

HB

2

HOUSE BILL 2

Joyce  
- 2/12/79

Amend

Sec. 47.30.655 Purpose. (Page 2, Line 2)

Add:

*Adopted*  
(6) that persons who are mentally ill but not dangerous to others be committed only if there is a reasonable expectation of improving their mental condition.

Delete

*Adopted*  
Sec. 47.30.665 Prayer Treatment. (Page 3, Line 16)

Delete

In Sec. 47.30.670 Standards for Voluntary Admission (Page 3, Line 23-24)

"14 years of age or older"

Delete and Substitute

For Sec. 47.30.690 Voluntary Admission of Minors (Page 4, Line 24)

(a) A minor under the age of 14 may be admitted for 30 days evaluation, diagnosis and treatment at the designated facility if his parent or guardian signs the admission papers and if

(1) he is suffering from mental illness;

(2) as a result of this mental illness he is likely to cause serious harm to himself or others; serious harm to self may include inability to provide for basic needs

HB 2 (Continued)

for food, clothing, shelter, or personal safety in the case of persons who are gravely disabled as a result of mental illness;

(3) there is no less restrictive alternative available for his treatment; and

(4) there is reason to believe that the patient's mental condition could be improved by the course of treatment.

(b) The district official must be notified of the admission on the first working day and must monitor appropriateness of admission and continued hospitalization during the 30 day period.

(c) The minor may be released at any time during the 30 day period by the facility if the professional person in charge of the treatment facility or his designated mental health professional determines the minor would no longer benefit from continued hospitalization and the patient is not dangerous. The minor's parents or his guardian must be notified by the facility as to the contemplated release and, unless they start proceedings for involuntary commitment, the minor will be released.

Delete and Substitute

~~For Sec. 47.30.695 Notice of Request ....(Page 4, Line 28)~~

~~(a) The minor or his parent or guardian may request and obtain immediate release or the minor at any time during the 30 day evaluation period if the minor is not dangerous.~~

HB 2 (Continued)

Add

Sec. 47.30.696 Judicial Review After 30 Day Admission  
of Minor

(a) Prior to the expiration of the 25th day of the initial 30 day evaluation and treatment period, a petition for Court approved admission to a treatment facility must be filed in Superior Court if the professional person in charge of the treatment facility or his designated mental health professional, deems necessary continued treatment at the facility. the petition must be signed by a physician and a mental professional who have examined the minor.

The petition must:

1. Allege that the minor, by reason of mental illness, is likely to cause serious harm to himself or others;
2. Allege the facts and specific behavior of the minor which supports the findings of mental illness and that he is likely to cause serious harm or is in need of care and treatment;
3. Allege that the evaluation staff has found that there are no less restrictive alternatives available that would adequately protect the minor or others or would provide the necessary care and treatment, or if a less restrictive form of treatment is sought, specify the treatment and the basis for supporting it;
4. Allege that there is reason to believe the minor's mental condition could be improved by the course of treatment sought;

HB 2 (Continued)

5. Allege that a specified treatment facility appropriate to the minor's condition has agreed to accept the minor or that the minor is to be sent to a state operated facility.

6. List the prospective witnesses who will testify in support of Court approved admission.

(b) Upon the filing of the petition, the Court shall appoint an attorney and/or a guardian ad litem to represent the interest of the minor.

(c) Copies of the petition for court approved admission shall be served on the parents or guardian of the minor or their attorney if they are represented, and the minor's attorney/guardian ad litem. The petition shall be filed with the Clerk of the Court, and a date for a hearing shall be set, by the end of the next judicial day, for no later than five judicial days from the date of filing of the petition. The Clerk shall notify the minor's parents or guardian ad litem and the petitioner, of the hearing date at least three days in advance of the hearing.

(d) At the hearing the minor has the rights specified in this chapter, considering his age. In addition, he has the right to be present at the hearing unless the court finds that the minor's presence would be harmful to the minor.

(e) At the conclusion of the hearing, the court may commit the minor for treatment.

Delete and Substitute

For Article 8 Involuntary Admission for Treatment (Page 5, Line 3)

Section 47.30.700. COMMITMENT STANDARD. A person may be involuntarily committed to a treatment facility under the procedures set out in this chapter only if

(1) he is suffering from mental illness;

(2) as a result of this mental illness he likely to cause serious harm to himself or others; serious harm to self may include complete neglect of basic needs for food, clothing, shelter, or personal safety in the case of persons who are gravely disabled as a result of mental illness;

(3) there is no less restrictive alternative available for his treatment;

(4) there is reason to believe that the patient's mental condition could be improved by the course of treatment sought, if the person is dangerous only to himself.

Add

Sec. 47.30.701 Non-Emergency Detention for Evaluation Involving District Office or Official.

(a) A person seeking the commitment of another to a treatment facility may initiate the proceedings by executing a petition for evaluation and presenting it to a district office or official. The petition must allege:

(1) the facts and specific behavior of the respondent showing that the conditions established in Sec. 47.30.700 (commitment standard) of this chapter are met; and

HB 2 (Continued)

(2) the names, addresses and phone numbers of all persons known to the petitioner who have knowledge of the facts through personal observation.

(b) A district official who receives a properly executed petition for evaluation shall investigate of cause to be investigated and evaluated the specific facts alleged and the reliability and credibility of the person providing the information. If after investigation the district official determines that there is good reason to believe that the allegations are true and the respondent does not agree to come voluntarily to a facility for evaluation, the district official may obtain from the court an order to be served on the respondent and his guardian, if there is one, a summons requiring the respondent to appear at a specified evaluation facility for an evaluation period of not more than 72 hours. If there is no evaluation facility in the respondent's community, the district office shall determine whether the respondent should be transported to the nearest available evaluation facility at no cost to him. The summons shall then specify, as the place for the respondent to appear, the place of transport. The evaluation facility or personnel shall be given a copy of the petition and summons.

(c) The summons shall contain the following information:

(1) date and time within which the respondent must appear, not less than 24 hours after service of the summons;

HB 2 (Continued)

(2) address of the evaluation facility, other place of evaluation, or place of transport to which the respondent is to report;

(3) name, business address and phone number of the district official issuing the summons;

(4) a statement that if the respondent fails to appear at the appointed place or before the date and time stated in the summons, he may be involuntarily taken into custody and transported to the appointed place;

(5) a copy of the petition for evaluation and a notice of rights regarding commitment procedures as set out in sec. 71 of this chapter; and

(6) the name of an attorney appointed by the court to represent the respondent.

(d) No summons may be served when more than seven days have passed since its issuance. No petition for evaluation may be used as the basis for issuance of a second summons after the first has expired unless subsequent investigation by the district official reveals that the grounds for evaluation still exist.

(e) If the person summoned fails to appear on or before the date and time specified, the evaluation facility shall immediately notify the district official, who shall cause the person to be taken into custody and transported to the evaluation facility. A peace officer may take the respondent into custody and convey him to an evaluation facility at the request of the district official.

HB 2 (Continued)

Add

Sec. 47.30.702 Non-Emergency Detention for Evaluation  
When No District Office or Official in Geographical Area.

A person seeking the commitment of another to a treatment facility in a geographical area when there is no district office or official may execute a petition for evaluation containing the allegations in Sec. 47.30.701(a) and present it to a court. The court shall cause the allegations of the petition to be investigated. If the court determines there is good reason to believe that the allegations are true, it shall issue a summons containing the information set out in Sec. 47.30.701 (c), with the exception of (c)(3). No summons may be served when more than seven days have passed since its issuance. If the person summoned fails to appear at the designated evaluation facility on or before the date and time specified, the evaluation facility shall immediately notify the court, who may cause the person to be taken into custody and transported to the evaluation facility by a peace officer.

Amend

Sec. 47.30.705 Emergency Detention for Evaluation. (Page 6,  
Line 3)

Add

(a) If, upon investigation under Sec. 47.30.702(b) (non-emergency detention for evaluation), of this chapter, the official determines that the respondent is likely to

cause serious harm to himself or others if allowed to respond to a summons rather than being taken into custody immediately, the official may cause the person to be taken into emergency custody in an evaluation facility for not more than 72 hours. A peace officer may assist the district official provided in Sec. 47.30.701(e) (non-emergency detention involving district officials) of this chapter.

Add

(b) If there is no evaluation facility in the respondent's community or the evaluation personnel are not presently there and the respondent needs to be detained for the arrival of evaluation personnel or transportation under Sec. 47.30.701 (b) (non-emergency detention involving district official) of this chapter, the emergency custody under (a) and (b) of this section may include detention as long as the first available transportation out of the community for the respondent, or into the community for evaluation personnel, is utilized. Under no circumstances may the respondent be held in a jail or correctional facility if there is any other possible place of detention providing adequate security. In no event may a person be detained after the emergency has passed or longer than seven days, whichever limit is reached first. While detained, the respondent shall be given care and treatment that is appropriate and available in the community.

HB 2 (Continued)

Add

Sec. 47.30.710 Examination. (Page 6, Line 9)

"mental health professional or physician who..."

Add

Sec. 47.30.725 Commitment Proceeding Rights; Notification  
(Page 8, Line 9)

*adopted* (f) A respondent, if he is represented by counsel, may <sup>waive in</sup> writing the 72-hour time limit on the probable cause hearing and have the hearing set for a date no more than seven calendar days after initial detention.

Amend

Sec. 47.30.730 Procedure for 14-Day Commitment; Petition for Commitment (Page 8, Line 17)

"The petition must be signed by one mental health professional and doctor or two mental..."

Amend

*PS-9 line 20*

*adopted* (1) to be present at the hearing; unless the court finds that the respondent's presence would be <sup>injurious</sup> seriously disruptive to the hearing; <sup>respondent</sup> this right may be waived only with the respondent's informed consent <sup>as by reason</sup> and by stipulation of the petitioner's and respondent's attorneys that there is a substantial likelihood that the respondent's presence would be severely injurious to his mental or physical health; <sup>or</sup> if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court,

*Bill's Amend.*

HB 2 (Continued)

*the court finds*

after hearing, finds that there is such incapacity and that there is in fact a substantial likelihood that the respondent's presence at the hearing would be severely injurious to his mental or physical health;

Add

Section 47.30.740 Procedure for 90-Day Commitment Following 14-Day Commitment. (Page 12, Line 14)

(f) The respondent has the right to be free of the effects of medication at the hearing by discontinuance of medication no later than 48 hours before the hearing unless, in the opinion of the prescribing physician, the medication is necessary (1) to prevent bodily harm to the respondent or others, or (2) to prevent deterioration of the respondent's mental condition such that subsequent treatment might not enable him to recover, or (3) to allow the respondent to prepare and participate in the proceedings.

Change

(f) (Line 14) to (g) and (g) (Line 18) to (h)

Amend

Sec. 47.30.775 Commitment of Minors (Page 14, Line 13)

A minor who refuses voluntary admission may not be involuntarily admitted to a treatment facility, regardless of his parent's or guardian's consent, without adherence to the procedures set out in Secs. 700-820 of this chapter for adult detention and commitment. However, all notices required to

HB 2 (Continued)

be served on the respondent in Secs. 700-820 of this chapter shall also be served on the parent or guardian of respondents who are minors, and parents or guardians of minor respondents shall be notified that they may appear as parties in any commitment proceeding concerning the minor and that as parties they are entitled to retain their own attorney or have one appointed for them by the court. A minor has the same rights to waiver and informed consent as an adult under this chapter; however, he shall be represented by counsel in waiver and consent proceedings.

Add

Section 47.30.801 RECORDS AND PROCEEDINGS. A verbatim transcript may be made of all court hearings conducted under this chapter and a copy shall be provided to the respondent upon request for purposes of appellate or other court review of the proceedings.

Add

To Section 47.30.915 Definitions. (Page 30, Line 11)

(16) "district official" means a mental health professional.

2/9/79

RECOMMENDED CHANGES FOR HOUSE BILL 2

Division of Mental Health & Developmental Disabilities

PAGE 4, LINE 25

Substitute: A minor under 14 years of age may be admitted voluntarily if his parent who has legal custody of the minor or the minor's guardian signs the voluntary admission papers and the professional person in charge of the treatment facility or his designated mental health professional agrees that he is suffering from a mental illness. Any statement or conduct by a minor under the age of 14 indicating that the minor does not agree to admission to the facility should be noted on the application for admission.

PAGE 4, LINE 28

Substitute: Section 47.30.095 NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT.

(a) The minor or the minor's parent who has custody of the minor or the minor's guardian may request release of the minor at any time.

(b) Upon receipt of a request for release, the professional person in charge of the treatment facility or his designee shall immediately notify the parent who has custody of the minor or the minor's guardian. If the professional person in charge of the treatment facility or a designated mental health professional, who shall evaluate the minor in writing, or the parent who has custody of the minor or the minor's guardian does not petition for involuntary commitment within 48 hours of receipt of the request for release made by the minor or

the minor's parent who has custody of the minor or the minor's guardian, the minor shall be released.

(c) If a minor is admitted to an inpatient treatment facility while under 14 years of age, and if upon reaching age 14 is in need of further inpatient care and treatment, the professional person in charge of the facility shall request the minor to execute an application for voluntary admission. If the application is not executed by the time the minor's 14th birthday, the minor shall be discharged unless a petition is filed for involuntary commitment or protective placement by the end of the next day in which the court transacts business.

Purpose: More clearly defines the minor's ability to seek discharge from the facility. Clarifies the process by which the minor obtains discharge including time frames.

PAGE 5 LINE 4

Add: Section 47.30\_\_\_ STANDARD. A person may be involuntarily committed to a treatment facility under the procedures of AS 47.30 only if the person evidences:

(1) a substantial probability of physical harm to himself or herself as evidenced by recent threats of or attempts at suicide or serious bodily harm;

(2) a substantial probability of physical harm to other persons as manifested by evidence of recent homicide or other violent behavior on his or her party or by evidence that others are placed in

reasonable fear of violent behavior and serious physical harm to them, as evidence by a recent overt act, attempt to threat to do such physical harm on his or her part; or

(3) a very substnatial probability of grave disability due to mental illness, as manifested by evidence of a pattern of recent acts or omissions. Such acts or omissions may include complete neglect of basic needs for food, clothing, shelter or personal safety. The probability of physical impairment or injury may not be deemed very substantial under this subdivision if reasonable provision for the individual's protection is available in the community;

(4) there is no less restrictive alternative available for his or her treatment.

Purpose: Although the standards for commitment are stated elsewhere in the bill, we feel that a clear exposition of these standards in a single place, although redundant, would greatly assist the physicians, mental health professionals and citizens having to interpret this terribly complex legislation and help the Department interpret these standards to the persons who will be judged by these standards. The less obscure our laws are to the average citizen, the more useful they become.

Section 47.30. \_\_\_ NON-EMERGENCY DETENTION FOR EVALUATION INVOLVING DESIGNATED EXAMINER.

(a) A person seeking the commitment of another to a treatment facility may initiate the proceedings by executing a petition for evaluation

and presenting it to a designated examiner. The petition must allege:

(1) the facts and specific behavior of the respondent as evidence by standards set forth in AS 47.30;

(2) the names, addresses and phone numbers of all persons known to the petitioner who have knowledge of the facts through personal observation.

(b) A designated examiner who receives a properly executed petition for evaluation shall investigate or cause to be investigated and evaluated the specific facts alleged and the reliability and credibility of the person providing the information. If, after investigation, the designated examiner determines that there is good reason to believe that the allegations are true and the respondent does not agree to come voluntarily to a facility for evaluation, the designated examiner may obtain from the court and cause to be served on the respondent and his guardian, if there is one, a summons requiring the respondent to appear at a designated evaluation facility for an evaluation period of not more than 72 hours. If there is no evaluation facility in the respondent's community, the court shall determine whether evaluation personnel shall be brought into the community or whether the respondent should be transported to the nearest available evaluation facility at no cost to him. The summons shall then specify, as the place for the respondent to appear, the place of evaluation by evaluation personnel or the place of transport. The evaluation facility or personnel shall be given a copy of the petition and summons.

(c) The summons shall contain the following information:

(1) date and time within which the respondent must appear, not less than 24 hours after service of the summons;

(2) address of the evaluation facility, other place of evaluation, or place of transport to which the respondent is to report;

(3) name, business address and phone number of the designated examiner issuing the summons;

(4) a statement that if the respondent fails to appear at the appointed place or before the date and time stated in the summons, he may be involuntarily taken into custody and transported to the appointed place;

(5) a copy of the petition for evaluation and a notice of rights regarding commitment procedures as set out in AS 47.30.\_\_\_\_ of this chapter; and

(6) the name of an attorney appointed by the court to represent the respondent if the respondent cannot afford or has no knowledge of any other attorney.

(d) No summons may be served when more than seven days have passed since its issuance. No petition for evaluation may be used as the

basis for issuance of a second summons after the first has expired unless subsequent investigation by the designated examiner reveals that the grounds for evaluation still exists.

(c) If the person summoned fails to appear on or before the date and time specified, the evaluation facility shall immediately notify the designated examiner, who shall cause the person to be taken into custody and transported to the evaluation facility.

A peace officer may take the respondent into custody and convey him to an evaluation facility at the request of the designated examiner.

Section 47.30.052 NON-EMERGENCY DETENTION FOR EVALUATION WHEN NO DESIGNATED EXAMINER IN GEOGRAPHICAL AREA. A person seeking the commitment of another to a treatment facility in a geographical area when there is no designated examiner may execute a petition for evaluation as set forth in AS 47.30.\_\_\_\_ and present it to the court. The court shall cause the allegation of the petition to be investigated. If the court determines there is good reason to believe that the allegations are true, it shall issue a summons containing the information set out in AS 47.30.\_\_\_\_ (3), with the exception of (c) (3). No summons may be served when more than seven days have passed since its issuance. If the person fails to appear at the designated evaluation facility on or before the date and time specified, the evaluation facility shall immediately notify the court, who may cause the person to be taken into custody and transported to the evaluation facility by a peace officer.

Purpose: This added section establishes early contact with the person responsible for delivery of treatment and allows for early evaluation of the circumstances surrounding the need for treatment. It allows the person to voluntarily

seek help from a qualified professional. It clearly sets out the procedures and evidence necessary. It relieves peace officers and courts of initial diagnosis and allows for trained professionals to evaluate the circumstances. In perhaps 50 percent of cases, it should relieve the necessity for involuntary commitment.

Since the community mental health centers' professional staff often function in this role as informally arranged by local communities, this section simply codifies the procedure and makes it more likely to be utilized.

PAGE 5, LINES 4-22

Delete: Lines 4-22.

Purpose: This provision provides that a judge may issue an ex parte order orally or in writing and may direct a peace officer take the allegedly mentally ill person into custody and deliver the person to the "nearest" designated appropriate facility for examination and treatment. A probable cause hearing is to follow within 72 hours. The Department's concern is not that an order of this type abrogates a person's due process rights but rather that there be sufficient staff in the courts and other involved agencies to allow for implementation of such a provision. It would be possible for a person to be picked up and sent to the Alaska Psychiatric Institute from a rural area in Alaska without a local mental health professional or paraprofessional being involved in an investigation or determination as to whether there is a less restrictive alternative nearer to the patient's residence. The Alaska Psychiatric Institute is at present the only designated facility in Alaska. The entry into the system is the most critical period both from a legal stand point as well as from a treatment point of view.

Early intervention by trained personnel cannot only avoid unnecessary hospitalization but also can prevent unnecessary court proceedings. This procedure is similar to that in use by the juvenile justice system in their use of the intake officer appointed by the court to investigate the police report or petition prior to or in lieu of adjudication by the court.

The present law allows for the initiation of an emergency involuntary commitment only after a licensed physician signs a certificate stating that the person is in need of emergency hospitalization. The only mental health or professional person to look at the person is removed in this bill. It goes further to state that regardless of whether or not the patient is in need of hospitalization, the admitting facility must receive the patient.

This section violates the intent of the rest of the bill. It deprives the patient of an early treatment opportunity and gives powers to the police that are ripe for misuse.

PAGE 5, LINE 4

Substitute: INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

(a) Upon petition of any adult person, a judge may appoint a designated examiner to determine if the allegations of the petition are factual; evaluate whether there is probable cause to believe the person is gravely disabled or is mentally ill and that condition causes the person to present a likelihood of serious harm to himself or others; and recommend disposition of the petition. Upon the findings of the designated examiner, the court may issue an ex parte order orally, or in writing, within 48 hours of the

petition. The court shall appoint an attorney to represent the respondent, and may direct that a peace officer take the person into custody and deliver him to the nearest designated appropriate facility for evaluation. The ex parte order shall be provided to the respondent and made a part of the respondent's clinical record.

(b) The petition required in (a) of this section shall allege that the respondent is reasonably believed to present the conditions of AS 47.30.\_\_\_\_(Standards) and shall specify the factual information on which that belief is based including the names and addresses of all persons known to the petitioner who have knowledge of those facts through personal observation.

Purpose: Introduces designated examiner into procedure.

PAGE 5, LINE 7

Substitute: (a) a peace officer who has probable cause to believe that a person who is gravely disabled or a mentally ill person who is likely to cause serious harm to himself or others of such an immediate nature that considerations of safety do not allow preliminary intervention by a "designated examiner", may cause the person to be taken into custody and delivered to an evaluation facility. Upon arrival at the evaluation facility, the peace officer shall complete a petition for evaluation and be interviewed by a mental health professional or a physician at the facility. A copy of the petition shall be given to the respondent and to his guardian, if any.

(b) The designated examiner or physician shall examine the person immediately upon arrival at the evaluation facility to determine if there is probable cause to involuntarily detain the person pursuant to AS 47.30.\_\_\_\_ Involuntary Commitment Procedures.

(c) If there is no evaluation facility in the respondent's community or the evaluation personnel are not presently here and the respondent needs to be detained for the arrival of personnel or transportation under AS 47.30.\_\_\_\_, the emergency custody under AS 47.30.\_\_\_\_ may include detention as long as the first available transportation is utilized. The respondent may not be held in a jail or correctional facility if there is any other possible place of detention providing adequate security. A person may be detained until the emergency has passed or for seven days, whichever limit is reached first. While detained, the respondent shall be given care and treatment that is appropriate and available in the community.

Purpose: Again, the intermediate step of local evaluation is interposed to further avoid court action or an unnecessary trip to Alaska Psychiatric Institute. Often untrained personnel, when encountering bizarre behavior, immediately consider that behavior a safety problem. Often police frighten mentally ill persons. Experience with emergency psychiatric teams responding to report of a person in need of assistance are able to either resolve the person's conflict situation causing the acting out behavior or often can talk persons who need hospitalization into going voluntarily.

PAGE 6, LINE 9

Substitute: "mental health professional and the physician who perform"

Purpose: Consistency of language.

PAGE 6, LINE 13

Substitute: "the physician may hospitalize"

Purpose: Only physicians have admitting privilege to hospitals.

PAGE 6, LINE 15

Substitute: "the head of the facility or his designee"

Purpose: Should be accomplished by administrator, mental health professional or physician. Gives more administrative flexibility.

PAGE 7, LINE 2

Change notation of standards to reflect revised standards section.

PAGE 8, LINE 17

Substitute: "a mental health professional and physician"

Purpose: Consistency.

PAGE 9, LINE 6

Substitute: "to a designated treatment facility."

Purpose: Consistency of language.

PAGE 9, LINE 7

Delete: "or less restrictive alternative for a period of not exceed 14 days"

Purpose: Redundant.

PAGE 13, LINE 5-6

Substitute: "by the program of the respondent"

Purpose: Original intent was to allow less restrictive programs to accept or reject patient not vice versa.

PAGE 14, LINE 16

Add: "parent who has custody of the minor"

Purpose: Consistency.

PAGE 14, LINE 17

Add: "parents who have custody of the minor"

Purpose: Consistency.

PAGE 15, LINE 13

Add: "custody by a peace officer and"

Purpose: Makes it clear mental health professionals do not have police powers.

PAGE 19, LINE 17

Delete: "or mental health professional"

Purpose: Mental health professionals cannot legally practice medicine.

PAGE 27, LINE 14

Substitute: "within one year"

Purpose: 4 years seems an unnecessarily long period to store personal effects and unclaimed funds.

PAGE 31, LINE 1

Add: "designated examiner" - a mental health professional or physician designated by the Department of Health and Social Services with the concurrence of the court to examine, evaluate and recommend disposition of persons alleged to be mentally ill or having impaired judgment.

PAGE 31, LINE 8-9

Delete: who conduct evaluations in places in which no staffed evaluation facility exists.

Purpose: With addition of definition of designated examiner, this definition becomes a general definition.

PAGE 31, LINE 27

Delete: "and substantial"

Purpose: Almost impossible to judge what substantial bodily harm is--a hangnail or loss of a limb. Both can kill.

PAGE 32, LINE 1

Delete: "and substantial"

Purpose: Consistency.

PAGE 32, LINE 10-11

Add: "social worker with a Masters of Social Work degree"

Purpose: More specifically defines professional social worker.

PAGE 32, LINE 20-21

Delete: "state, municipal, or other local health officer, public health nurse"

Purpose: Defining these groups as peace officers is inconsistent with the retirement programs and other Alaska Statutes.

Addendum

PAGE 2, LINES 19, 20, & 21

Substitute: Unites States Agency.

Purpose: Gives a wider range of potential treatment facilities with which to enter into contracts.

Introduced: 1/24/79  
Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY CHATTERTON, MALONE AND  
PHILLIPS

2 HOUSE BILL NO. 66

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing an exemption for senior citizens from  
7 payment for land leased from the state."

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

9 \* Section 1. AS 38.05 is amended by adding a new section to read:

10 Sec. 38.05.098. SENIOR CITIZENS EXEMPTION. (a) The real property  
11 occupied as a permanent place of abode by a resident 65 years of age or  
12 over and leased by that resident from the state in accordance with AS  
13 38.05.070 - 38.05.105 is exempt from the payment of an annual lease  
14 rent. Only one exemption may be granted with respect to the same pro-  
15 perty and, if two or more persons are eligible for an exemption with  
16 respect to the same property, the parties shall decide between or among  
17 themselves which shall receive the benefit of the exemption. No exemp-  
18 tion may be granted <sup>for any portion of the</sup> ~~if~~ the lease is used by the leaseholder for any pur-  
19 pose other than his permanent place of abode.

20 (b) No exemption may be granted except upon written application  
21 for the exemption on a form provided by the <sup>Natural Resources</sup> ~~director of land and water~~  
22 management. The leaseholder must file the application not later than 60  
23 days before the anniversary date of the lease, and shall file a separate  
24 application for each lease year for which the exemption is sought. If  
25 an application is filed within the required time and is approved by the  
26 director, he shall allow a rental exemption for the lease year com-  
27 mencing on the anniversary date in accordance with the provisions of  
28 this section. The director may at any time require proof in the form he  
29 considers necessary of the right to an exemption claimed under this

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section.

(c) The legislature shall annually appropriate from the general fund to any trust fund the sums necessary to reimburse the trust fund for amounts lost to it by the operation of (a) of this section.

SECTIONAL SYNOPSIS FOR THE RULES COMMITTEE SUBSTITUTE FOR HB 472:

AN ACT RELATING TO MENTALLY ILL AND DEVELOPMENTALLY DISABLED PERSONS

Sec. 47.30.655. page 1 thru line 1 of page 2:

This states the purpose of this act and lists principles of mental health care.

Sec. 47.30.660. page 2, lines 2 thru 29, and page 3, lines 1 thru 15:

This section lists the powers and duties of the Department of Health & Social Services.

Sec. 47.30.665. page 3, lines 16 thru 21:

This section allows prayer as a method of treatment.

Sec. 47.30.670. page 3, lines 23 thru 26:

This section allows a person age 14 or older to be voluntarily admitted to a treatment facility if he voluntarily signs the admission papers.

Sec. 47.30.675. page 3, lines 27 thru 29, and page 4, lines 1 thru 8:

This section requires a person applying for voluntary admission to be notified of his rights which includes notification that if he is mentally ill and wishes to leave the facility, the facility can initiate involuntary commitment proceedings against him. Rights must be explained in a language the applicant understands.

Sec. 47.30.680. page 4, lines 9 thru 12:

This section allows a person no longer in need of treatment to be released from a facility.

Sec. 47.30.685. page 4, lines 13 thru 23:

This section requires a voluntary patient, 14 or older, to submit a written notice of intent to leave to the facility. Evaluation must be immediately after the notice is given, put into writing, and the patient must either be released immediately, or given written notice that involuntary commitment proceedings will commence. The facility can keep the patient no more than 48 hours after notice to leave is given.

Sec. 47.30.690. page 4, lines 24 thru 27:

This section allows a person under age 14 to be voluntarily admitted to a facility if his parents or guardian signs admission papers and the facility agrees that person is in need of treatment.

Sec. 47.30.695. page 4, lines 28 thru 29, and page 5, lines 1 thru 2:

This section allows the parent or guardian of any person under 14 to request and obtain release of that person at any time.

Sec. 47.30.700. page 5, lines 4 thru 22:

This section allows a judge to issue an ex parte order if there is probable cause that a person is gravely disabled or a harm to himself or others. The court may direct a peace officer to take a person to a facility for emergency evaluation or treatment.

Sec. 47.30.705. page 5, lines 23 thru 29, and page 6, lines 1 thru 3:

This section allows a peace officer to take a person who is a serious harm to himself or others to a treatment or evaluation facility. The peace officer must complete an application for examination of the person and be interviewed by a mental health professional.

Sec. 47.30.710. page 6, lines 4 thru 18:

This section states that any person taken into custody under either section 700 or 705 shall be examined and evaluated by both a mental health professional and a physician within 24 hours after arrival at the facility. A person may then be hospitalized on an emergency basis.

Sec. 47.30.715. page 6, lines 19 thru 28:

This section says that when a facility receives an order for evaluation, it must accept the person for an evaluation period with a maximum of 72 hours. At that time the facility shall notify the court and the court shall set a date, time and place for a probable cause hearing. The facility, the patient, his attorney, evaluation personnel, and the prosecuting attorney shall be notified of the hearing arrangements.

Sec. 47.30.720. page 6, line 29, and page 7, lines 1 thru 6:

This section allows a person to be released if he is not a harm to himself or others and that is determined by a mental health professional during the 72-hour evaluation period. If hearing arrangements have started, the court must be notified of the patient's release.

Sec. 47.30.725. page 7, lines 7 thru 29, and page 8, lines 1 thru 11:

This section establishes a person's rights during commitment proceedings.

Sec. 47.30.730. page 8, lines 12 thru 29, and page 9, line 1 thru 9:

This section explains the procedure for a 14-day commitment.

Sec. 47.30.735. page 9, line 10 thru 29, and page 10, line 1 thru 11:

This section explains the 14-day commitment court hearing.

Sec. 47.30.740. page 10, line 12 thru 29, and page 11, line 1 thru 7:

This section sets up the procedure for a 90-day commitment following a 14-day commitment.

Sec. 47.30.745. page 11, line 8 thru 29, and page 12, line 1 thru 21:

This section lists 90-day commitment hearing rights.

Sec. 47.30.750. page 12, line 22 thru 24:

This section refers to the conduct of the hearing.

Sec. 47.30.755. page 12, line 25 thru 29, and page 13, line 1 thru 5:

This section says the court or jury must find clear and convincing evidence that the allegations in sec. 740 are true and can then commit a person to a facility for no more than 90 days. The court may order a less restrictive alternative treatment not to exceed 90 days.

Sec. 47.30.760. page 13, line 6 thru 19:

This section states where, or which treatment facility will be used.

Sec. 47.30.765. page 13, line 20 thru 22:

This section allows a person the right to appeal any order of involuntary commitment.

Sec. 47.30.770. page 13, line 23 thru 29, and page 14, line 1 thru 11:

This section sets the procedure for a 120-day involuntary commitment. It further states that no order of commitment may exceed 120 days.

Sec. 47.30.775. page 14, line 12 thru 22:

This section explains involuntary commitment of minors. It is the same as for adults except that all notices required to be served in secs. 700-820 shall also be served on the parents or guardian.

Sec. 47.30.780. page 14, line 23 thru 28:

This section allows a person committed to be released any time during commitment if a professional discovers he is no longer a serious harm to himself or others.

Sec. 47.30.785. page 14, line 29, and page 15, line 1 thru 6:

This section allows an involuntary patient to get appropriate authorization to be absent from a facility if the absence is in his best interests and he is not likely to cause harm to himself or others.

Sec. 47.30.790. page 15, line 7 thru 13:

This section allows a facility to return a person to treatment if that person's absence is not authorized or is excessive.

Sec. 47.30.795. page 15, line 14 thru 29, and page 16, line 1 thru 18:

This section allows out-patient care to be substituted for involuntary in-patient care and sets up to criteria for it.

Sec. 47.30.800. page 16, line 19 thru 29, and page 17, line 1 thru 5:

This section allows involuntary out-patient care to be changed to involuntary in-patient care.

Sec. 47.30.805. page 17, line 6 thru 26:

This section states how time periods for commitment are determined.

Sec. 47.30.810. page 17, line 27 and 28:

This gives a person the right to a writ of habeas corpus.

Sec. 47.30.815. page 17, line 29, and page 18, line 1 thru 15:

This section limits the liability of persons' actions regarding commitment proceedings and established a penalty for those not having good cause.

Sec. 47.30.820. page 18, line 16 thru 23:

This section says the terms of this chapter are not retroactive, but will apply to all persons committed 90 days after October 1, 1978 (the effective date of the bill).

Sec. 47.30.825. page 18, line 25 thru 29, and page 19, line 1 thru 29, and page 20, line 1 thru 29, and page 21, line 1 thru 15:

This section gives patient rights including knowledge of medication given, access to records, restricted use of a "quiet room" or other physical restraints, the right to refuse medication or electroconvulsive therapy, and to refuse psychosurgery or lobotomy. In addition, no psychosurgery or lobotomy may be performed without a court order after a hearing. This section also provides a discharge plan for a patient when he leaves a facility.

Sec. 47.30.830. page 21, line 16 thru 29, and page 22, line 1 thru 3:

This section prohibits experimental treatments.

Sec. 47.30.835. page 22, line 4 thru 9:

This section guarantees a person's civil rights when undergoing evaluation or treatment.

Sec. 47.30.840. page 22, line 10 thru 29, and page 23, line 1 thru 5:

This section gives persons undergoing evaluation or treatment the right to privacy and personal possessions.

Sec. 47.30.845. page 23, line 6 thru 26:

This section states that all records and information obtained during evaluation, examination or treatment shall be kept confidential.

Sec. 47.30.850. page 23, line 27 thru 29, and page 24, line 1 thru 4:

This section allows all court records to be destroyed after a person has been discharged from a facility.

Sec. 47.30.855. page 24, line 5 thru 9:

This section states that the rights set out in secs. 825-855 shall be posted in all treatment facilities and patients not understanding English shall have their rights explained to them in a language they understand.

Sec. 47.30.860. page 24, line 10 thru 14:

This section says that all notices and documents required in this chapter shall be explained in a language the person understands.

Sec. 47.30.865. page 24, line 15 thru 29:

This section states that the fact that a person has been evaluated or treated for mental illness is not a basis for discrimination.

Sec. 47.30.870. page 25, line 2 thru 18:

This section allows the department to arrange and pay for a person's transportation to be evaluated, involuntarily committed, or to attend a judicial hearing. It further allows a friend or relative to travel with the patient when necessary, and the department may pay for that person's travel also.

Sec. 47.30.875. page 25, line 19 thru 29, and page 26, line 1 thru 19:

This section describes the treatment of nonresident patients.

Sec. 47.30.880. page 26, line 20 thru 25:

This section ratifies the "Interstate Compact on Mental Health".

Sec. 47.30.885. page 26, line 26 thru 29, and page 27, line 1:

This section mentions patient's rights outside the state.

Sec. 47.30.890. page 27, line 2 thru 9:

This section secures clothing, money, and a place to live for those released from a treatment facility.

Sec. 47.30.895. page 27, line 10 thru 23:

This section explains what to do with personal effects and unclaimed funds if a patient dies before discharged from a facility.

Sec. 47.30.900. page 27, line 24 thru 29, and page 28, line 1 thru 6:

This section says that when a patient leaves a facility without authority or dies, the department must make inquiries to find that person's legal heirs or representatives. Any money or articles of personal property must be turned over to the proper person. Claims to the money or property may be presented.

Sec. 47.30.905. page 28, line 7 thru 24:

This section tells who pays the fees and expenses for judicial proceedings.

Sec. 47.30.910. page 28, line 25 thru 29, and page 29, line 1 thru 29, and page 30, line 1 thru 25:

This section explains who is liable for expenses in a treatment facility. If a person is voluntarily committed, his monthly charge is based on his ability to pay, as determined by the department. After a voluntary patient has been in a facility for 12 months, his monthly fee is \$50.00. If a person is involuntarily committed, his monthly fee is \$50.00.

Sec. 47.30.915. page 30, line 26 thru 29, page 31, line 1 thru 29, page 32, line 1 thru 29, page 33, line 1 thru 12:

This is the definition section for chapter 30.

Sec. 47.30.010. page 34, line 1 thru 16:

This section states that persons with handicaps have the same legal rights as all other persons.

Sec. 47.80.020. page 34, line 17 thru 24:

This section says the Department of Health & Social Services shall protect and advocate the rights of persons with handicaps.

Sec. 47.80.030. page 34, line 27 thru 29, and page 35, line 1 thru 6:

This section establishes the Governor's Council for the Handicapped and Gifted.

Sec. 47.80.040. page 35, line 7 thru 27:

This section sets out the composition of the council.

Sec. 47.80.050. page 35, line 28 & 29, and page 36, line 1 thru 10:

This section sets out the terms of office for members of the council.

Sec. 47.80.060. page 36, line 11 thru 13:

This section says council members receive no salary, but do get per diem and travel money.

Sec. 47.80.070. page 36, line 14 thru 21:

This section allows for officers and staff for the council.

Sec. 47.80.080. page 36, line 22 thru 28:

This section sets out the bylaws of the council.

Sec. 47.80.090. page 36, line 1, and page 37, line 1 thru 29, and page 38, line 1 thru 24:

This section states the responsibilities of the council.

Sec. 47.80.100. page 38, line 26 thru 29, and page 39, line 1 thru 13:

This section allows for programs for the handicapped with the Departments of Health & Social Services and Education and other appropriate departments and for those departments to plan, develop, and implement a comprehensive system of services.

Sec. 47.80.110. page 39, line 14 thru 19:

This section sets out program principles.

Sec. 47.80.120. page 39, line 20 thru 29, and page 40, line 1 thru 4:

This section requires habilitation plans for those receiving services.

Sec. 47.80.130. page 40, line 5 thru 29, and page 41, line 1 thru 4:

This section gives the specific duties and powers of the department.

Sec. 47.80.140. page 41, line 5 thru 23:

This section states that residential facilities must get certificates of need and be licensed.

Sec. 47.80.150. page 41, line 24 thru 29, and page 42, line 1 thru 29, and page 43, line 1 thru 10:

This section is about liability for expense of services. Those with handicaps pay for services according to their ability to pay, and those developmentally disabled pay a maximum of \$50.00 per month.

Sec. 47.80.160. page 43, line 11 thru 26:

This section allows the department to arrange and pay for the travel of persons traveling to a facility. It allows a person to accompany the patient when it is in the best interests of the patient and the individual is indigent.

Sec. 47.80.170. page 43, line 27 thru 29, and page 44, line 1 thru 5:

This section says that when a person is discharged from a facility the department is responsible that the person has suitable clothes, transportation, a place to stay, and some money.

Sec. 47.80.900. page 44, line 7 thru 29, and page 45, line 1 thru 22:

This is the definition section for chapter 80.

\*Sec. 4. of the bill, page 45, line 23 thru 29, and page 46, line 1 thru 7:

This section turns all records of the Alaska Developmental Disabilities Planning Council, and the Special Education Advisory Council to the Governor's Council for the Handicapped and Gifted.

\*Sec. 5. of the bill, page 46, line 8:

This section repeals AS 47.30.010 thru .340. which is the old mental health commitment procedure act, and repeals AS 18.05.031. which allows the Department of Health & Social Services to be the sole advocate of the mental retarded.

\*Sec. 6. of the bill, page 46, line 9:

The effective date is October 1, 1978.