runaways" or "shelter for runaway minors" means a
8 private residence whose legal occupant agrees to shelter, with or without compensation,
9 a runaway minor accepted into the residence by the legal occupant and that
10 (A) is not simultaneously licensed under AS 47.10.310 as a
11 program for runaway minors;
12 (B) has been designated a shelter for runaways by a nonprofit
13 corporation licensed for that purpose under AS 47.35.085; and
14 (C) has a permit issued by the department under AS 47.35.085.
15 * Sec. 20. AS 47.35.020 is amended to read:
16 Sec. 47.35.020. LICENSE OR PERMIT REQUIRED FOR CERTAIN CARE
17 FACILITIES. A person may not, without a license or permit to do so,
18 (1) maintain or conduct, for more than 90 days, a boarding home, foster
19 home, group home, institution, or other place for the regular reception or care of
20 children under 16 years of age, or a foster home, group home, or institution for the
21 care of dependent adults; [OR]
22 (2) engage in the business of receiving or caring for children under 14
23 years of age, with or without compensation, in a nursery in which five or more
24 children not related by blood or marriage, or legal adoption, to the owner, operator, or
25 manager of the business are lodged; or
26 (3) hold out publicly that the person's residence is a shelter for
27 runaway minors.
28 * Sec. 21. AS 47.35 is amended by adding a new section to read:
29 Sec. 47.35.085. SHELTERS FOR RUNAWAY MINORS. (a) The department
30 shall adopt regulations under which a nonprofit corporation may apply for a license to
31 designate and supervise shelters for runaway minors.

1 (b) The department shall also adopt regulations setting health and safety
2 standards for shelters for runaways. The regulations adopted under this subsection
3 must

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

6 (2) provide that private agencies approved by the department may
7 recruit, evaluate, and monitor the shelters for runaways under procedures established
8 by the department; and

9 (3) require that a nonprofit corporation licensed under (a) of this section
10 inspect the shelters for runaways, perform criminal background checks of its residents,
11 keep records, and meet other requirements only to the extent that they are necessary
12 to reduce the risk to the health and safety of a runaway minor in the shelter.

13 (c) If a nonprofit corporation licensed under (a) of this section certifies to the
14 department that a home meets the standards set under (b) of this section, the
15 department shall issue the home a permit authorizing it to be a shelter for runaway
16 minors. The permit may not be transferred to a different home or owner.

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

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

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

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

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

31 (3) individual and family counseling; or

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(4) designation and supervision of shelters for runaway minors
under AS 47.35.905.

* Sec. 23. AS 47.35.900 is amended by adding new paragraphs to read:

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

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

* Sec. 24. AS 47.10.330(a) is repealed.