

"An Act relating to treatment and services for intoxicated persons and persons incapacitated by alcohol; and to the presence of intoxicated persons in licensed premises."

## COMMITTEE REPORT

3/11/76

HOUSE

Mr. Speaker:

Date March 13 1976

The Committee on FINANCE has had CS SS SB 336

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

[Signature] \_\_\_\_\_  
[Signature] \_\_\_\_\_  
[Signature] \_\_\_\_\_  
[Signature] \_\_\_\_\_

Members NOT concurring in the Majority report:

[Signature] recommends:  
[Signature] recommends: no rec  
[Signature] recommends: no rec  
\_\_\_\_\_ recommends:  
\_\_\_\_\_ recommends:

[Signature] Chairman

Original Sponsors: Ray and Miller

Offered: 2/16/76  
Referred: Rules

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 336

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to treatment and services for intoxi-  
7 cated persons and persons incapacitated by alcohol;  
8 and to the presence of intoxicated persons in licensed  
9 premises."

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

11 \* Section 1. AS 47.37.170(a) is amended to read:

12 (a) An intoxicated person may come voluntarily to an approved  
13 public treatment facility for emergency treatment. A person who appears  
14 to be intoxicated in a public place and to be in need of help or a  
15 person who appears to be intoxicated in or upon a licensed premise where  
16 intoxicating liquors are sold or consumed who refuses to leave upon  
17 being requested to leave by the owner, an employee or a peace officer  
18 [, IF HE CONSENTS,] may be taken into protective custody and assisted by  
19 a peace officer or a member of the emergency service patrol to his home,  
20 an approved public treatment facility, an approved private treatment  
21 facility, or another appropriate health facility. If all of the pre-  
22 ceding facilities, including the person's home, are determined to be  
23 unavailable, a person taken into protective custody and assisted under  
24 this subsection may be taken to a state or municipal detention facility  
25 in the area.

26 \* Sec. 2. AS 47.37.170(b) is amended to read:

27 (b) A person who appears to be incapacitated by alcohol in a  
28 public place shall be taken into protective custody by a peace officer  
29 or a member of the emergency service patrol and immediately brought to

1 an approved public treatment facility, an approved private treatment  
2 facility, or another appropriate health facility or service for  
3 emergency medical treatment. If no [APPROVED PUBLIC] treatment facility  
4 or emergency medical service is available, a person who appears to be  
5 incapacitated by alcohol in a public place shall be taken to a state or  
6 municipal detention facility in the area, if that appears necessary for  
7 the protection of the person's health or safety [IS READILY AVAILABLE  
8 HE SHALL BE TAKEN TO AN EMERGENCY MEDICAL SERVICE CUSTOMARILY USED FOR  
9 INCAPACITATED PERSONS. THE PEACE OFFICER OR A MEMBER OF THE EMERGENCY  
10 SERVICE PATROL, IN DETAINING THE PERSON AND IN TAKING HIM TO AN APPROVED  
11 PUBLIC TREATMENT FACILITY, IS TAKING HIM INTO PROTECTIVE CUSTODY AND HE  
12 SHALL MAKE EVERY REASONABLE EFFORT TO PROTECT HIS HEALTH AND SAFETY.  
13 IN TAKING THE PERSON INTO PROTECTIVE CUSTODY, THE DETAINING OFFICER MAY  
14 TAKE REASONABLE STEPS TO PROTECT HIMSELF. PROTECTIVE CUSTODY DOES NOT  
15 CONSTITUTE AN ARREST UNDER THIS SECTION AND NO ENTRY OR OTHER RECORD  
16 SHALL BE MADE TO INDICATE THAT THE PERSON HAS BEEN ARRESTED OR CHARGED  
17 WITH A CRIME].

18 \* Sec. 3. AS 47.37.170 is amended by adding a new subsection to read:

19 (1) A person taken to a detention facility under (a) or (b) of  
20 this section may be detained only (1) until a treatment facility or  
21 emergency medical service is made available, or (2) until he is no  
22 longer intoxicated or incapacitated by alcohol, or (3) for a maximum  
23 period of 12 hours, whichever occurs first. A detaining officer or a  
24 detention facility official may release a person who is detained under  
25 (a) or (b) of this section at any time to the custody of a responsible  
26 adult. A peace officer or a member of the emergency service patrol,  
27 in detaining a person under (a) or (b) of this section and in taking  
28 him to a treatment facility, an emergency medical service or a detention  
29 facility, is taking him into protective custody and he shall make

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reasonable efforts to provide for and protect the health and safety of the detainee. In taking a person into protective custody under (a) and (b) of this section, a detaining officer, a member of the emergency service patrol or a detention facility official may take reasonable steps to protect himself, including a full protective search of the person of a detainee. Protective custody under (a) and (b) of this section does not constitute an arrest and no entry or other record may be made to indicate that the person detained has been arrested or charged with a crime, except that a confidential record may be made which is necessary for the administrative purposes of the facility to which the person has been taken or which is necessary for statistical purposes where the person's name may not be disclosed.

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Offered: 4/7/75  
Referred: Health, Education  
and Social Services

1 IN THE SENATE

BY RAY AND MILLER

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 336

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to treatment and services for intoxi-  
7 cated persons and persons incapacitated by alcohol.

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

9 \* Section 1. AS 47.37.170(a) is amended to read:

10 (a) An intoxicated person may come voluntarily to an approved  
11 public treatment facility for emergency treatment. A person who appears  
12 to be intoxicated in a public place and to be in need of help [, IF  
13 HE CONSENTS,] may be assisted by a peace officer or a member of the  
14 emergency service patrol to his home, an approved public treatment  
15 facility, an approved private treatment facility, [OR] another appropri-  
16 ate health facility, or, if the preceding are unavailable, a detention  
17 facility. Detention under this provision does not constitute an arrest  
18 and may not exceed 12 hours.

19 \* Sec. 2. AS 47.37.170(b) is amended to read:

20 (b) A person who appears to be incapacitated by alcohol shall be  
21 taken into protective custody by a peace officer or a member of the  
22 emergency service patrol and immediately brought to an approved public  
23 treatment facility for emergency treatment. If no approved public  
24 treatment facility is readily available he shall be taken to an emer-  
25 gency medical service customarily used for incapacitated persons. If  
26 no emergency medical service is readily available, he shall be taken  
27 to a detention facility. The peace officer or a member of the emergency  
28 service patrol, in detaining the person and in taking him to an approved  
29 public treatment facility, emergency medical service or detention

1 facility, is taking him into protective custody and he shall make every  
2 reasonable effort to protect his health and safety. In taking the  
3 person into protective custody, the detaining officer may take reason-  
4 able steps to protect himself. Protective custody does not constitute  
5 an arrest under this section and no entry or other record shall be made  
6 to indicate that the person has been arrested or charged with a crime.  
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Introduced: 4/2/75  
Referred: Health, Education  
and Social Services

1 IN THE SENATE

BY RAY AND MILLER

2 SENATE BILL NO. 336

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the treatment of intoxicated  
7 persons."

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

9 \* Section 1. AS 47.37.170(a) is amended to read:

10 (a) An intoxicated person may come voluntarily to an approved  
11 public treatment facility for emergency treatment. A person who  
12 appears to be intoxicated in a public place and to be in need of help  
13 shall [, IF HE CONSENTS, MAY] be assisted by a peace officer or a  
14 member of the emergency service patrol to his home, an approved public  
15 treatment facility, an approved private treatment facility, or, if  
16 none of the preceding is known or available, another appropriate  
17 secure and comfortable place which, if possible, is a public facility.  
18 Notwithstanding (d) of this section, a person assisted in this manner  
19 may be detained in protective custody for up to 24 hours depending  
20 on the circumstances and the extent of his intoxication. The safe-  
21 guards which apply and the rights which accrue to a person held in  
22 protective custody in other situations under this chapter shall apply  
23 to persons held in protective custody under this subsection [ANOTHER  
24 APPROPRIATE HEALTH FACILITY].

25 \* Sec. 2. AS 47.37.170(b) is amended to read:

26 (b) A person who appears to be incapacitated by alcohol shall be  
27 taken into protective custody by a peace officer or a member of the  
28 emergency service patrol and immediately brought to an approved public  
29 treatment facility for emergency treatment. If no approved public

1 treatment facility is readily available he shall be taken to an  
2 emergency medical service customarily used for incapacitated persons.  
3 If no emergency medical service is readily available, he shall be taken  
4 to the nearest jail or similar detention facility. The peace officer  
5 or a member of the emergency service patrol, in detaining the person  
6 and in taking him to an approved public treatment facility, emergency  
7 medical service or similar detention facility, is taking him into  
8 protective custody and he shall make every reasonable effort to protect  
9 his health and safety. In taking the person into protective custody,  
10 the detaining officer may take reasonable steps to protect himself.  
11 Protective custody does not constitute an arrest under this section  
12 and no entry or other record shall be made to indicate that the person  
13 has been arrested or charged with a crime.

14 \* Sec. 3. AS 47.37.170 is amended by adding a new subsection to read:

15 (1) A person who on four occasions in any one year is assisted  
16 for intoxication under (a) of this section shall, upon his fourth  
17 occasion, either (1) voluntarily commit himself to an approved public  
18 treatment facility or (2) be involuntarily committed to an approved  
19 public treatment facility with the protection provided, and in the  
20 manner specified, by secs. 190 - 900 of this chapter.

21 \* Sec. 4. AS 47.37.200(g) is amended by adding a new paragraph to read:

22 (3) when, in the case of a person committed under sec. 170(1)  
23 of this chapter, further treatment is no longer appropriate.  
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HOUSE JOURNAL

Letter of Intent  
CSSSSB 336

This letter of intent was adopted by Committee motion.

The Judiciary Committee has given consideration to the necessity of a detaining officer, a member of the emergency service patrol or a detention facility official to conduct a protective search of a detained person in order for the detaining official to protect himself. With this consideration in mind the committee feels it is necessary for a detaining official to be allowed to conduct a "protective search of the person of a detainee." It is not the intention of the committee by the use of the foregoing words to modify in any manner the present law of the State of Alaska regarding search and seizure.



Terry Gardiner, Chairman  
House Judiciary Committee