

COMMITTEE REPORT
SENATE

5/14/81

FURTHER: None

Date: 5/27/81

Mr. President:

The Committee on FINANCE has had SB 100
mentally ill persons

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 100 (TUD) same title
 new title
- and recommends NO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

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CHAIRMAN

X
5/27/81

Original sponsors: Parr, Stimson,
and Fischer

Offered: 5/14/81
Referred: Finance

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 100 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mentally ill persons; and providing
7 for an effective date."

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

9 * Section 1. AS 47.30 is amended by adding new sections to read:

10 ARTICLE 6. MENTAL HEALTH PROGRAM.

11 Sec. 47.30.655. PURPOSE. The purpose of this major revision of
12 Alaska civil commitment statutes is to more adequately protect the legal
13 rights of persons suffering from mental illness. The legislature has
14 attempted to balance the individual's constitutional right to physical
15 liberty and the state's interest in (1) protecting society from persons
16 who are dangerous to others; and (2) protecting persons who are dan-
17 gerous to themselves, by providing due process safeguards at all stages
18 of commitment proceedings. In addition, the following principles of
19 modern mental health care have guided this revision:

20 (1) that persons be given every opportunity to accept volun-
21 tary treatment before involvement with the judicial system;

22 (2) that persons be treated in the least restrictive alter-
23 native environment consistent with their treatment needs;

24 (3) that treatment occur as promptly as possible and as close
25 to the individual's home as possible;

26 (4) that a system of mental health community facilities and
27 supports be available;

28 (5) that patients be informed of their legal rights and be
29 informed of and allowed to participate in their treatment program as

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to
3 others be committed only if there is a reasonable expectation of im-
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of
8 mental illness and the care and treatment of the mentally ill, including
9 inpatient and outpatient care and treatment and the procurement of
10 services of specialists or other persons on a contractual or other
11 basis;

12 (2) take the actions and undertake the obligations which are
13 necessary to participate in federal grants-in-aid programs and accept
14 federal or other financial aid from whatever sources for the study,
15 examination, care, and treatment of the mentally ill;

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities
18 equipped and qualified to provide inpatient and outpatient care and
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for
23 the care or treatment of the mentally ill in facilities of the govern-
24 mental agencies in the state or in another state;

25 (7) enter into contracts with treatment facilities for the
26 custody and care or treatment of the mentally ill;

27 (8) enter into contracts which incorporate safeguards consis-
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,
5 requests for release, and consents to medical or psychological treatment
6 required by AS 47.30.655 - 47.30.915;

7 (10) require reports from the head of a treatment facility
8 concerning the care of patients;

9 (11) visit each treatment facility at least annually to
10 review methods of care or treatment for patients;

11 (12) investigate complaints made by a patient or an interested
12 party on behalf of a patient;

13 (13) delegate upon mutual agreement to another officer or
14 agency of it, or a political subdivision of the state, or a treatment
15 facility designated, any of the duties and powers imposed upon it by
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-
18 30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14
21 years of age or older may be voluntarily admitted to a treatment facil-
22 ity if he is suffering from mental illness and he voluntarily signs the
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon the application of a
25 person for voluntary admission, or at the time a person admitted under
26 AS 47.30.690 reaches the age of 14, he shall be given a copy of the
27 following documents which shall be explained to him as necessary:

28 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
29 and an explanation of any document served upon him; and

1 (2) notice that should he desire to leave at a time when the
2 treatment facility determines that he is mentally ill and as a result
3 is likely to cause serious harm to himself or others or is gravely dis-
4 abled, the facility could initiate commitment proceedings against him.

5 (b) If an applicant for voluntary admission does not understand
6 English, the explanation shall be given in a language he understands.

7 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. A patient who
8 no longer meets the standards established in AS 47.30.670 shall be
9 discharged from the treatment facility.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.
11 A voluntary patient who is 14 years of age or older and who desires to
12 leave a treatment facility must submit to the facility a written notice
13 of intent to leave on a form provided to him by the facility. Upon
14 immediate investigation, the patient shall be evaluated in writing and
15 discharged immediately or given written notice that involuntary commit-
16 ment proceedings will be initiated against him. The treatment facility
17 may detain the patient for no more than 48 hours after receipt of the
18 patient's notice of intent to leave in order to initiate involuntary
19 commitment proceedings.

20 Sec. 47.30.690. ADMISSION OF MINORS UNDER 14 YEARS OF AGE. (a)
21 A minor under the age of 14 may be admitted for 21 days evaluation,
22 diagnosis, and treatment at a designated treatment facility if his
23 parent or guardian signs the admission papers and if, in the opinion of
24 the professional person in charge,

25 (1) he is gravely disabled or is suffering from mental ill-
26 ness and as a result he is likely to cause serious harm to himself or
27 others;

28 (2) there is no less restrictive alternative available for
29 his treatment; and

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

3 (b) The minor may be released by the treatment facility at any
4 time during the 21-day period if the professional person in charge or
5 his designate mental health professional determines the minor would no
6 longer benefit from continued hospitalization and the minor is not
7 dangerous. The minor's parents or his guardian must be notified by the
8 facility of the contemplated release and that, unless they initiate
9 involuntary commitment proceedings, the minor will be released.

10 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14
11 YEARS OF AGE FROM DETENTION AND COMMITMENT. The parent or guardian of
12 a minor who is less than 14 years of age may request and obtain imme-
13 diate release of the minor at any time, unless as the result of mental
14 illness, the minor is likely to cause serious harm to himself or
15 others.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult, a judge shall immediately conduct a
19 screening investigation or direct a local mental health professional
20 employed by the department or by a local mental health program which
21 receives money from the department under AS 47.30.520 - 47.30.620 or
22 another mental health professional designated by the judge, to conduct
23 a screening investigation of the person alleged to be mentally ill and,
24 as a result of that condition, alleged to be gravely disabled or to
25 present a likelihood of serious harm to himself or others. Within 48
26 hours after the completion of the screening investigation, a judge may
27 issue an ex parte order orally or in writing, stating that there is
28 probable cause to believe the respondent is mentally ill and that
29 condition causes the respondent to be gravely disabled or to present a

1 likelihood of serious harm to himself or others. The court shall pro-
2 vide findings on which the conclusion is based, appoint an attorney to
3 represent the respondent, and may direct that a peace officer take the
4 person into custody and deliver him to the nearest appropriate facility
5 for emergency examination or treatment. The ex parte order shall be
6 provided to the respondent and made a part of the respondent's clinical
7 record. The court shall confirm an oral order in writing within 24
8 hours after it is issued.

9 (b) The petition required in (a) of this section shall allege
10 that the respondent is reasonably believed to present a likelihood of
11 serious harm to himself or others or is gravely disabled as a result of
12 mental illness and shall specify the factual information on which that
13 belief is based including the names and addresses of all persons known
14 to the petitioner who have knowledge of those facts through personal
15 observation.

16 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
17 officer who has probable cause to believe that a person is gravely
18 disabled or is suffering from mental illness and is likely to cause
19 serious harm to himself or others of such an immediate nature that con-
20 siderations of safety do not allow initiation of involuntary commitment
21 procedures set out in AS 47.30.700, may cause the person to be taken
22 into custody and delivered to the nearest evaluation facility. A
23 correctional facility may be used as an emergency evaluation facility
24 if an evaluation facility is not available. Upon arrival at the
25 evaluation facility, the peace officer shall complete an application
26 for examination of the person in custody and be interviewed by a mental
27 health professional at the facility.

28 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
29 under AS 47.30.700 or 47.30.705 for emergency examination and treatment

1 to an evaluation facility shall be examined and evaluated as to his
2 mental and physical condition by a mental health professional and by a
3 physician within 24 hours after arrival at the facility.

4 (b) If the mental health professional who performs the emergency
5 examination has reason to believe that the respondent is (1) mentally
6 ill and that condition causes the person to be gravely disabled or to
7 present a likelihood of serious harm to himself or others, and (2) is
8 in need of care or treatment, the mental health professional may hospi-
9 talize him, or arrange for hospitalization, on an emergency basis. If
10 a judicial order has not been obtained under AS 47.30.700, the mental
11 health professional shall apply for an ex parte order authorizing
12 hospitalization for evaluation.

13 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
14 proper order for evaluation, it must accept the order and the respondent
15 for an evaluation period not to exceed 72 hours. The facility shall
16 promptly notify the court of the date and time of the respondent's
17 arrival. The court shall set a date, time and place for a 21-day com-
18 mitment hearing, to be held if needed within 72 hours after the respon-
19 dent's arrival, and the court shall notify the facility, the respondent,
20 his attorney, and the prosecuting attorney of the hearing arrangements.
21 Evaluation personnel, when used, shall similarly notify the court of
22 the date and time when they first met with the respondent.

23 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
24 at any time in the course of the 72-hour period the mental health pro-
25 fessionals conducting the evaluation determine that the respondent does
26 not meet the standards for commitment specified in AS 47.30.700, the
27 respondent shall be discharged from the facility or the place of evalu-
28 ation by evaluation personnel and the petitioner and the court so noti-
29 fied.

1 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)

2 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
3 30.915, he shall be immediately notified orally and in writing of his
4 rights under this section. Notification shall be in a language under-
5 stood by the respondent. His guardian, if any, and if the respondent
6 requests, an adult designated by the respondent, shall also be notified
7 of the respondent's rights under this section.

8 (b) Unless a respondent is released or voluntarily admits himself
9 for treatment within 72 hours of his arrival at the facility or, if he
10 is evaluated by evaluation personnel, within 72 hours from the beginning
11 of his meeting with evaluation personnel, he is entitled to a court
12 hearing to be set for not later than the end of that 72-hour period to
13 determine whether there is cause to detain him after the 72 hours have
14 expired for up to an additional 21 days on the grounds that he is
15 gravely disabled or mentally ill and as a result presents a likelihood
16 of serious harm to himself or others. The facility or evaluation
17 personnel shall give notice to the court of the releases and voluntary
18 admissions under AS 47.30.700 - 47.30.820.

19 (c) The respondent has a right to communicate immediately, at the
20 department's expense, with his guardian, if any, or an adult designated
21 by the respondent and the attorney designated in the ex parte order, or
22 an attorney of the respondent's choice.

23 (d) The respondent has the right to be represented by an attorney,
24 to present evidence, and to cross-examine witnesses who testify against
25 him at the hearing.

26 (e) The respondent has the right to be free of the effects of
27 medication and other forms of treatment to the maximum extent possible
28 before the 21-day commitment hearing; however, the facility or evalua-
29 tion personnel may treat him with medication under prescription by a

1 licensed physician or by a less restrictive alternative of his pre-
2 ference if, in the opinion of a licensed physician in the case of
3 medication, or of a mental health professional in the case of alterna-
4 tive treatment, the treatment is necessary to

- 5 (1) prevent bodily harm to the respondent or others;
6 (2) prevent such deterioration of the respondent's mental
7 condition that subsequent treatment might not enable him to recover; or
8 (3) allow the respondent to prepare for and participate in
9 the proceedings.

10 (f) A respondent, if he is represented by counsel, may waive,
11 orally or in writing, the 72-hour time limit on the 21-day commitment
12 hearing and have the hearing set for a date no more than seven calendar
13 days after his arrival at the facility. The respondent's counsel shall
14 immediately notify the court of the waiver.

15 Sec. 47.30.730. PROCEDURE FOR 21-DAY COMMITMENT; PETITION FOR
16 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
17 petition for commitment to a treatment facility may be filed in court.
18 The petition must be signed by two mental health professionals who have
19 examined the respondent, one of whom is a physician. The petition must

20 (1) allege that the respondent is mentally ill and as a
21 result is likely to cause harm to himself or others or is gravely dis-
22 abled;

23 (2) allege that the evaluation staff has considered but has
24 not found that there are any less restrictive alternatives available
25 that would adequately protect the respondent or others; or, if a less
26 restrictive involuntary form of treatment is sought, specify the treat-
27 ment and the basis for supporting it;

28 (3) allege with respect to a gravely disabled respondent
29 that there is reason to believe that the respondent's mental condition

1 could be improved by the course of treatment sought;

2 (4) allege that a specified treatment facility or less re-
3 strictive alternative that is appropriate to the respondent's condition
4 has agreed to accept the respondent;

5 (5) allege that the respondent has been advised of the need
6 for, but has not accepted, voluntary treatment, and request that the
7 court commit the respondent to the specified treatment facility or less
8 restrictive alternative for a period not to exceed 21 days;

9 (6) list the prospective witnesses who will testify in sup-
10 port of commitment or involuntary treatment;

11 (7) list the facts and specific behavior of the respondent
12 supporting the allegation in (1) of this subsection.

13 (b) A copy of the petition shall be serve ' on the respondent, his
14 attorney, and his guardian, if any, before the 21-day commitment hear-
15 ing.

16 Sec. 47.30.735. 21-DAY COMMITMENT. (a) Upon receipt of a proper
17 petition for commitment, the court shall hold a hearing at the date and
18 time previously specified according to procedures set out in AS 47.30.-
19 715.

20 (b) The hearing shall be conducted in a physical setting least
21 likely to have a harmful effect on the mental or physical health of the
22 respondent, within practical limits. At the hearing, in addition to
23 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
24 the right

25 (1) to be present at the hearing; this right may be waived
26 only with the respondent s informed consent; if the respondent is in-
27 capable of giving informed consent, the respondent may be excluded from
28 the hearing only if the court, after hearing, finds that the incapacity
29 exists and that there is a substantial likelihood that the respondent's

1 presence at the hearing would be severely injurious to his mental or
2 physical health;

3 (2) to view and copy all petitions and reports in the court
4 file of his case;

5 (3) to have the hearing open or closed to the public as he
6 elects;

7 (4) to be proceeded against according to the rules of evi-
8 dence applicable to civil proceedings;

9 (5) to have an interpreter if he does not understand English;

10 (6) to present evidence on his behalf;

11 (7) to cross-examine witnesses who testify against him;

12 (8) to remain silent.

13 (c) At the conclusion of the hearing the court may commit the re-
14 spondent to a treatment facility for not more than 21 days if it finds,
15 by clear and convincing evidence, that the respondent is mentally ill
16 and as a result is likely to cause harm to himself or others or is
17 gravely disabled.

18 (d) If the court finds that there is a viable less restrictive
19 alternative available and that the respondent has been advised of and
20 refused voluntary treatment through the alternative, the court may
21 order the less restrictive alternative treatment for not more than 21
22 days if the program accepts the respondent.

23 (e) The court shall specifically state to the respondent, and
24 give him written notice, that if commitment or other involuntary treat-
25 ment beyond the 21 days is to be sought, the respondent shall have the
26 right to a full hearing or jury trial.

27 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 21-DAY
28 COMMITMENT. (a) At any time during the respondent's 21-day commitment,
29 the professional person in charge, or his professional designee, may

1 file with the court a petition for 90-day commitment of that respondent.
2 The petition must include all material required under AS 47.30.730(a)
3 except that references to "21 days" shall be read as "90 days"; and

4 (1) allege that the respondent has attempted to inflict or
5 has inflicted serious bodily harm upon himself or another since his
6 acceptance for evaluation, or that he was committed initially as a
7 result of conduct in which he attempted or inflicted serious bodily
8 harm upon himself or another, or that he continues to be gravely dis-
9 abled, or that he demonstrates a current intent to carry out plans of
10 serious harm to himself or another;

11 (2) allege that the respondent has received appropriate and
12 adequate care and treatment during his 21-day commitment;

13 (3) be verified by the professional person in charge, or his
14 professional designee, during the 21-day commitment.

15 (b) The court shall have copies of the petition for 90-day com-
16 mitment served upon the respondent, his attorney, and his guardian, if
17 any. The petition for 90-day commitment and proofs of service shall be
18 filed with the clerk of the court, and a date for hearing shall be set,
19 by the end of the next judicial day, for not later than five judicial
20 days from the date of filing of the petition. The clerk shall notify
21 the respondent, his attorney, and the petitioner of the hearing date at
22 least three judicial days in advance of the hearing.

23 (c) Findings of fact relating to the respondent's behavior made
24 at a 21-day commitment hearing under AS 47.30.735 shall be admitted as
25 evidence and may not be rebutted except that newly discovered evidence
26 may be used for the purpose of rebutting the findings.

27 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
28 dent subject to a petition for 90-day commitment has, in addition to
29 the rights specified elsewhere in this chapter, or otherwise applicable,

1 the rights enumerated in this section. Written notice of these rights
2 shall be served on the respondent, his attorney, his guardian, if any,
3 and may be served on an adult designated by the respondent at the time
4 the petition for 90-day commitment is served. An attempt shall be made
5 by oral explanation to insure that the respondent understands the
6 rights enumerated in the notice. If the respondent does not understand
7 English, the explanation shall be given in a language he understands.

8 (b) Unless the respondent is released or voluntarily admits him-
9 self following the filing of a petition and before the hearing, he is
10 entitled to a judicial hearing within five judicial days of the filing
11 of the petition as set out in AS 47.30.740(b) to determine if he is
12 mentally ill and as a result is likely to cause harm to himself or
13 others, or if he is gravely disabled. If the respondent voluntarily
14 admits himself following the filing of the petition, the voluntary
15 admission constitutes a waiver of any hearing rights under AS 47.30.740
16 or under AS 47.30.685. If at any time during the respondent's voluntary
17 admission under this subsection, the respondent submits to the facility
18 a written notice of intent to leave, the professional person in charge
19 may file with the court a petition for 120-day commitment of the respon-
20 dent under AS 47.30.770. The 120-day commitment hearing shall be
21 scheduled for a date not earlier than 90 days after the respondent's
22 voluntary admission.

23 (c) The respondent is entitled to a jury trial upon request filed
24 with the court if the request is made at least two judicial days before
25 the hearing. If the respondent requests a jury trial, the hearing may
26 be continued for no more than 10 calendar days. The jury shall consist
27 of six persons.

28 (d) If a jury trial is not requested, the court may still con-
29 tinue the hearing at the respondent's request for no more than 10

1 calendar days.

2 (e) The respondent has a right to retain an independent licensed
3 physician or other mental health professional to examine him and to
4 testify on his behalf. Upon request by an indigent respondent, the
5 court shall appoint an independent licensed physician or other mental
6 health professional to examine him and testify on his behalf. The
7 court shall consider an indigent respondent's request for a specific
8 physician or mental health professional. A motion for the appointment
9 may be filed in court at any reasonable time before the hearing and
10 shall be acted upon promptly. Reasonable fees and expenses for expert
11 examiners shall be determined by the rules of court.

12 (f) The proceeding shall in all respects be in accord with con-
13 stitutional guarantees of due process and, except as otherwise specifi-
14 cally provided in AS 47.30.700 - 47.30.915, the rules of evidence and
15 procedure in civil proceedings.

16 (g) Until the court issues a final decision, the respondent shall
17 continue to be treated at the treatment facility unless the petition
18 for 90-day commitment is withdrawn. If no decision has been made
19 within 20 days of filing of the petition, not including extensions of
20 time due to jury trial or other requests by the respondent, he shall be
21 released.

22 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-
23 ducted in the same manner, and with the same rights for the respondent,
24 as set out in AS 47.30.735(b).

25 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within
26 the time limit specified in AS 47.30.745, the court may commit the
27 respondent to a treatment facility for no more than 90 days if the
28 court or jury finds by clear and convincing evidence that the respondent
29 is mentally ill and as a result is likely to cause harm to himself or

1 others, or is gravely disabled.

2 (b) If the court finds that there is a less restrictive alterna-
3 tive available and that the respondent has been advised of and refused
4 voluntary treatment through the alternative, the court may order the
5 less restrictive alternative treatment after acceptance by the program
6 of the respondent for a period not to exceed 90 days.

7 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall
8 always be available at a state-operated hospital; however, if space is
9 available and upon acceptance by another treatment facility, a respon-
10 dent who is committed by the court shall be placed by the department at
11 the designated treatment facility closest to his home unless the court
12 finds that

13 (1) another treatment facility in the state has a program
14 more suited to the respondent's condition, and this interest outweighs
15 the desirability of the respondent being closer to home;

16 (2) another treatment facility in the state is closer to the
17 respondent's friends or relatives who could benefit him through their
18 visits and communications; or

19 (3) the respondent wants to be further removed from his
20 home, and the mental health professionals who sought his commitment
21 concur in the desirability of removed placement.

22 Sec. 47.30.765. APPEAL. The respondent has the right to an
23 appeal from any order of involuntary commitment. The court shall
24 inform the respondent of this right.

25 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent
26 shall be released from involuntary treatment at the expiration of 90
27 days unless the professional person in charge files a petition for a
28 120-day commitment conforming to the requirements of AS 47.30.740(a)
29 except that all references to "21-day commitment" shall be read as "the

1 previous 90-day commitment" and all references to "90-day commitment"
2 shall be read as "120-day commitment".

3 (b) The procedures for service of the petition, notification of
4 rights, and judicial hearing shall be as set out in AS 47.30.740 -
5 47.30.750. If the court or jury finds by clear and convincing evidence
6 that the grounds for 90-day commitment as set out in AS 47.30.755 are
7 present, the court may order the respondent committed for an additional
8 treatment period not to exceed 120 days from the date on which the
9 first 90-day treatment period would have expired.

10 (c) Successive 120-day commitments are permissible on the same
11 ground and under the same procedures as the original 120-day commitment.
12 An order of commitment may not exceed 120 days.

13 (d) Findings of fact relating to the respondent's behavior made
14 at a 21-day commitment hearing under AS 47.30.735, a 90-day commitment
15 hearing under AS 47.30.750, or a previous 120-day commitment hearing
16 under this section shall be admitted as evidence and may not be rebutted
17 except that newly discovered evidence may be used for the purpose of
18 rebutting the findings.

19 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-
20 30.700 - 47.30.815 apply to minors. However, all notices required to
21 be served on the respondent in AS 47.30.700 - 47.30.815 shall also be
22 served on the parent or guardian of a respondent who is a minor, and
23 parents or guardians of a minor respondent shall be notified that they
24 may appear as parties in any commitment proceeding concerning the minor
25 and that as parties they are entitled to retain their own attorney or
26 have one appointed for them by the court. A minor respondent has the
27 same rights to waiver and informed consent as an adult respondent under
28 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel
29 in waiver and consent proceedings.

1 Sec. 47.30.780. EARLY DISCHARGE. The professional person in
2 charge shall at any time discharge a respondent on the ground that the
3 respondent is no longer gravely disabled or likely to cause serious
4 harm as a result of mental illness. A certificate to this effect shall
5 be sent to the court which shall enter an order officially terminating
6 the involuntary commitment.

7 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing
8 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-
9 815 may be authorized to be absent from the treatment facility during
10 times specified by the professional person in charge, or his profes-
11 sional designee, when an authorization to be absent is in the best
12 interests of the respondent and he is not likely to cause harm to
13 himself or others.

14 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
15 spondent undergoing involuntary treatment on an inpatient basis is
16 absent from the treatment facility without, or in excess of, authoriza-
17 tion under AS 47.30.785, the professional person in charge, or his
18 professional designee, may contact the appropriate peace officers who
19 shall take the respondent into custody and return him to the treatment
20 facility. If it is determined by the professional person in charge to
21 be necessary, a member of the treatment facility staff shall accompany
22 the peace officers when they take the respondent into custody.

23 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

24 (a) A respondent who was originally committed to involuntary inpatient
25 care under AS 47.30.700 - 47.30.915 may be released before the expira-
26 tion of his commitment period if a provider of outpatient care accepts
27 him for specified outpatient treatment for a period of time not to
28 exceed the duration of his commitment, and if the professional person
29 in charge, or his professional designee, finds that

1 (1) it is not necessary to treat the respondent as an in-
2 patient to prevent him from harming himself or others; and

3 (2) there is reason to believe that the respondent's mental
4 condition would improve as a result of the outpatient treatment.

5 (b) A copy of the conditions for early release shall be given to
6 the respondent, his attorney, his guardian, if any, the provider of
7 outpatient care, and the court.

8 (c) If during the commitment period the provider of outpatient
9 care determines that the respondent can no longer be treated on an
10 outpatient basis because he is likely to cause harm to himself or
11 others or is gravely disabled, the provider shall give the respondent
12 oral and written notice that he must return to the treatment facility
13 within 24 hours, with copies to the respondent's attorney, his guardian,
14 if any, the court, and the inpatient treatment facility. If the respon-
15 dent fails to arrive at the treatment facility within 24 hours after
16 receiving the notice, the professional person in charge may contact the
17 appropriate peace officers who shall take the respondent into custody
18 and transport him to the facility. If it is determined by the profes-
19 sional person in charge to be necessary, a member of the treatment
20 facility staff shall accompany the peace officers when they take the
21 respondent into custody.

22 (d) If the provider of outpatient care determines that the
23 respondent will require continued outpatient care after the expiration
24 of his commitment period, the provider may initiate further commitment
25 proceedings as if he were the professional person in charge, and the
26 provisions of AS 47.30.655 - 47.30.915 apply, except that provisions
27 relating to inpatient treatment shall be read as applicable to out-
28 patient treatment.

29 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO

1 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
2 provisions of AS 47.30.700 - 47.30.915 to receive involuntary out-
3 patient treatment may be required to undergo inpatient treatment when
4 the provider of outpatient care finds that (1) the respondent is
5 mentally ill and is likely to cause serious harm to himself or others
6 or is still gravely disabled; (2) the respondent's behavior since the
7 hearing resulting in court-ordered treatment indicates that he now
8 needs inpatient treatment to protect himself or others; (3) there is
9 reason to believe that the respondent's mental condition will improve
10 as a result of inpatient treatment; and (4) there is an inpatient
11 facility appropriate to the respondent's need which will accept him as
12 a patient. Treatment for these respondents shall be available at
13 state-operated hospitals at all times.

14 (b) Upon making the findings specified in (a) of this section,
15 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745
16 relating to hearing apply.

17 Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-
18 vided in (b) of this section,

19 (1) computations of a 72-hour evaluation period do not in-
20 clude Saturdays, Sundays, legal holidays, or any period of time neces-
21 sary to transport the respondent to the treatment facility;

22 (2) a 21-day commitment period expires at the end of the
23 21st day after the 72 hours following initial acceptance;

24 (3) a 90-day commitment period expires at the end of the
25 90th day after the expiration of a 21-day period of treatment;

26 (4) a 120-day commitment period expires at the end of the
27 120th day, after the expiration of a 90-day period of treatment or
28 previous 120-day period, whichever is applicable.

29 (b) When a respondent has failed to appear or absented himself

1 contrary to any order properly made or entered under AS 47.30.655 -
2 47.30.915, the relevant commitment period shall be extended for a
3 period of time equal to the respondent's absence if written notice of
4 absence is promptly provided to the respondent's attorney and his
5 guardian, if there is one, and if, within 24 hours after the respondent
6 has returned to the evaluation or treatment facility, written notice of
7 the corresponding extension and the reason for it is given to the
8 respondent, his attorney, his guardian, if any, and to the court.

9 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-
10 915 may be construed as limiting a person's right to a writ of habeas
11 corpus.

12 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
13 CATION. (a) A person acting in good faith upon either actual knowledge
14 or reliable information who makes application for evaluation or treat-
15 ment of another person under AS 47.30.700 - 47.30.915 is not subject to
16 civil or criminal liability.

17 (b) The following persons may not be held civilly or criminally
18 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
19 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
20 of the period for which the person was admitted or committed for evalu-
21 ation or treatment if the persons have performed their duties in good
22 faith and without gross negligence:

23 (1) an officer of a public or private agency;

24 (2) the superintendent, the professional person in charge,
25 the professional designee of the professional person in charge, and the
26 attending staff of a public or private agency;

27 (3) a public official performing functions necessary to the
28 administration of AS 47.30.700 - 47.30.915;

29 (4) a peace officer responsible for detaining a person under

1 AS 47.30.700 - 47.30.915.

2 (c) A person who wilfully initiates an involuntary commitment
3 procedure under AS 47.30.700 without having good cause to believe that
4 the other person is suffering from a mental illness and as a result is
5 gravely disabled or likely to cause serious harm to himself or others,
6 is guilty of a felony.

7 ARTICLE 9. PATIENT RIGHTS.

8 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. Each patient who is
9 receiving services under AS 47.30.655 - 47.30.915 has the following
10 rights:

11 (1) A patient, or his counsel, guardian, or the adult desig-
12 nated in accordance with AS 47.30.725 if the patient is mentally
13 incapable of participation, is entitled to participate in formulating
14 his individualized treatment plan and to participate in the evaluation
15 process as much as possible, at minimum to the extent of requesting
16 specific forms of therapy, inquiring why specific therapies are or are
17 not included in his treatment program, and being informed as to his
18 present medical and psychological condition and prognosis. The treating
19 physician may not withhold any of this information from the patient.

20 (2) A patient has the right to know the name of medication
21 that he is asked to take, what its purpose is, and what side effects
22 may occur with this medication. If the patient is incapable of under-
23 standing the purpose and side effects of the medication, the treating
24 physician or mental health professional shall explain it to the
25 patient's counsel or guardian, or if there is no guardian the adult
26 designated in accordance with AS 47.30.725.

27 (3) A locked quiet room, or other form of physical restraint,
28 may not be used, except as provided in this paragraph, unless a patient
29 is likely to physically harm himself or others unless restrained. The

1 form of restraint used shall be that which is in the patient's best
2 interest and which constitutes the least restrictive alternative avail-
3 able. When practicable, the patient shall be consulted as to his pre-
4 ference among forms of adequate, medically advisable restraints in-
5 cluding medication, and his preference shall be considered. Nothing in
6 this section is intended to limit the right of staff to use a quiet
7 room at the patient's request or with his knowing concurrence when
8 considered in the best interests of the patient. Patients placed in a
9 quiet room or other physical restraint shall be checked at least every
10 15 minutes or more often if good medical practice so indicates. Pa-
11 tients in a quiet room must be visited by a staff member at least once
12 every hour and must be given adequate food and drink and access to
13 bathroom facilities. At no time may a patient be kept in a quiet room
14 or other form of physical restraint against his will longer than neces-
15 sary to accomplish the purposes set out in this paragraph. All uses of
16 a quiet room or other restraint shall be recorded in the patient's
17 medical record, the information including but not limited to the
18 reasons for its use, the duration of use, and the name of the authoriz-
19 ing staff member.

20 (4) A patient has the right to be free from unnecessary or
21 excessive medication. Psychotropic medication shall be administered
22 only on the order of a licensed physician when the physician determines
23 that such medication is in the best interest of the patient or will
24 prevent serious harm to others.

25 (5) A patient capable of giving informed consent has the
26 absolute right to accept or refuse electro-convulsive therapy or aver-
27 sive conditioning. A patient who lacks substantial capacity to make
28 this decision may not be given such therapy or conditioning without a
29 court order.

1 (6) In no event may treatment include psychosurgery, lobo-
2 tomy, or other comparable form of treatment without specific informed
3 consent of the patient, including a minor unless he is clearly too
4 young or disabled to give an informed consent in which case the consent
5 of his legal guardian is required. In addition, such treatment may not
6 be given without a court order after hearing compatible with full due
7 process.

8 (7) When, in the written opinion of a patient's attending
9 physician, a true medical emergency exists and a surgical operation is
10 necessary to save the life, physical health, eyesight, hearing or
11 member of the patient, the professional person in charge, or his pro-
12 fessional designee, may give consent to the surgical operation if time
13 will not permit obtaining the consent of the proper relatives or
14 guardian or appropriate judicial authority. However, an operation may
15 not be authorized if the patient is not a minor and knowingly withholds
16 consent on religious grounds.

17 (8) A patient upon discharge shall be given a discharge plan
18 specifying the kinds and amount of care and treatment he should have
19 after discharge and such other steps as he might take to benefit his
20 mental health after leaving the facility. The patient shall have the
21 right to participate, as far as practicable, in formulating his dis-
22 charge plan. A copy of the plan shall be given to the patient, his
23 guardian, the court if appropriate, and any follow-up agencies.

24 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)
25 Experimental treatments involving any significant risk of physical or
26 psychological harm may not be administered to a patient.

27 (b) If the personnel of an evaluation or treatment facility are
28 uncertain as to whether a proposed treatment is experimental or is
29 experimental as applied to a particular patient or would involve a

1 significant risk of mental or physical harm to the patient, the matter
2 may be referred to the commissioner of health and social services for a
3 determination. The patient, his attorney, his guardian, if any, and an
4 adult designated by the patient, shall, simultaneously with the referral
5 to the commissioner, be provided with copies of all the documents by
6 which the referral is made and shall have the opportunity to provide
7 evidence to the commissioner on the question.

8 (c) A determination by the commissioner that a treatment is
9 experimental and entails significant risks of mental or physical harm
10 is binding upon all persons involved in the administration of treatment
11 to a patient.

12 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. (a) A person may not
13 deny to a person who is undergoing evaluation or treatment under AS 47.-
14 30.655 - 47.30.915 a civil right, including but not limited to, the
15 right to free exercise of religion and the right to dispose of property,
16 sue and be sued, enter into contractual relationships, and vote. A
17 person who violates this subsection commits the crime of interference
18 with constitutional rights under AS 11.76.110.

19 (b) Court-ordered evaluation or treatment under AS 47.30.655 -
20 47.30.915 is not a determination of legal incapacity under AS 13.26.

21 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
22 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915
23 shall

24 (1) not be photographed without his consent and that of his
25 guardian if a minor, except that he may be photographed upon admission
26 to a facility for identification and for administrative purposes of the
27 facility; all photographs shall be confidential and may only be released
28 by the facility to the patient or his designee unless a court orders
29 otherwise;

1 (2) at the time of admission to an evaluation or treatment
2 facility, have reasonable precautions taken by the staff to inventory
3 and safeguard his personal property; a copy of the inventory signed by
4 the staff member making it shall be given to the patient and made
5 available to his attorney and any other person authorized by the
6 patient to inspect the document;

7 (3) have access to an individual storage space for his
8 private use while undergoing evaluation or treatment;

9 (4) be permitted to wear his own clothing, to keep and use
10 his own personal possessions including his toilet articles if they are
11 not considered unsafe for him or other patients who might have access
12 to them, and to keep and be allowed to spend a reasonable sum of his
13 own money for his own needs and comfort;

14 (5) be allowed to have visitors at reasonable times;

15 (6) have ready access to letter writing materials, including
16 stamps, and have the right to send and receive unopened mail;

17 (7) have reasonable access to a telephone, both to make and
18 receive confidential calls.

19 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
20 obtained in the course of a screening investigation, evaluation,
21 examination, or treatment are confidential and are not public records,
22 except as the requirements of a hearing under AS 47.30.655 - 47.30.915
23 may necessitate a different procedure. Information and records may be
24 copied and disclosed under regulations established by the department
25 only to

26 (1) a physician or a provider of health, mental health, or
27 social and welfare services involved in caring for, treating, or
28 rehabilitating the patient;

29 (2) the patient or an individual to whom the patient has

1 given written consent to have information disclosed;

2 (3) a person authorized by a court order;

3 (4) a person doing research or maintaining health statistics,
4 if the anonymity of the patient is assured, and the facility recognizes
5 the project as a bona fide research or statistical undertaking;

6 (5) the division of corrections in a case in which a prisoner
7 confined to the state prison is a patient in the state hospital on
8 authorized transfer either by voluntary admission or by court order;

9 (6) a governmental or law enforcement agency when necessary
10 to secure the return of a patient who is on unauthorized absence from a
11 facility where the patient was undergoing evaluation or treatment.

12 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
13 of a respondent from a treatment facility or the issuance of a court
14 order denying a petition for commitment, the respondent may at any time
15 move to have all court records pertaining to the proceedings expunged
16 on condition that he file a full release of all claims of whatever
17 nature arising out of the proceedings and the statements and actions of
18 persons and facilities in connection with the proceedings.

19 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-
20 30.825 - 47.30.855 shall be prominently posted in all treatment facili-
21 ties in places accessible to all patients. A patient who does not
22 understand English shall have his rights explained to him in a language
23 he understands.

24 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. When
25 practicable all documents and notices required by AS 47.30.655 -
26 47.30.915 to be served on a respondent, or on his parents, guardian or
27 adult designee, shall be explained in a language the person understands
28 if he is not competent in English.

29 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a

1 person is or has been evaluated or treated for mental illness may not
2 be a basis for discrimination in

3 (1) seeking employment;

4 (2) resuming or continuing professional practice or previous
5 occupation;

6 (3) obtaining or retaining housing;

7 (4) obtaining or retaining licenses or permits, including
8 but not limited to a motor vehicle license, motor vehicle operator's
9 and chauffeur's license, and a professional or occupational license.

10 (b) Applications for positions, licenses, and housing may not
11 contain requests for information concerning evaluation or treatment
12 experiences.

13 (c) It is unlawful for a person to aid, abet, incite, compel, or
14 coerce the doing of an act forbidden under this section or to attempt
15 to do so.

16 ARTICLE 10. MISCELLANEOUS PROVISIONS.

17 Sec. 47.30.870. TRANSPORTATION. When a person is to be involun-
18 tarily committed to a facility, the department shall arrange, and is
19 authorized to pay for, the person's necessary transportation to the
20 designated facility accompanied by appropriate persons and if necessary
21 by a peace officer. The department shall pay return transportation of
22 a person, his escorts, and if necessary a peace officer, after a deter-
23 mination that the person is not committable, at the end of a commitment
24 period, or at the end of a voluntary stay at a treatment facility
25 following an evaluation conducted in accordance with AS 47.30.715.
26 When advisable, one or more relatives or friends shall be permitted to
27 accompany the person. The department may pay necessary travel, housing,
28 and meal expenses incurred by one relative or friend in accompanying
29 the person if the department determines that the person's best interests

1 require that he be accompanied by the relative or friend and the rela-
2 tive or friend is indigent.

3 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers
4 of a person who is admitted to a treatment facility under AS 47.30.655 -
5 47.30.915 shall include a statement as to his residence. The department
6 may return a patient who is not a resident of the state to the state of
7 his residence with court approval if the person has been committed. If
8 the state in which he has residence does not accept him as a patient,
9 the person shall be treated as a resident of this state under the pro-
10 visions of AS 47.30.655 - 47.30.915.

11 (b) To facilitate the return of nonresident patients the depart-
12 ment may enter into a reciprocal agreement or compact with another
13 state providing for the prompt return under appropriate supervision of
14 residents of that state who are mentally ill. A mentally ill resident
15 of this state who has been placed in a facility outside this state may
16 be admitted with the approval of the department to a treatment facility
17 in the state designated by the department. The department may enter
18 into reciprocal agreements or contracts with another state providing
19 for custody, care or treatment, or return of mentally ill residents of
20 this state by the other state and for the custody and care or treatment
21 of mentally ill residents of that state by this state on a reimbursable
22 basis. A resident of this state who has been committed in another
23 state and is returned in accordance with this section shall, within 72
24 hours of his admission to the designated facility, be examined. After
25 examination the mental health professional in charge shall release him
26 or shall petition for involuntary commitment as prescribed in AS 47.30.-
27 740.

28 (c) In taking action under (a) and (b) of this section, consider-
29 ation shall be given to the best interests of the patient, particularly

1 to the relationship of the patient to his family, legal guardian, or
2 friends to maintain relationships and encourage visits beneficial to
3 the patient.

4 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -
5 47.30.915 alters or impairs the application or availability to a pa-
6 tient, while hospitalized in another state under contractual arrange-
7 ments entered in accordance with AS 47.30.655 - 47.30.915, of the
8 rights, remedies or safeguards provided by the laws of this state.

9 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The
10 department shall insure that

11 (1) a patient is not discharged from a treatment facility
12 without suitable clothing; and

13 (2) a discharged indigent patient is furnished

14 (A) suitable transportation to his permanent residence
15 in this state or to another suitable place at the discretion of
16 the department; and

17 (B) a reasonable amount of money to meet his immediate
18 needs.

19 Sec. 47.30.895. DISPOSITION OF PERSONAL PROPERTY AND UNCLAIMED
20 MONEY. (a) Articles of personal property and unclaimed money in the
21 custody of a treatment facility which belong to a patient who dies
22 before discharge, or to a patient who leaves the hospital without
23 authority, if unclaimed by the patient or his legal heirs or representa-
24 tives within one year after the death or departure of the patient,
25 shall be disposed of in the manner prescribed by the department and the
26 proceeds shall be deposited in the state treasury.

27 (b) If a mentally ill individual has died in a foreign facility
28 and the department desires to recover the patient's personal property
29 under this section, the commissioner of health and social services or

1 his designated representative may secure the property and for that pur-
2 pose only is designated the decedent's administrator. Property so
3 recovered shall be disposed of as provided by law.

4 Sec. 47.30.900. DISPOSITION OF MONEY AND PERSONAL PROPERTY SUBJECT
5 TO CLAIM. The department shall make diligent inquiry in every instance
6 after departure without authority or death of a patient, to ascertain
7 the whereabouts of the patient or that of his legal heirs or representa-
8 tives, and shall turn over to the proper person the money or articles
9 of personal property in the custody of the facility to the credit of
10 the patient. Claims to the money or articles of personal property,
11 including claims by the state, may be presented to the department at
12 any time. If a claim other than by the state is established by clear
13 and convincing evidence more than one year after the death or departure
14 without authority of a patient, it shall be certified to the legisla-
15 ture for consideration and the legislature may pay the claim.

16 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
17 The witnesses, expert witnesses, and the jury in commitment proceedings
18 under AS 47.30.655 - 47.30.915 are entitled to the fees, compensation,
19 and mileage established by the administrative rules of court for other
20 jurors and witnesses. Compensation, mileage, fees, transportation
21 expenses for a respondent, and other expenses arising from evaluation
22 and commitment proceedings shall be audited and allowed by the superior
23 court of the judicial district in which the proceedings are held. To
24 the extent that services of a peace officer are used to carry out the
25 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and
26 actual expenses from the same source and in the same manner as for his
27 other official duties.

28 (b) An attorney appointed for a person under AS 47.30.655 - 47.-
29 30.915 shall be compensated for his services as follows:

1 (1) the person for whom an attorney is appointed shall, if
2 he is financially able under standards as to financial capability and
3 indigency set by the court, pay the costs of the legal services;

4 (2) if the person is indigent under those standards, the
5 costs of the services shall be paid by the state.

6 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
7 FACILITY. (a) A patient, or his legal representative acting in a
8 representative capacity, or his spouse, or his parents if the patient
9 is under the age of 18, shall pay or contribute to the payment of the
10 charges for the care, transportation, and treatment of the patient when
11 hospitalized under AS 47.30.655 - 47.30.915. Charges assessed after an
12 order for commitment for treatment is issued and charges assessed when
13 a patient is hospitalized at a facility operated by the department, or
14 under a contract for services with the department, may not exceed the
15 actual cost of the care and treatment. The department may order
16 payment by the patient or by the person responsible for payment for the
17 patient's care and treatment under this subsection, according to
18 ability to provide for payment. The department may make necessary
19 investigations to determine the ability to pay and may require sworn
20 statements of income by the patient, or his legal representative acting
21 in a representative capacity, or his spouse or parent. In the exercise
22 of his discretion, the commissioner may impose full liability for the
23 patient's actual cost of care and treatment on the patient, his legal
24 representative, his spouse, or parent for refusal to supply a sworn
25 statement of income. An order for payment shall be issued by the de-
26 partment within six months after the date on which the charge was in-
27 curred. The order shall remain in full force and effect unless modi-
28 fied by subsequent court or department order. Liability under this
29 subsection shall be determined as follows: a patient hospitalized under

1 AS 47.30.655 - 47.30.915, or the person responsible for payment of
2 charges for the patient, may be required to pay according to his
3 ability to provide for payment, and in the manner and proportion which
4 the department finds is not detrimental to the patient's rehabilitation.
5 The department shall, at any time that it determines the action will
6 serve the best interests of the state and the patient or the person
7 responsible for payment, relieve the patient or the person responsible
8 for payment from liability for charges for the care, transportation,
9 and treatment of the patient.

10 (b) As used in (a) of this section, the term "actual cost of the
11 care and treatment" means either the rate provided for by a contract
12 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a
13 contract, a daily rate approved by the department.

14 (c) The department may charge, or accept from a person money or
15 property, for the care or treatment of an inpatient or outpatient or
16 for other purposes, even if the payment is not required by an order of
17 the department, so long as the total payments received do not exceed
18 the actual cost of care or treatment.

19 (d) All money paid by the patient or on his behalf to the depart-
20 ment under this section shall be deposited in the state treasury.

21 (e) If an order for payment is entered by the department under
22 this section, and delinquency in the payment of any amount due the
23 state under the order continues for a period of more than 30 days after
24 the notification to the patient or the legal representative, spouse, or
25 parent of the patient by the department, the state may proceed to col-
26 lect the amounts due by appropriate proceedings. An action to enforce
27 the collection of payments may only be brought within three years after
28 the date of notification of a delinquent payment.

29 (f) The orders of the department issued under this section may

1 relate only to charges incurred after October 1, 1981.

2 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

3 (1) "commissioner" means the commissioner of health and
4 social services;

5 (2) "court" means a superior court of the state;

6 (3) "department" means the Department of Health and Social
7 Services;

8 (4) "designated treatment facility" means a hospital, clinic,
9 institution, center, or other health care facility which has been
10 designated by the department for the treatment or rehabilitation of
11 mentally ill persons and for the receipt of these persons by court-
12 ordered commitment, but does not include correctional institutions;

13 (5) "evaluation facility" means a health care facility that
14 has been designated or is operated by the department to perform the
15 evaluations described in AS 47.30.655 - 47.30.915; or a medical facility
16 licensed under AS 18.20.020;

17 (6) "evaluation personnel" means mental health professionals
18 designated by the department to conduct evaluations as prescribed in
19 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no
20 staffed evaluation facility exists;

21 (7) "gravely disabled" means a condition in which a person,
22 as a result of mental illness, is in danger of physical harm arising
23 from such complete neglect of basic needs for food, clothing, shelter,
24 or personal safety as to render serious accident, illness or death
25 highly probable if care by another is not taken;

26 (8) "inpatient treatment" means care and treatment rendered
27 inside or on the premises of a treatment facility, or a part or unit of
28 a treatment facility for a continual period of 24 hours or longer;

29 (9) "least restrictive alternative" means mental health

1 treatment facilities and conditions of treatment which are

2 (A) no more harsh, hazardous, or intrusive than neces-
3 sary to achieve the treatment objectives of the patient; and

4 (B) involve no restrictions on physical movement nor
5 supervised residence or inpatient care except as reasonably neces-
6 sary for the administration of treatment or the protection of the
7 patient or others from physical injury;

8 (10) "likely to cause serious harm" means a person who

9 (A) poses a substantial risk of imminent and substan-
10 tial bodily harm to himself, as manifested by recent attempts at
11 suicide or bodily harm;

12 (B) poses a substantial risk of imminent and substantial
13 bodily harm to one or more other persons as manifested by behavior
14 causing, or attempting harm, including, in regard to evaluations,
15 at least one incident within 30 days before the filing of a peti-
16 tion for emergency hospitalization; or

17 (C) demonstrates a current intent to carry out plans of
18 serious harm to himself or another;

19 X (11) "mental health professional" means a psychiatrist or
20 physician who is licensed to practice in this state or employed by the
21 federal government; a clinical psychologist licensed by the state Board
22 of Psychologists and Psychological Associate Examiners; a psychological
23 associate with a clinical psychology or counseling specialty licensed
24 by the Board of Psychologists and Psychological Associate Examiners; a
25 registered nurse with a master's degree in psychiatric nursing, licensed
26 by the State Board of Nursing; and a social worker with a master's
27 degree in social work and experience in the field of mental illness;

28 (12) "mental illness" means an organic, mental, or emotional
29 impairment which has substantial adverse effects on an individual's

1 ability to exercise conscious control of his actions or ability to
2 perceive reality or to reason or understand; mental retardation, epi-
3 lepsy, drug addiction, and alcoholism do not per se constitute mental
4 illness, although persons suffering from these conditions may also be
5 suffering from mental illness;

6 (13) "peace officer" includes a state police officer, muni-
7 cipal or other local police officer, state, municipal, or other local
8 health officer, public health nurse, United States marshal or deputy
9 United States marshal, or a person authorized by the court;

10 (14) "provider of outpatient care" means a mental health pro-
11 fessional or hospital, clinic, institution, center, or other health
12 care facility who has been designated by the department to accept for
13 treatment patients who are ordered to undergo involuntary outpatient
14 treatment by the court or who are released early from inpatient commit-
15 ments on condition that they undergo outpatient treatment;

16 (15) "screening investigation" means the investigation and
17 review of facts which have been alleged to warrant emergency exam-
18 ination or treatment, including interviews with the persons making the
19 allegations, any other significant witnesses who can readily be con-
20 tacted for interviews, and, if possible, the respondent, and an investi-
21 gation and evaluation of the reliability and credibility of persons
22 providing information or making allegations;

23 (16) "state" means a state of the United States, the District
24 of Columbia, the territories and possessions of the United States, and
25 the Commonwealth of Puerto Rico, and, with the approval of the United
26 States Congress, Canada;

27 (17) "professional person in charge" means the senior mental
28 health professional at a facility or his designee; in the absence of a
29 mental health professional it means the chief of staff or a physician

1 designated by the chief of staff.

2 * Sec. 2. AS 12.45.087(a) is amended to read:

3 (a) If a defendant has filed a notice of intention to rely on the
4 defense of mental disease or defect excluding responsibility, or there
5 is reason to doubt his fitness to proceed, or there is reason to believe
6 that mental disease or defect of the defendant will otherwise become an
7 issue in the cause, the court shall appoint at least one qualified
8 psychiatrist, or a forensic psychologist certified by the American
9 Board of Forensic Psychology, or shall request the superintendent of
10 the Alaska Psychiatric Institute to designate at least one qualified
11 psychiatrist, which designation may be or include himself, to examine
12 and report upon the mental condition of the defendant. If the defen-
13 dant has filed notice under AS 12.45.090(a) the report shall consider
14 whether the defendant can still be committed under AS 12.45.090. The
15 court may order the defendant to be committed to a hospital or other
16 suitable facility for the purpose of the examination for not more than
17 60 days or such longer period as the court determines to be necessary
18 for the purpose and may direct that a qualified psychiatrist retained
19 by the defendant be permitted to witness and participate in the exam-
20 ination.

21 * Sec. 3. AS 12.45.090 is repealed and reenacted to read:

22 Sec. 12.45.090. PROCEDURE AFTER RAISING DEFENSE OF MENTAL DISEASE
23 OR DEFECT. (a) At the time the defendant files notice to raise the
24 affirmative defense of mental disease or defect as excluding responsi-
25 bility he shall also file notice as to whether if found not guilty by
26 reason of mental disease or defect as excluding responsibility he will
27 assert that he is not presently suffering from a mental disease or
28 defect that causes him to be dangerous to the public peace or safety.

29 (b) If the defendant is found not guilty by reason of mental

1 disease or defect as excluding responsibility and he has not filed the
2 notice required under (a) of this section, the court shall immediately
3 commit him to the custody of the commissioner of health and social
4 services.

5 (c) If the defendant is found not guilty by reason of mental
6 disease or defect as excluding responsibility, and he has filed the
7 notice required under (a) of this section, a hearing shall be held
8 immediately after the verdict is returned to determine the necessity of
9 further commitment. The hearing shall be held before the same trier of
10 fact as the underlying charge, but if a jury was the trier of fact, the
11 hearing shall be held before a jury of six drawn from the original jury
12 in accordance with rules adopted by the supreme court. At the hearing,
13 the defendant has the burden of proving by a preponderance of the
14 evidence that he is not presently suffering from a mental disease or
15 defect that causes him to be dangerous to the public. If the court or
16 jury determines that the defendant has failed to meet his burden of
17 proof, the court shall order the defendant committed to the custody of
18 the commissioner of health and social services.

19 (d) A defendant committed under (b) or (c) of this section shall
20 be held in custody for a period of time not to exceed the maximum term
21 of imprisonment for the crime for which the defendant was acquitted
22 under AS 12.45.083 or until the mental disease is cured or the defect
23 corrected as determined at a hearing under (e) of this section.

24 (e) A defendant committed under (b) or (c) of this position may
25 have the need for his continued hospitalization determined or redeter-
26 mined under a petition filed in the superior court at intervals begin-
27 ning no sooner than six months from his initial commitment and yearly
28 thereafter. The burden and standard of proof at a hearing under this
29 subsection is the same as at a hearing under (c) of this section except

1 that the defendant is not entitled to a jury unless he files a motion
2 for a jury no later than 15 days before the date set for the hearing.
3 A copy of all petitions for release shall be served on the attorney
4 general at Juneau, Alaska. A copy shall also be served upon the attor-
5 ney of record, if he is not the attorney general, who represented the
6 state or a municipality at the time the defendant was first committed.

7 (f) Continued commitment following expiration of the maximum term
8 of imprisonment for the crime for which the defendant was acquitted
9 under AS 12.45.083 is governed by the standards pertaining to civil
10 commitments as set out in AS 47.30.735.

11 (g) A person committed under this section may not be released
12 during the term of commitment except upon court order following a
13 hearing in accordance with (c) of this section. On the grounds that
14 the defendant has been cured of the mental disease or defect and is no
15 longer dangerous to public peace or safety the state may at any time
16 request the court to hold a hearing to decide if the defendant should
17 be released.

18 (h) The commissioner of health and social services or his autho-
19 rized representative shall submit periodic written reports to the court
20 on the mental condition of a person committed under this section.

21 * Sec. 4. AS 12.45.110 is repealed and reenacted to read:

22 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When
23 the trial court determines by a preponderance of the evidence, in
24 accordance with AS 12.45.100, that a defendant is so mentally incomp-
25 etent that he is unable to understand the proceedings against him or
26 properly to assist in his own defense, the court shall order the pro-
27 ceedings against him stayed, except as provided in (d) of this section,
28 and may commit the defendant to the custody of the commissioner of
29 health and social services or his authorized representative for further

1 evaluation and treatment until the defendant is mentally competent to
2 stand trial, or until the pending charges against him are disposed of
3 according to law, but in no event longer than 90 days.

4 (b) On or before the expiration of the initial 90-day period of
5 commitment the court shall conduct a hearing to determine whether or
6 not the defendant remains incompetent. If the court finds by a pre-
7 ponderance of the evidence that the defendant remains incompetent, the
8 court may recommit the defendant for a second period of 90 days. The
9 court shall determine at the expiration of the second 90-day period
10 whether the defendant has become competent. If at the expiration of
11 the second 90-day period the court determines that the defendant con-
12 tinues to be incompetent to stand trial, the charges against him shall
13 be dismissed without prejudice and continued commitment of the defendant
14 shall be governed by the provisions relating to civil commitments under
15 AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime
16 involving force against a person and the court finds that the defendant
17 presents a substantial danger of physical injury to other persons and
18 that there is a substantial probability that the defendant will regain
19 competency within a reasonable period of time, in which case the court
20 may extend the period of commitment for an additional six months. If
21 the defendant remains incompetent at the expiration of the additional
22 six-month period, the charges shall be dismissed without prejudice and
23 either civil commitment proceedings shall be instituted or the court
24 shall order the release of the defendant. If the defendant remains
25 incompetent for five years after the charges have been dismissed under
26 this subsection, the defendant may not be charged again for an offense
27 arising out of the facts alleged in the original charges, except if the
28 original charge is murder.

29 (c) The defendant is not responsible for the expenses of hospital-

1 ization or transportation incurred as a result of his commitment under
2 this section. Liability for payment under AS 47.30.910 does not apply
3 to commitments under this section.

4 (d) A defendant receiving medication for either a physical or a
5 mental condition may not be prohibited from standing trial, if the
6 medication either enables him to understand the proceedings against him
7 and to properly assist in his own defense or does not disable him from
8 understanding the proceedings and assisting in his own defense.

9 * Sec. 5. AS 12.45.115 is amended to read:

10 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]
11 COMMITMENT. (a) When, in the medical judgment of the custodian of an
12 accused person committed under AS 12.45.110 [AS 12.45.110(a)], the
13 accused is considered to be mentally competent to stand trial, the
14 committing court shall hold a hearing, after due notice, as soon as
15 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At
16 the hearing, evidence as to the mental condition of the accused may be
17 submitted including reports by the custodian to whom the accused was
18 committed for care.

19 (b) If at the hearing the court determines that the accused is
20 presently mentally competent to understand the nature of the proceedings
21 against him and [OR] to assist in his own defense, appropriate criminal
22 proceedings may [SHALL] be commenced against the accused.

23 (c) If at the hearing the court determines that the accused is
24 still presently mentally incompetent, the court shall recommit the
25 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-
26 110(a)].

27 (d) A finding by the court that the accused is mentally competent
28 to stand trial in no way prejudices the accused in a defense based on
29 mental disease or defect excluding responsibility. This finding may

1 not be introduced in evidence on that issue or otherwise be brought to
2 the notice of the jury.

3 * Sec. 6. Except as provided in this Act, the provisions of AS 47.30.-
4 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair
5 any action taken in a proceeding pending under statutes in effect before
6 October 1, 1981, nor do they apply retroactively to terminate the detention
7 of a person previously committed under statutes in effect before October 1,
8 1981. However, 90 days after October 1, 1981, the provisions of this Act
9 apply to all persons committed under statutes in effect before October 1,
10 1981.

11 * Sec. 7. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are
12 repealed.

13 * Sec. 8. This Act takes effect October 1, 1981.
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Rec'd 6/2/81

POSITION PAPER

COMMITTEE SUBSTITUTE
FOR SENATE BILL NO. 100

"An Act relating to mentally ill persons; and providing for an effective date."

The Division of Mental Health and Developmental Disabilities fully endorses the principles of mental health care in the least restrictive setting and the protection for individual civil rights that are addressed in Committee Substitute for Senate Bill 100. The civil commitment process calls for a sensitive balance between the individual's right to the best possible psychiatric treatment, and society's right to be protected from those persons who are dangerous as a result of mental illness. Committee Substitute for Senate Bill 100 emphasizes treatment in the least restrictive alternatives close to home and provides for outpatient involuntary commitments. Periodic hearings are to be conducted in all involuntary hospitalizations.

The Department of Health and Social Services supports the passage of Committee Substitute for Senate Bill 100 with the following amendments:

Page 4, Line 21, 47.30.690 Change 21 days to 30 days. In addition, all subsequent references to 21 day commitment should be changed to 30 days.

Explanation: The 30 day commitment as established by Senate HESS allows hospital staff to monitor medications such as antidepressants and Lithium salts before the need for a second hearing. These medications require at least three weeks before they effect the behavior of most patients. In addition, this period of time will allow the hospital to properly evaluate, diagnose, and treat the mental disorder and in most cases avoid the necessity for a second commitment hearing. Presently, the average length of hospitalization for all patients (voluntary, involuntary, criminally committed, and evaluation and observation) at the Alaska Psychiatric Institute is 30-35 days. It should be emphasized that the 30 day commitment is only for patients not discharged prior to the 30th day or those that do not become voluntary patients.

Recommended by: Verner Stillner, M.D.
Verner Stillner, M.D., M.P.H.
Director, Division of Mental
Health and Developmental
Disabilities

Date: 5/26/81

Approved by: Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: 5/26/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. Senate Bill No. 100 (COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 100)
 Title An Act Relating to Mentally Ill Persons.
 Requested by _____ Date February 17, 1981

II. FISCAL DETAIL.
 Agency Affected Department of Health and Social Services
 Program Category Affected Health
 BRU, Program, or Subprogram(s) Affected Alaska Psychiatric Institute, Admin. & Support Comm.
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) Mental Health Center

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		99.6	108.6	118.4	129.0	146.6
200 TRAVEL		19.8	21.6	23.6	25.7	28.0
300 CONTRACTUAL		339.0	923.8	1,812.6	3,073.3	5,264.1
400 COMMODITIES		9.1	9.9	10.8	11.8	12.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		467.5	1,063.9	1,965.4	3,239.8	5,451.5

FUNDING (Thousands of Dollars)

		467.5	1,063.9	1,965.4	3,239.8	5,451.5
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

		1	1	1	1	1
FULL TIME						
PART TIME		2	2	2	2	2
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The intent language in SB 100 emphasizes treatment close to home, least restrictive alternatives and protection of client rights. So far as is determined by the Division of Mental Health and Developmental Disabilities those persons who require involuntary commitment for treatment of mental illness are currently being served, therefore, no increase in the population to be served will result from SB 100. What is required is resources to support the increase of hearings and for the scope of implementation of the intent.

Costs to implement SB 100 are the costs of the increased number of court hearings, the field and medical staff training for the court related activity and an array of costs associated with the establishment of designated facilities. Each of these costs are individually described under their separate heading. In addition spectrum of designated facilities are presented as alternate levels of implementation. Each level provides for

IV. DATE February 17, 1981 PREPARED BY: Thomas R. Brant
 AGENCY Department of Health and Social Services
 PHONE 465-3370
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval T. R. Brant Date 2/18/81

an increase in local capacity for treatment and evaluation.

I. Hearings (BRU API)

Base data will be the actual API hospital records of 1023 admissions for FY 80. About 44% of these are involuntary civil admissions equal to 450 patients. Under the current system civil commitment progress hearings may take place 14 to 21 days following admission. Therefore, many of these 450 involuntary patients have become voluntary prior to a hearing date. About 120 hearings are actually scheduled each year. A number of the involuntary admissions to API are evaluated (screened) and released as not being mentally ill. We therefore conclude that SB 100 will, because of the required 72 hour hearing, the 90 day and the 120 day hearing, result in a minimum of 300 of the 72 hour hearings and an undetermined number of 90 and 120 day hearings. The evaluation and the preparation of reports to be available to the court at the more than 300 additional hearings will represent a major workload increase at API.

One half time psychiatrist	43.9	(Two mental health professionals must sign petition)
One half time psychologist	25.3	
One Clerk III	22.2	
Total Hearing Staff Cost	91.4	

II. Training (BRU Administrative and Support Central Office)

SB 100 presents the function at a local level of accomplishing the preliminary screening and a possible evaluation for all cases taken into custody i.e., involuntary patients. It also will involve many physicians and mental health professionals in court processes and professional demands that are unfamiliar.

Local physicians will need training in recent advances in psychopharmacology and the assessment of medical basis of mental disorders. As these will frequently be general physicians who now do little psychiatric work this update should occur on a yearly basis to insure the best assessment and treatment.

Mental health professionals must be trained in their legal responsibilities to committed and evaluated patients under the act. They must know the legal definition of committable patients and how to assess patients for the commitment hearing. They must be offered a review of appropriate treatment approaches for patients likely to be committed under the act. This must be done on a yearly basis.

Costs:

22 physicians X \$451 each of travel and 3 day per diem	9,922.00
Facility, trainer and material costs.	2,500.00
Individual materials as hand-out etc.	550.00
Total training cost for M.D.	12,972.00
22 Mental health professional (same as above)	12,972.00
Forensic material development and distribution for 22 centers	3,000.00
Total training and development cost	28,944.00

III. Designation Costs (BRU Community Mental Health)

All material will require annual update presentations. Additional costs for center-specific training and unique medical update can be funded through Federal Mental Health Manpower Development Grant sources when these 28.9 base matching funds are available.

Patient receipts recover 26.6% of the actual operating costs at API. It is assumed cost recovery for any designated facility would be similar. The State comprehensive health plan reports the combined cost (cost of a bed and all support services, such as medication, X-ray etc.) per patient day totals \$397 per patient day for Alaska non-federal acute care hospitals. We calculate that involuntary patient care at a designated facility has a potential to create a deficit of \$303 per day per patient, that being the cost incurred but not paid for by the patient. This must be reimbursed to the designated facility.

The health plan reports the cost of a hospital bed without support services to average \$175 per day. A bed must be in reserve at all times at a designated facility. Cost of a reserved bed is \$63,875 per year (175 X 365). When a prepaid and reserved bed is occupied the additional daily cost is \$128 (303 less 175). This is reimbursable to the facility as a non-recoverable patient care cost. We estimate that each designated facility will deliver 200 bed days of treatment and inpatient evaluation service at a cost to the State of \$25,600 (200 X 128). We further assume that two beds will be occupied for 30 days per year at a cost of \$9,090. (303 X 30).

Summary of designated costs:

"head of facility"		56,950.00
reserved bed		63,875.00
200 days patient care @ 128 per day	25,600	
30 days patient care @ 303 per day	<u>9,090</u>	
	34,690	
		<u>34,690.00</u>
Annual cost per facility		\$155,515.00

Levels of ImplementationLevel I

A level 1 implementation for SB 100 would assume no additional designated facility beyond API. Cost at this level is limited to the costs for the additional hearings and field staff training.

Training	28.9
API staff	<u>91.4</u>
Level 1 total	120.3

Level II

A level 2 implementation would provide a designated facility in each of four judicial areas of Alaska. Nome, Juneau, Fairbanks in addition to the existing Anchorage API.

API hearing staff costs	91.4
Training and development cost	28.9
3 additional designated facilities	<u>466.5</u>
@ 155,515	
Level 2 cost	586.8

Level III

A level 3 implementation would provide a designated facility in each of the 10 superior court services districts and would locate a designated facility in Sitka, Ketchikan, Juneau, Kenai, Kodiak, Bethel, Nome, Kotzebue, and Fairbanks, in addition to API Anchorage;

API hearing staff costs	91.4
Training and development cost	28.9
9 designated facilities	
@ 155,515	<u>1,399.6</u>
Level 2 cost	1,519.9

Level IV

Level 4 implementation will provide a saturation of designated facilities. Evaluation with inpatient treatment capacity would be available in each of the existing 22 community mental health service districts.

API hearing staff costs	91.4
Training and development cost	28.9
21 designated facilities @ 155,515	<u>3,265.8</u>
Level 4 Cost	3,386.1

HB 100 Implementation Schedule

All costs are adjusted for 9% C.O.L.A. annually.

Year FY 82

- a. Hearing
- b. Training
- c. Partial level II designation (Fairbanks, Juneau)

Year FY 83

- a. Hearing
- b. Training
- c. Level II designation
- d. Partial level III designation (2 location)

Year FY 84

- a. Hearing
- b. Training
- c. Level II designation
- d. Level III designation (4 additional locations)

Year FY 85

- a. Hearing
- b. Training
- c. Level II designation
- d. Level III designation
- e. Partial level IV designation (5 locations)

Year FY 86

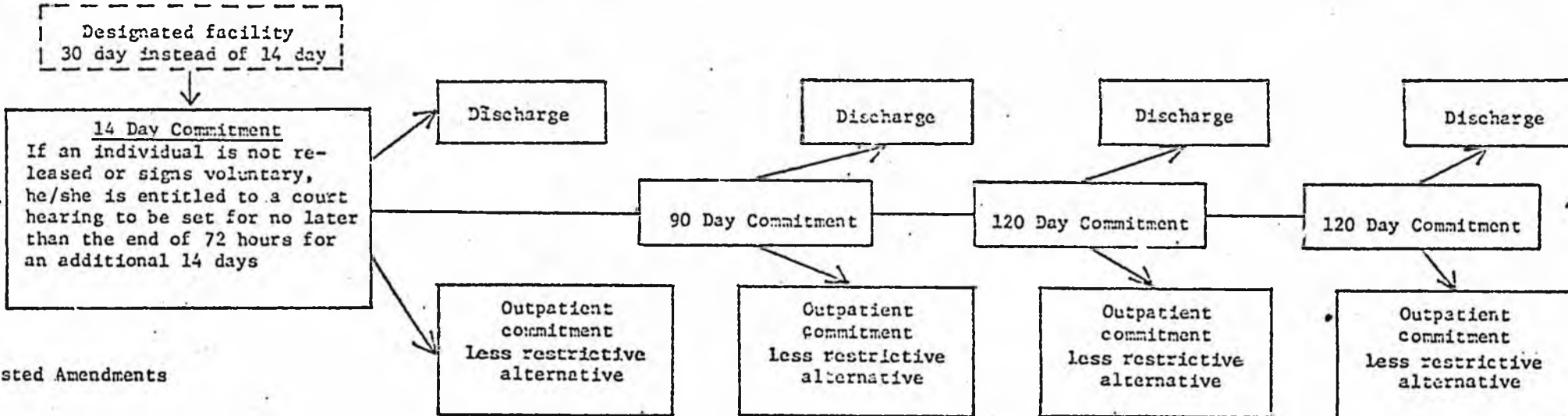
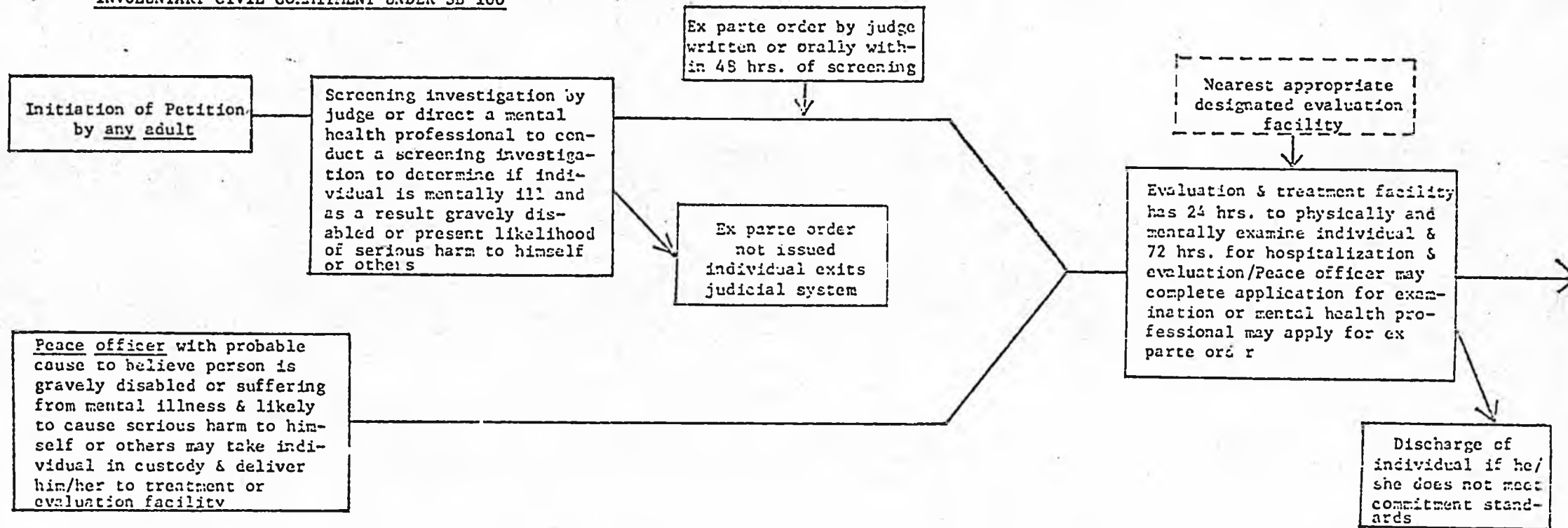
Total implementation 22 designated facilities

NOTE:

The cost of designation of a single facility adjusted by C.O.L.A. of 9% annually is:

FY 82	\$ 169,511
FY 83	184,767
FY 84	201,396
FY 85	219,522
FY 86	239,279

INVOLUNTARY CIVIL COMMITMENT UNDER SB 100



 = Suggested Amendments

SECTIONAL ANALYSIS

CSSB 100 (Jud.)

Section 1.

ARTICLE 6. MENTAL HEALTH PROGRAM.

The main thrusts of the bill are to balance an individual's constitutional right to liberty and the state's interest in protecting society from persons who are dangerous to others or to themselves. The Department of Health and Social Services is given the authority and responsibility for administering the program and supervising the facilities involved.

page 1 - 3

ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

Sets a cutoff age of 14 years for a child being committed by parents, and specifies the rights of persons who voluntarily enter a mental health facility. This Article further provides that an adult may be released from voluntary treatment unless the mental health professionals initiate involuntary commitment proceedings, and that a child under 14 may be released on parent's request unless involuntary commitment proceedings are initiated.

page 3 - 5

ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

Describes the procedure for involuntary commitment. Upon petition by an adult, the judge initiates a screening investigation, and upon completion of it, may issue an order directing an evaluation. The petition must allege, and the judge must find, that there is probable cause to believe that the respondent is mentally ill and likely to cause serious harm to himself or others, or that he is gravely disabled. The evaluation must be conducted within 72 hours.

page 5 - 6

If the evaluation facility finds that the person is mentally ill and presents a danger to himself or others, or is gravely disabled, the facility shall notify the court so that a hearing on a 21-day commitment may be held. Two mental health professionals who have examined the respondent must sign the petition for commitment. If the person does not meet these tests, he must be released.

page 6 - 7

At the evaluation facility the respondent must be notified of his rights in a language he understands, and has a right to be free of medication at the time of the hearing.

page 8 - 9

page 9 - 11

At the court hearing for a 21-day commitment, the respondent has a right to be present, to have an attorney present evidence on his behalf, cross-examine witnesses, be silent, to have an interpreter if he does not understand English, and to have the hearing open or closed, as he elects. The court may commit, for not more than 21 days, if there is no less restrictive alternative available.

page 11 - 13

Following the 21-day commitment, there may be a 90-day commitment. The respondent has the same rights as for the 21-day commitment.

page 13 - 16

Following the 90-day commitment, there may be a series of 120-day commitments. In all of these the respondent has the same rights as he has under the 21-day commitment.

page 15 - 19

The respondent must be committed to the treatment facility nearest his home, if that is possible. He also may be given leave from the facility and may be released for specified outpatient care. He must be released if he is no longer gravely disabled or likely to cause serious harm as a result of mental illness.

page 20 - 21

This Article also contains a provision that the right of habeas corpus is not limited, and a provision to hold blameless those persons who act in good faith on a commitment procedure. It is a felony to wilfully initiate an involuntary commitment procedure without good cause.

ARTICLE 9. PATIENT RIGHTS.

page 21

This Article provides that the patient has a right to participate in his treatment program, to know about the medication he is asked to take, and not to be kept in a locked quiet room unless such restraint is necessary to keep him from harming himself or others. It further provides safeguards when the person must be so restrained.

page 22 - 23

Additional rights guaranteed are freedom from unnecessary or excessive medication, the right to refuse electroconvulsive therapy or aversive conditioning, and the prohibition of psychosurgery, lobotomy, or other such treatment, without a court order. The facility must prepare a discharge plan when the patient is released.

page 23 - 27

Experimental treatments which involve risk may not be administered, and the Commissioner of Health and Social Services must make a decision as to whether a treatment is experimental. A person who is undergoing evaluation treatment does not lose any of his or her civil rights, including

the right to privacy and personal possessions. Records obtained in evaluation and treatment are confidential. Rights must be posted in all treatment facilities, must be explained in a language the person understands, and discrimination on the basis of evaluation or treatment for mental illness is prohibited.

ARTICLE 10. MISCELLANEOUS PROVISIONS.

This Article provides that the State pays for necessary transportation in the case of involuntary commitment. It also provides that persons who are not residents of Alaska may be returned to the state of residence, and that the Department may enter into a reciprocal agreement or compact with another state concerning custody of mentally ill persons. A third provision is that a person whom the Department hospitalizes in another state under a contract keeps all the rights which Alaska guarantees.

Personal property and unclaimed effects of a patient who dies or leaves are kept by the Department for one year if they are not claimed by a legal heir.

Provision is made for paying the expenses of witnesses, peace officers, attorneys, and the jury, in commitment cases. The Department has the authority to charge for care, transportation, and treatment of a patient, but has the discretion to relieve the patient or other person responsible for payment if it is in the best interests of the state and the other party. Charges assessed may not exceed the actual cost of the care and treatment.

The final three pages of Article 10 are definitions. This is an important section. Definitions specify more precisely the grounds for involuntary commitment and which mental health professionals may sign involuntary commitment reports. There is also a definition of designated treatment facility, which is necessary if persons are to be hospitalized in some place other than API.

Section 2.

This section of the bill deals with a person being tried for a crime, who intends to rely on a defense of mental disease or defect. It closes a possible loophole so that a person found not guilty because of mental disease could not then automatically be set free.

page 27 - 29

page 29 - 30

page 30 - 32

page 32 - 35

page 36

Section 3.

Section 3 provides the procedure to be followed when a person has pleaded mental deficiency or defect and is found not guilty. There is an immediate hearing before the same trier of fact (judge or jury) and the defendant must prove by preponderance of the evidence that he is no longer dangerous to the public. He may not be committed for a longer period than he could have been under the criminal law, and he may be reevaluated no sooner than six months later and every year thereafter. He may not be released during the term of commitment except upon a court order following the hearing.

Section 4.

If the court determines that a defendant is so mentally incompetent that he cannot understand proceedings against him or assist in his own defense, the court shall stop the proceedings and commit the defendant to the custody of the Commissioner. Within 90 days the court holds a hearing to see if the defendant is still incompetent. If so, he may be committed for a second 90-day period. If at the end of the second 90-day period he continues to be incompetent to stand trial, the charges are dismissed and he is tried like any other mentally ill person. If the court finds that the defendant presents a danger to other persons, the period of commitment may be extended for six months. After five years the defendant may not be charged again.

Section 5.

This section comes into effect when a person committed under Section 4 is considered mentally competent to stand trial. The committing court holds a hearing, determines whether the accused is competent, and then begins criminal proceedings or recommits him.

Section 6.

The provisions of this bill do not affect action taken under statutes in effect before October 1, 1981, nor do they apply retroactively.

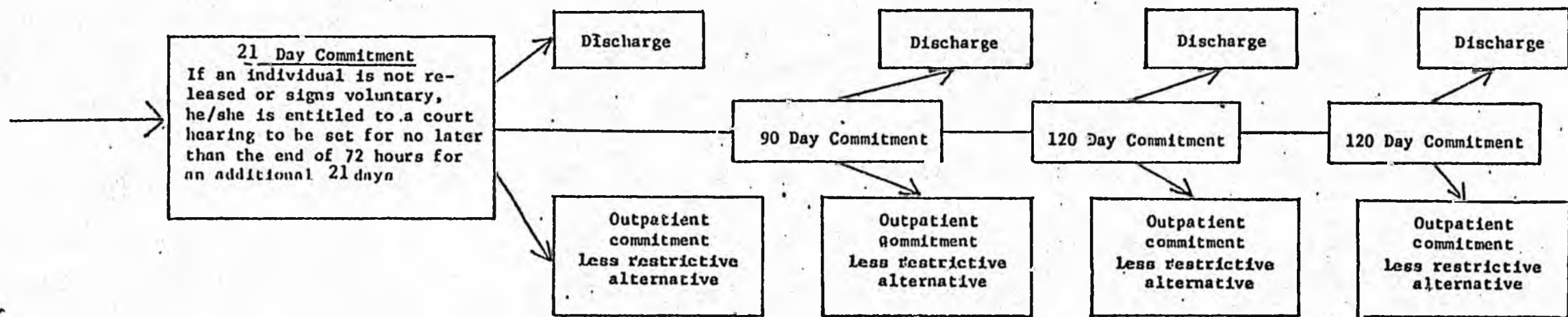
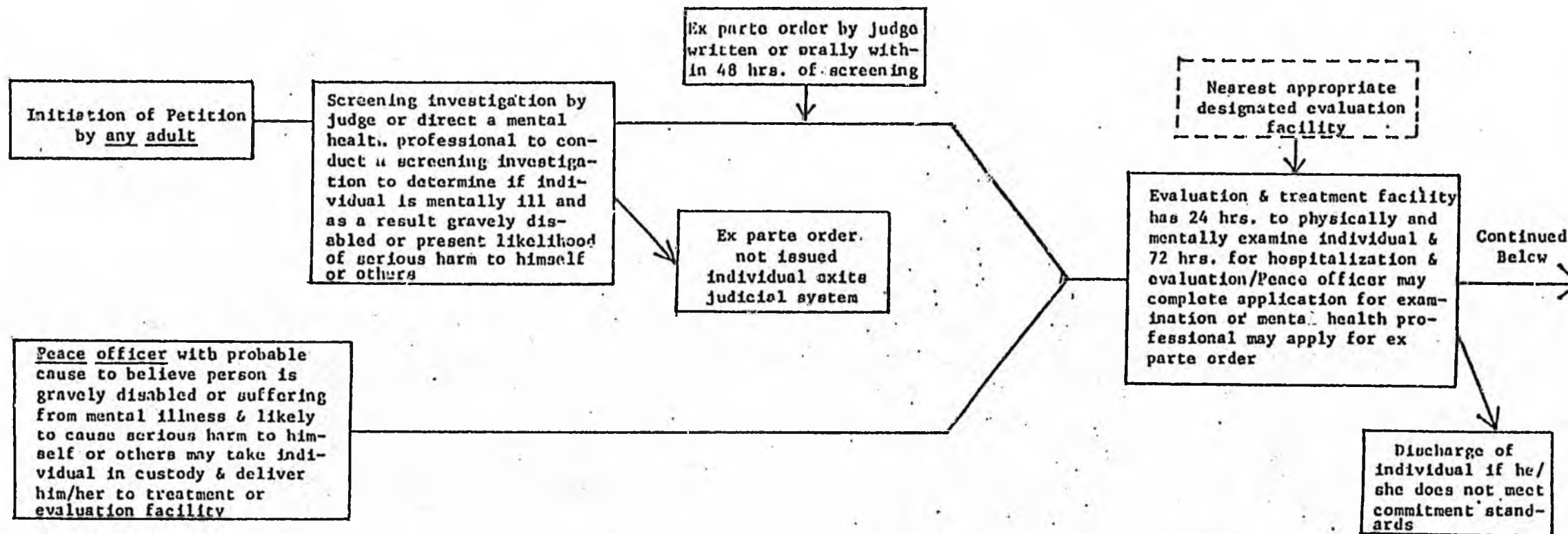
Section 7.

This section repeals the existing statutes on the mentally ill.

Section 8.

Effective date.

INVOLUNTARY CIVIL COMMITMENT UNDER SB 100



Original sponsors: Parr, Stimson, and
Fischer

Offered: 3/31/81
Referred: Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 100 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to mentally ill persons; and providing
7 for an effective date."

7

8

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

9

* Section 1. AS 47.30 is amended by adding new sections to read:

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ARTICLE 6. MENTAL HEALTH PROGRAM.

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Sec. 47.30.655. PURPOSE. The purpose of this major revision of
Alaska civil commitment statutes is to more adequately protect the legal
rights of persons suffering from mental illness. The legislature has
attempted to balance the individual's constitutional right to physical
liberty and the state's interest in (1) protecting society from persons
who are dangerous to others; and (2) protecting persons who are dan-
gerous to themselves, by providing due process safeguards at all stages
of commitment proceedings. In addition, the following principles of
modern mental health care have guided this revision:

20

(1) that persons be given every opportunity to accept volun-
21 tary treatment before involvement with the judicial system;

22

(2) that persons be treated in the least restrictive alter-
23 native environment consistent with their treatment needs;

24

(3) that treatment occur as promptly as possible and as close
25 to the individual's home as possible;

26

(4) that a system of mental health community facilities and
27 supports be available;

28

(5) that patients be informed of their legal rights and be
29 informed of and allowed to participate in their treatment program as

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to
3 others be committed only if there is a reasonable expectation of im-
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of
8 mental illness and the care and treatment of the mentally ill, including
9 inpatient and outpatient care and treatment and the procurement of
10 services of specialists or other persons on a contractual or other
11 basis;

12 (2) take the actions and undertake the obligations which are
13 necessary to participate in federal grants-in-aid programs and accept
14 federal or other financial aid from whatever sources for the study,
15 examination, care, and treatment of the mentally ill;

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities
18 equipped and qualified to provide inpatient and outpatient care and
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for
23 the care or treatment of the mentally ill in facilities of the govern-
24 mental agencies in the state or in another state;

25 (7) enter into contracts with treatment facilities for the
26 custody and care or treatment of the mentally ill;

27 (8) enter into contracts which incorporate safeguards consis-
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,
5 requests for release and consents to medical or psychological treatment
6 required by AS 47.30.655 - 47.30.915;

7 (10) require reports from the head of a treatment facility
8 concerning the care of patients;

9 (11) visit each treatment facility at least annually to
10 review methods of care or treatment for patients;

11 (12) investigate complaints made by a patient or an interested
12 party on behalf of a patient;

13 (13) delegate upon mutual agreement to another officer or
14 agency of it, or a political subdivision of this state, or a treatment
15 facility designated, any of the duties and powers imposed upon it by
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-
18 30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14
21 years of age or older may be voluntarily admitted to a treatment facil-
22 ity if he is suffering from mental illness and he voluntarily signs the
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon the application of a
25 person for voluntary admission, or at the time a person admitted under
26 AS 47.30.690 reaches the age of 14, he shall be given a copy of the
27 following documents which shall be explained to him as necessary:

28 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
29 and an explanation of any document served upon him; and

1 (2) notice that should he desire to leave at a time when the
2 treatment facility determines that he is mentally ill and as a result
3 is likely to cause serious harm to himself or others or is gravely dis-
4 abled, the facility could initiate commitment proceedings against him.

5 (b) If the applicant for voluntary admission does not understand
6 English, the explanation shall be given in a language he understands.

7 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. A patient who
8 no longer meets the standards established in AS 47.30.670 shall be
9 discharged from the treatment facility.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.
11 A voluntary patient who is 14 years of age or older and who desires to
12 leave a treatment facility must submit to the facility a written notice
13 of intent to leave on a form provided to him by the facility. Upon
14 immediate investigation, the patient shall be evaluated in writing and
15 discharged immediately or given written notice that involuntary commit-
16 ment proceedings will be initiated against him. The treatment facility
17 may detain the patient for no more than 48 hours after receipt of the
18 patient's notice of intent to leave in order to initiate involuntary
19 commitment proceedings.

20 Sec. 47.30.690. VOLUNTARY ADMISSION OF MINORS UNDER 14 YEARS OF
21 AGE. (a) A minor under the age of 14 may be admitted for 30 days
22 evaluation, diagnosis and treatment at a designated treatment facility
23 if his parent or guardian signs the admission papers and if, in the
24 opinion of the professional person in charge.

25 (1) he is gravely disabled or is suffering from mental ill-
26 ness and as a result he is likely to cause serious harm to himself or
27 others;

28 (2) there is no less restrictive alternative available for
29 his treatment; and

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

3 (b) The minor may be released by the treatment facility at any
4 time during the 30-day period if the professional person in charge or
5 his designated mental health professional determines the minor would no
6 longer benefit from continued hospitalization and the minor is not
7 dangerous. The minor's parents or his guardian must be notified by the
8 facility of the contemplated release and that, unless they initiate
9 involuntary commitment proceedings, the minor will be released.

10 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14
11 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT. The parent or
12 guardian of any minor who is less than 14 years of age may request and
13 obtain immediate release of the minor at any time, unless as the result
14 of mental illness, the minor is likely to cause serious harm to himself
15 or others.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult, a judge shall immediately conduct a
19 screening investigation or direct a local mental health professional
20 employed by the department or by a local mental health program which
21 receives money from the department under AS 47.30.520 - 47.30.620 or
22 another mental health professional designated by the judge, to conduct
23 a screening investigation of the person alleged to be mentally ill and,
24 as a result of that condition, alleged to be gravely disabled or to
25 present a likelihood of serious harm to himself or others. Within 48
26 hours after the completion of the screening investigation, a judge may
27 issue an ex parte order orally or in writing, stating that there is
28 probable cause to believe the respondent is mentally ill and that
29 condition causes the respondent to be gravely disabled or to present a

1 likelihood of serious harm to himself or others. The court shall pro-
2 vide findings on which the conclusion is based, appoint an attorney to
3 represent the respondent, and may direct that a peace officer take the
4 person into custody and deliver him to the nearest appropriate facility
5 for emergency examination or treatment. The ex parte order shall be
6 provided to the respondent and made a part of the respondent's clinical
7 record.

8 (b) The petition required in (a) of this section shall allege
9 that the respondent is reasonably believed to present a likelihood of
10 serious harm to himself or others or is gravely disabled as a result of
11 mental illness and shall specify the factual information on which that
12 belief is based including the names and addresses of all persons known
13 to the petitioner who have knowledge of those facts through personal
14 observation.

15 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
16 officer who has probable cause to believe that a person is gravely
17 disabled or is suffering from mental illness and is likely to cause
18 serious harm to himself or others of such an immediate nature that con-
19 siderations of safety do not allow initiation of involuntary commitment
20 procedures set out in AS 47.30.700, may cause the person to be taken
21 into custody and delivered to the nearest evaluation facility. A
22 correctional facility may be used as an emergency evaluation facility
23 if an evaluation facility is not available. Upon arrival at the evalua-
24 tion facility, the peace officer shall complete an application for
25 examination of the person in custody and be interviewed by a mental
26 health professional at the facility.

27 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
28 under AS 47.30.700 or 47.30.705 for emergency examination and treatment
29 to an evaluation facility shall be examined and evaluated as to his

1 mental and physical condition by a mental health professional and by a
2 physician within 24 hours after arrival at the facility.

3 (b) If the mental health professional who performs the emergency
4 examination has reason to believe that the respondent is (1) mentally
5 ill and that condition causes the person to be gravely disabled or to
6 present a likelihood of serious harm to himself or others, and (2) is
7 in need of care or treatment, the mental health professional may hospi-
8 talize him, or arrange for hospitalization, on an emergency basis. If
9 a judicial order has not been obtained under AS 47.30.700, the mental
10 health professional shall apply for an ex parte order authorizing
11 hospitalization for evaluation.

12 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
13 proper order for evaluation, it must accept the order and the respondent
14 for an evaluation period not to exceed 72 hours. The facility shall
15 promptly notify the court of the date and time of the respondent's
16 arrival. The court shall set a date, time and place for a 30-day com-
17 mitment hearing, to be held if needed within 72 hours after the respon-
18 dent's arrival, and the court shall notify the facility, the respondent,
19 his attorney, and the prosecuting attorney of the hearing arrangements.
20 Evaluation personnel, where used, shall similarly notify the court of
21 the date and time when they first met with the respondent.

22 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
23 at any time in the course of the 72-hour period the mental health pro-
24 fessionals conducting the evaluation determine that the respondent does
25 not meet the standards for commitment specified in AS 47.30.700, the
26 respondent shall be discharged from the facility or the place of evalu-
27 ation by evaluation personnel and the petitioner and the court so noti-
28 fied.

29 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)

1 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
2 30.915, he shall be immediately notified orally and in writing of his
3 rights under this section. Notification shall be in a language under-
4 stood by the respondent. His guardian, if any, and if the respondent
5 requests, an adult designated by the respondent, shall also be notified
6 of the respondent's rights under this section.

7 (b) Unless a respondent is released or voluntarily admits himself
8 for treatment within 72 hours of his arrival at the facility or, if he
9 is evaluated by evaluation personnel, within 72 hours from the beginning
10 of his meeting with evaluation personnel, he is entitled to a court
11 hearing to be set for not later than the end of that 72-hour period to
12 determine whether there is cause to detain him after the 72 hours have
13 expired for up to an additional 30 days on the grounds that he is
14 gravely disabled or mentally ill and as a result presents a likelihood
15 of serious harm to himself or others. The facility or evaluation
16 personnel shall give notice to the court of the releases and voluntary
17 admissions under AS 47.30.700 - 47.30.820.

18 (c) The respondent has a right to communicate immediately, at the
19 department's expense, with his guardian, if any, or an adult designated
20 by the respondent and the attorney designated in the ex parte order, or
21 any attorney of the respondent's choice.

22 (d) The respondent has the right to be represented by an attorney,
23 to present evidence and to cross-examine witnesses who testify against
24 him at the hearing.

25 (e) The respondent has the right to be free of the effects of
26 medication and other forms of treatment to the maximum extent possible
27 before the 30-day commitment hearing; however, the facility or evalua-
28 tion personnel may treat him with medication under prescription by a
29 licensed physician or by a less restrictive alternative of his pre-

1 ference if, in the opinion of a licensed physician in the case of
2 medication, or of a mental health professional in the case of alterna-
3 tive treatment, the treatment is necessary to

4 (1) prevent bodily harm to the respondent or others;

5 (2) prevent such deterioration of the respondent's mental
6 condition that subsequent treatment might not enable him to recover; or

7 (3) allow the respondent to prepare for and participate in
8 the proceedings.

9 (f) A respondent, if he is represented by counsel, may waive,
10 orally or in writing, the 72-hour time limit on the 30-day commitment
11 hearing and have the hearing set for a date no more than seven calendar
12 days after his arrival at the facility. The respondent's counsel shall
13 immediately notify the court of the waiver.

14 Sec. 47.30.730. PROCEDURE FOR 30-DAY COMMITMENT; PETITION FOR
15 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
16 petition for commitment to a treatment facility may be filed in court.
17 The petition must be signed by two mental health professionals who have
18 examined the respondent, one of whom is a physician. The petition must

19 (1) allege that the respondent is mentally ill and as a
20 result is likely to cause harm to himself or others or is gravely dis-
21 abled;

22 (2) allege that the evaluation staff has considered but has
23 not found that there are any less restrictive alternatives available
24 that would adequately protect the respondent or others; or, if a less
25 restrictive involuntary form of treatment is sought, specify the treat-
26 ment and the basis for supporting it;

27 (3) allege with respect to a gravely disabled respondent
28 that there is reason to believe that the respondent's mental condition
29 could be improved by the course of treatment sought;

1 (4) allege that a specified treatment facility or less re-
2 strictive alternative at is appropriate to the respondent's condition
3 has agreed to accept the respondent;

4 (5) allege that the respondent has been advised of the need
5 for, but has not accepted, voluntary treatment, and request that the
6 court commit the respondent to the specified treatment facility or less
7 restrictive alternative for a period not to exceed 30 days;

8 (6) list the prospective witnesses who will testify in sup-
9 port of commitment or involuntary treatment;

10 (7) list the facts and specific behavior of the respondent
11 supporting the allegation in (1) of this subsection.

12 (b) A copy of the petition shall be served on the respondent, his
13 attorney, and his guardian, if any, before the 30-day commitment hear-
14 ing.

15 Sec. 47.30.735. 30-DAY COMMITMENT. (a) Upon receipt of a proper
16 petition for commitment, the court shall hold a hearing at the date and
17 time previously specified according to procedures set out in AS 47.30.-
18 715.

19 (b) The hearing shall be conducted in a physical setting least
20 likely to have a harmful effect on the mental or physical health of the
21 respondent, within practical limits. At the hearing, in addition to
22 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
23 the right

24 (1) to be present at the hearing; this right may be waived
25 only with the respondent's informed consent; if the respondent is in-
26 capable of giving informed consent, the respondent may be excluded from
27 the hearing only if the court, after hearing, finds that the incapacity
28 exists and that there is a substantial likelihood that the respondent's
29 presence at the hearing would be severely injurious to his mental or

1 physical health;

2 (2) to view and copy all petitions and reports in the court
3 file of his case;

4 (3) to have the hearing open or closed to the public as he
5 elects;

6 (4) to be proceeded against according to the rules of evi-
7 dence applicable to civil proceedings;

8 (5) to have an interpreter if he does not understand English;

9 (6) to present evidence on his behalf;

10 (7) to cross-examine witnesses who testify against him;

11 (8) to remain silent.

12 (c) At the conclusion of the hearing the court may commit the re-
13 spondent to a treatment facility for not more than 30 days if it finds,
14 by clear and convincing evidence, that the respondent is mentally ill
15 and as a result is likely to cause harm to himself or others or is
16 gravely disabled.

17 (d) If the court finds that there is a viable less restrictive
18 alternative available and that the respondent has been advised of and
19 refused voluntary treatment through the alternative, the court may
20 order the less restrictive alternative treatment for not more than 30
21 days if the program accepts the respondent.

22 (e) The court shall specifically state to the respondent, and
23 give him written notice, that if commitment or other involuntary treat-
24 ment beyond the 30 days is to be sought, the respondent shall have the
25 right to a full hearing or jury trial.

26 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY
27 COMMITMENT. (a) At any time during the respondent's 30-day commitment,
28 the professional person in charge, or his professional designee, may
29 file with the court a petition for 90-day commitment of that respondent.

1 The petition must include all material required under AS 47.30.730(a)
2 except that references to "30 days" shall be read as "90 days"; and

3 (1) allege that the respondent has attempted to inflict or
4 has inflicted serious bodily harm upon himself or another since his
5 acceptance for evaluation, or that he was committed initially as a
6 result of conduct in which he attempted or inflicted serious bodily
7 harm upon himself or another, or that he continues to be gravely dis-
8 abled, or that he demonstrates a current intent to carry out plans of
9 serious harm to himself or another;

10 (2) allege that the respondent has received appropriate and
11 adequate care and treatment during his 30-day commitment;

12 (3) be verified by the professional person in charge, or his
13 professional designee, during the 30-day commitment.

14 (b) The court shall have copies of the petition for 90-day commit-
15 ment served upon the respondent, his attorney, and his guardian, if
16 any. The petition for 90-day commitment and proofs of service shall be
17 filed with the clerk of the court, and a date for hearing shall be set,
18 by the end of the next judicial day, for not later than five judicial
19 days from the date of filing of the petition. The clerk shall notify
20 the respondent, his attorney, and the petitioner of the hearing date at
21 least three judicial days in advance of the hearing.

22 (c) Findings of fact relating to the respondent's behavior made
23 at a 30-day commitment hearing under AS 47.30.735 shall be admitted as
24 evidence and may not be rebutted except that newly discovered evidence
25 may be used for the purpose of rebutting the findings.

26 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
27 dent subject to a petition for 90-day commitment has, in addition to
28 the rights specified elsewhere in this chapter, or otherwise applicable,
29 the rights enumerated in this section. Written notice of these rights

1 shall be served on the respondent, his attorney, his guardian, if any,
2 and may be served on an adult designated by the respondent at the time
3 the petition for 90-day commitment is served. An attempt shall be made
4 by oral explanation to insure that the respondent understands the
5 rights enumerated in the notice. If the respondent does not understand
6 English, the explanation shall be given in a language he understands.

7 (b) Unless the respondent is released or voluntarily admits him-
8 self following the filing of a petition and before the hearing, he is
9 entitled to a judicial hearing within five judicial days of the filing
10 of the petition as set out in AS 47.30.740(b) to determine if he is
11 mentally ill and as a result is likely to cause harm to himself or
12 others, or if he is gravely disabled. If the respondent voluntarily
13 admits himself following the filing of the petition, the voluntary
14 admission constitutes a waiver of any hearing rights under AS 47.30.740
15 or under AS 47.30.685. If at any time during the respondent's voluntary
16 admission under this subsection, the respondent submits to the facility
17 a written notice of intent to leave, the professional person in charge
18 may file with the court a petition for 120-day commitment of the respon-
19 dent under AS 47.30.770. The 120-day commitment hearing shall be
20 scheduled for a date not earlier than 90 days after the respondent's
21 voluntary admission.

22 (c) The respondent is entitled to a jury trial upon request filed
23 with the court if the request is made at least two judicial days before
24 the hearing. If the respondent requests a jury trial, the hearing may
25 be continued for no more than 10 calendar days. The jury shall consist
26 of six persons.

27 (d) If a jury trial is not requested, the court may still con-
28 tinue the hearing at the respondent's request for no more than 10
29 calendar days.

1 (e) The respondent has a right to retain an independent licensed
2 physician or other mental health professional to examine him and to
3 testify on his behalf. Upon request by an indigent respondent, the
4 court shall appoint an independent licensed physician or other mental
5 health professional to examine him and testify on his behalf. The
6 court shall consider an indigent respondent's request for a specific
7 physician or mental health professional. A motion for the appointment
8 may be filed in court at any reasonable time before the hearing and
9 shall be acted upon promptly. Reasonable fees and expenses for expert
10 examiners shall be determined by the rules of court.

11 (f) The proceeding shall in all respects be in accord with con-
12 stitutional guarantees of due process and, except as otherwise specifi-
13 cally provided in AS 47.30.700 - 47.30.915, the rules of evidence and
14 procedure in civil proceedings.

15 (g) Until the court issues a final decision, the respondent shall
16 continue to be treated at the treatment facility unless the petition
17 for 90-day commitment is withdrawn. If no decision has been made
18 within 20 days of filing of the petition, not including extensions of
19 time due to jury trial or other requests by the respondent, he shall be
20 released.

21 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-
22 ducted in the same manner, and with the same rights for the respondent,
23 as set out in AS 47.30.735(b).

24 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within
25 the time limit specified in AS 47.30.745, the court may commit the
26 respondent to a treatment facility for no more than 90 days if the
27 court or jury finds by clear and convincing evidence that the respondent
28 is mentally ill and as a result is likely to cause harm to himself or
29 others, or is gravely disabled.

1 (b) If the court finds that there is a less restrictive alterna-
2 tive available and that the respondent has been advised of and refused
3 voluntary treatment through the alternative, the court may order the
4 less restrictive alternative treatment after acceptance by the program
5 of the respondent for a period not to exceed 90 days.

6 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall
7 always be available at a state-operated hospital; however, if space is
8 available and upon acceptance by another treatment facility, a respon-
9 dent who is committed by the court shall be placed by the department at
10 the designated treatment facility closest to his home unless the court
11 finds that

12 (1) another treatment facility in the state has a program
13 more suited to the respondent's condition, and this interest outweighs
14 the desirability of the respondent being closer to home;

15 (2) another treatment facility in the state is closer to the
16 respondent's friends or relatives who could benefit him through their
17 visits and communications; or

18 (3) the respondent wants to be further removed from his
19 home, and the mental health professionals who sought his commitment
20 concur in the desirability of removed placement.

21 Sec. 47.30.765. APPEAL. The respondent has the right to an
22 appeal from any order of involuntary commitment. The court shall
23 inform the respondent of this right.

24 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent
25 shall be released from involuntary treatment at the expiration of 90
26 days unless the professional person in charge files a petition for a
27 120-day commitment conforming to the requirements of AS 47.30.740(a)
28 except that all references to "30-day commitment" shall be read as "the
29 previous 90-day commitment" and all references to "90-day commitment"

1 shall be read as "120-day commitment".

2 (b) The procedures for service of the petition, notification of
3 rights and judicial hearing shall be as set out in AS 47.30.740 -
4 47.30.750. If the court or jury finds by clear and convincing evidence
5 that the grounds for 90-day commitment as set out in AS 47.30.755 are
6 present, the court may order the respondent committed for an additional
7 treatment period not to exceed 120 days from the date on which the
8 first 90-day treatment period would have expired.

9 (c) Successive 120-day commitments are permissible on the same
10 ground and under the same procedures as the original 120-day commitment.
11 No order of commitment may exceed 120 days.

12 (d) Findings of fact relating to the respondent's behavior made
13 at a 30-day commitment hearing under AS 47.30.735, a 90-day commitment
14 hearing under AS 47.30.750, or a previous 120-day commitment hearing
15 under this section shall be admitted as evidence and may not be rebutted
16 except that newly discovered evidence may be used for the purpose of
17 rebutting the findings.

18 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-
19 30.700 - 47.30.815 apply to minors. However, all notices required to
20 be served on the respondent in AS 47.30.700 - 47.30.815 shall also be
21 served on the parent or guardian of a respondent who is a minor, and
22 parents or guardians of a minor respondent shall be notified that they
23 may appear as parties in any commitment proceeding concerning the minor
24 and that as parties they are entitled to retain their own attorney or
25 have one appointed for them by the court. A minor respondent has the
26 same rights to waiver and informed consent as an adult respondent under
27 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel
28 in waiver and consent proceedings.

29 Sec. 47.30.780. EARLY DISCHARGE. The professional person in

1 charge shall at any time discharge a respondent on the ground that the
2 respondent is no longer gravely disabled or likely to cause serious
3 harm as a result of mental illness. A certificate to this effect shall
4 be sent to the court which shall enter an order officially terminating
5 the involuntary commitment.

6 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing
7 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-
8 815 may be authorized to be absent from the treatment facility during
9 times specified by the professional person in charge, or his profes-
10 sional designee, when an authorization to be absent is in the best
11 interests of the respondent and he is not likely to cause harm to
12 himself or others.

13 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
14 spondent undergoing involuntary treatment on an inpatient basis is
15 absent from the treatment facility without, or in excess of, authoriza-
16 tion under AS 47.30.785, the professional person in charge, or his
17 professional designee, may cause the respondent to be taken into custody
18 and returned to the treatment facility.

19 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.
20 (a) A respondent who was originally committed to involuntary inpatient
21 care under AS 47.30.700 - 47.30.915 may be released before the expira-
22 tion of his commitment period if a provider of outpatient care accepts
23 him for specified outpatient treatment for a period of time not to
24 exceed the duration of his commitment, and if the professional person
25 in charge, or his professional designee, finds that

26 (1) it is not necessary to treat the respondent as an in-
27 patient to prevent him from harming himself or others; and

28 (2) there is reason to believe that the respondent's mental
29 condition would improve as a result of the outpatient treatment.

1 (b) A copy of the conditions for early release shall be given to
2 the respondent, his attorney, his guardian, if any, the provider of
3 outpatient care, and the court.

4 (c) If during the commitment period the provider of outpatient
5 care determines that the respondent can no longer be treated on an
6 outpatient basis because he is likely to cause harm to himself or
7 others or is gravely disabled, the provider shall give the respondent
8 oral and written notice that he must return to the treatment facility
9 within 24 hours, with copies to the respondent's attorney, his guardian,
10 if any, the court and inpatient treatment facility. If the respondent
11 fails to arrive at the treatment facility within 24 hours after receiv-
12 ing the notice, the professional person in charge shall cause him to be
13 taken into custody and transported to the facility. If requested, a
14 peace officer shall assist the provider of outpatient care or the
15 facility.

16 (d) If the provider of outpatient care determines that the respon-
17 dent will require continued outpatient care after the expiration of his
18 commitment period, the provider may initiate further commitment proceed-
19 ings as if he were the professional person in charge, and the provisions
20 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to
21 inpatient treatment shall be read as applicable to outpatient treatment.

22 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO
23 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
24 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient
25 treatment may be required to undergo inpatient treatment when the pro-
26 vider of outpatient care finds that (1) the respondent is mentally ill
27 and is likely to cause serious harm to himself or others or is still
28 gravely disabled; (2) the respondent's behavior since the hearing re-
29 sulting in court-ordered treatment indicates that he now needs inpatient

1 treatment to protect himself or others; (3) there is reason to believe
2 that the respondent's mental condition will improve as a result of
3 inpatient treatment; and (4) there is an inpatient facility appropriate
4 to the respondent's need which will accept him as a patient. Treatment
5 for these respondents shall be available at state-operated hospitals at
6 all times.

7 (b) Upon making the findings specified in (a) of this section,
8 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745
9 relating to hearing apply.

10 Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-
11 vided in (b) of this section,

12 (1) computations of a 72-hour evaluation period do not in-
13 clude Saturdays, Sundays, legal holidays, or any period of time neces-
14 sary to transport the respondent to the treatment facility;

15 (2) a 30-day commitment period expires at the end of the
16 30th day after the 72 hours following initial acceptance;

17 (3) a 90-day commitment period expires at the end of the
18 90th day after the expiration of a 30-day period of treatment;

19 (4) a 120-day commitment period expires at the end of the
20 120th day, after the expiration of a 90-day period of treatment or
21 previous 120-day period, whichever is applicable.

22 (b) When a respondent has failed to appear or absented himself
23 contrary to any order properly made or entered under AS 47.30.655 -
24 47.30.915, the relevant commitment period shall be extended for a
25 period of time equal to the respondent's absence if written notice of
26 absence is promptly provided to the respondent's attorney and his
27 guardian, if there is one, and if, within 24 hours after the respondent
28 has returned to the evaluation or treatment facility, written notice of
29 the corresponding extension and the reason for it is given to the

1 respondent, his attorney, his guardian, if any, and to the court.

2 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-
3 915 may be construed as limiting a person's right to a writ of habeas
4 corpus.

5 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
6 CATION. (a) A person acting in good faith upon either actual knowledge
7 or reliable information who makes application for evaluation or treat-
8 ment of another person under AS 47.30.700 - 47.30.915 is not subject to
9 civil or criminal liability.

10 (b) The following persons may not be held civilly or criminally
11 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
12 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
13 of the period for which the person was admitted or committed for evalua-
14 tion or treatment if the persons have performed their duties in good
15 faith and without gross negligence:

16 (1) an officer of a public or private agency;

17 (2) the superintendent, the professional person in charge,
18 the professional designee of the professional person in charge, and the
19 attending staff of a public or private agency;

20 (3) a public official performing functions necessary to the
21 administration of AS 47.30.700 - 47.30.915;

22 (4) a peace officer responsible for detaining a person under
23 AS 47.30.700 - 47.30.915.

24 (c) A person who wilfully initiates an involuntary commitment
25 procedure under AS 47.30.700 without having good cause to believe that
26 the other person is suffering from a mental illness and as a result is
27 gravely disabled or likely to cause serious harm to himself or others,
28 is guilty of a felony.

29 ARTICLE 9. PATIENT RIGHTS.

1 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are
2 receiving services under AS 47.30.655 - 47.30.915 have the following
3 rights:

4 (1) The patient, or his counsel, guardian, or the adult
5 designated in accordance with AS 47.30.725 if the patient is mentally
6 incapable of participation, shall be entitled to participate in form-
7 ulating his individualized treatment plan and in the evaluation process
8 as much as possible, at minimum to the extent of requesting specific
9 forms of therapy, inquiring why specific therapies are or are not in-
10 cluded in his treatment program, and being informed as to his present
11 medical and psychological condition and prognosis. The treating phy-
12 sician may not withhold any of this information from the patient.

13 (2) Every patient has the right to know the name of medica-
14 tion that he is asked to take, what its purpose is, and what side
15 effects may occur with this medication. If the patient is incapable of
16 understanding the purpose and side effects of the medication, the
17 treating physician or mental health professional shall explain it to
18 the patient's counsel or guardian, or if there is no guardian the adult
19 designated in accordance with AS 47.30.725.

20 (3) A locked quiet room, or other form of physical restraint,
21 may not be used, except as provided in this paragraph unless a patient
22 is likely to physically harm himself or others unless restrained. The
23 form of restraint used shall be that which is in the patient's best
24 interest and which constitutes the least restrictive alternative avail-
25 able. When practicable, the patient shall be consulted as to his pre-
26 ference among forms of adequate, medically advisable restraints in-
27 cluding medication, and his preference shall be considered. Nothing in
28 this section is intended to limit the right of staff to use a quiet
29 room at the patient's request or with his knowing concurrence when

1 considered in the best interests of the patient. Patients placed in a
2 quiet room or other physical restraint shall be checked at least
3 every 15 minutes or more often if good medical practice so indicates.
4 Patients in a quiet room must be visited by a staff member at least
5 once every hour and must be given adequate food and drink and access to
6 bathroom facilities. At no time may a patient be kept in a quiet room
7 or other form of physical restraint against his will longer than neces-
8 sary to accomplish the purposes set out in this paragraph. All uses of
9 a quiet room or other restraint shall be recorded in the patient's
10 medical record, the information including but not limited to the reasons
11 for its use, the duration of use, and the name of the authorizing staff
12 member.

13 (5) All persons have the right to be free from unnecessary
14 or excessive medication. Psychotropic medication shall be administered
15 only on the order of a licensed physician when the physician determines
16 that such medication is in the best interest of the patient or will
17 prevent serious harm to others.

18 (6) A patient capable of giving informed consent has the
19 absolute right to accept or refuse electro-convulsive therapy or aver-
20 sive conditioning. Patients who lack substantial capacity to make this
21 decision may not be given such therapy or conditioning without a court
22 order.

23 (7) In no event may treatment include psychosurgery, lobotomy
24 or other comparable form of treatment without specific informed consent
25 of the patient, including a minor unless he is clearly too young or
26 disabled to give an informed consent in which case the consent of his
27 legal guardian shall be required. In addition, no such treatment may
28 be given without a court order after hearing compatible with full due
29 process.

1 (8) When, in the written opinion of a patient's attending
2 physician, a true medical emergency exists and a surgical operation is
3 necessary to save the life, physical health, eyesight, hearing or
4 member of the patient, the professional person in charge, or his profes-
5 sional designee, may give consent to the surgical operation if time
6 will not permit obtaining the consent of the proper relatives or
7 guardian or appropriate judicial authority. However, no operation may
8 be authorized if the patient is not a minor and knowingly withholds
9 consent on religious grounds.

10 (9) Each patient upon discharge shall be given a discharge
11 plan specifying the kinds and amount of care and treatment he should
12 have after discharge and such other steps as he might take to benefit
13 his mental health after leaving the facility. The patient shall have
14 the right to participate, as far as practicable, in formulating his
15 discharge plan. A copy of the plan shall be given to the patient, his
16 guardian, the court, if appropriate, and any follow-up agencies.

17 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)
18 Experimental treatments involving any significant risk of physical or
19 psychological harm may not be administered to a patient.

20 (b) If the personnel of an evaluation or treatment facility are
21 uncertain as to whether a proposed treatment is experimental or is
22 experimental as applied to a particular patient or would involve a
23 significant risk of mental or physical harm to the patient, the matter
24 may be referred to the commissioner of health and social services for a
25 determination. The patient, his attorney, his guardian, if any, and an
26 adult designated by the patient, shall, simultaneously with the referral
27 to the commissioner, be provided with copies of all the documents by
28 which the referral is made and shall have the opportunity to provide
29 evidence to the commissioner on the question.

1 (c) A determination by the commissioner that a treatment is
2 experimental and entails significant risks of mental or physical harm
3 is binding upon all persons involved in the administration of treatment
4 to a patient.

5 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. (a) A person may not
6 deny to a person who is undergoing evaluation or treatment under AS 47.-
7 30.655 - 47.30.915 a civil right, including but not limited to, the
8 right to free exercise of religion and the right to dispose of property,
9 sue and be sued, enter into contractual relationships and vote. A
10 person who violates this subsection commits the crime of interference
11 with constitutional rights under AS 11.76.110.

12 (b) Court-ordered evaluation or treatment under AS 47.30.655 -
13 47.30.915 is not a determination of legal incapacity under AS 13.26.

14 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
15 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915
16 shall

17 (1) not be photographed without his consent and that of his
18 guardian if a minor, except that he may be photographed upon admission
19 to a facility for identification and for administrative purposes of the
20 facility; all photographs shall be confidential and may not be released
21 by the facility except under court order;

22 (2) at the time of admission to an evaluation or treatment
23 facility, have reasonable precautions taken by the staff to inventory
24 and safeguard his personal property; a copy of the inventory signed by
25 the staff member making it shall be given to the patient and made
26 available to his attorney and any other person authorized by the patient
27 to inspect the document;

28 (3) have access to an individual storage space for his
29 private use while undergoing evaluation or treatment;

1 (4) be permitted to wear his own clothing, to keep and use
2 his own personal possessions including his toilet articles if they are
3 not considered unsafe for him or other patients who might have access
4 to them, and to keep and be allowed to spend a reasonable sum of his
5 own money for his own needs and comfort;

6 (5) be allowed to have visitors at reasonable times;

7 (6) have ready access to letter writing materials, including
8 stamps, and have the right to send and receive unopened mail;

9 (7) have reasonable access to a telephone, both to make and
10 receive confidential calls.

11 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
12 obtained in the course of evaluation, examination or treatment are
13 confidential and are not public records, except as the requirements of
14 a hearing under AS 47.30.655 - 47.30.915 may necessitate a different
15 procedure. Information and records may be copied and disclosed under
16 regulations established by the department only to

17 (1) physicians and providers of health, mental health or
18 social and welfare services involved in caring for, treating or rehabil-
19 itating the patient;

20 (2) individuals to whom the patient has given written consent
21 to have information disclosed;

22 (3) persons authorized by a court order;

23 (4) persons doing research or maintaining health statistics,
24 if the anonymity of the patient is assured, and the facility recognizes
25 the project as a bona fide research or statistical undertaking;

26 (5) the division of corrections in a case in which a prisoner
27 confined to the state prison is a patient in the state hospital on
28 authorized transfer either by voluntary admission or by court order;

29 (6) governmental or law enforcement agencies when necessary

1 to secure the return of a patient who is on unauthorized absence from a
2 facility where the patient was undergoing evaluation or treatment.

3 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
4 of a respondent from a treatment facility or the issuance of a court
5 order denying a petition for commitment, the respondent may at any time
6 move to have all court records pertaining to the proceedings expunged
7 on condition that he file a full release of all claims of whatever
8 nature arising out of the proceedings and the statements and actions of
9 persons and facilities in connection with the proceedings.

10 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-
11 30.825 - 47.30.855 shall be prominently posted in all treatment facili-
12 ties in places accessible to all patients. A patient who does not
13 understand English shall have his rights explained to him in a language
14 he understands.

15 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where
16 practicable all documents and notices required by AS 47.30.655 - 47.30.-
17 915 to be served on a respondent, or on his parents, guardian or adult
18 designee, shall be explained in a language the person understands if he
19 is not competent in English.

20 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a
21 person is or has been evaluated or treated for mental illness may not
22 be a basis for discrimination in

- 23 (1) seeking employment;
- 24 (2) resuming or continuing professional practice or previous
25 occupation;
- 26 (3) obtaining or retaining housing;
- 27 (4) obtaining or retaining licenses or permits, including
28 but not limited to motor vehicle licenses, motor vehicle operator's and
29 chauffeur's licenses, and professional or occupational licenses.

1 (b) Applications for positions, licenses, and housing may not
2 contain requests for information concerning evaluation or treatment
3 experiences.

4 (c) It is unlawful for a person to aid, abet, incite, compel or
5 coerce the doing of an act forbidden under this section or to attempt
6 to do so.

7 ARTICLE 10. MISCELLANEOUS PROVISIONS.

8 Sec. 47.30.870. TRANSPORTATION. When a person is to be involun-
9 tarily committed to a facility, the department shall arrange, and is
10 authorized to pay for, the person's necessary transportation to the
11 designated facility accompanied by appropriate persons and if necessary
12 by a peace officer. The department shall pay return transportation of
13 a person, his escorts, and if necessary a peace officer, after a deter-
14 mination that the person is not committable, at the end of a commitment
15 period, or at the end of a voluntary stay at a treatment facility
16 following an evaluation conducted in accordance with AS 47.30.715.
17 When advisable, one or more relatives or friends shall be permitted to
18 accompany the person. The department may pay necessary travel, housing
19 and meal expenses incurred by one relative or friend in accompanying
20 the person if the department determines that the person's best interests
21 require that he be accompanied by the relative or friend and the rela-
22 tive or friend is indigent.

23 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers
24 of a person who is admitted to a treatment facility under AS 47.30.655 -
25 47.30.915 shall include a statement as to his residence. The department
26 may return a patient who is not a resident of the state to the state of
27 his residence with court approval if the person has been committed. If
28 the state in which he has residence does not accept him as a patient,
29 the person shall be treated as a resident of this state under the pro-

1 visions of AS 47.30.655 - 47.30.915.

2 (b) To facilitate the return of nonresident patients the depart-
3 ment may enter a reciprocal agreement or compact with another state
4 providing for the prompt return under appropriate supervision of resi-
5 dents of that state who are mentally ill. Mentally ill residents of
6 this state who have been placed in a facility outside this state may be
7 admitted with the approval of the department to a treatment facility in
8 the state designated by the department. The department may enter into
9 reciprocal agreements or contracts with another state providing for
10 custody, care or treatment, or return of mentally ill residents of this
11 state by the other state and for the custody and care or treatment of
12 mentally ill residents of that state by this state on a reimbursable
13 basis. A resident of this state who has been committed in another
14 state and is returned in accordance with this section shall, within 72
15 hours of his admission to the designated facility, be examined. After
16 examination the mental health professional in charge shall release him
17 or shall petition for involuntary commitment as prescribed in AS 47.30.-
18 740.

19 (c) In taking action under (a) and (b) of this section, consider-
20 ation shall be given to the best interests of the patient particularly
21 to the relationship of the patient to his family, legal guardian, or
22 friends to maintain relationships and encourage visits beneficial to
23 the patient.

24 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -
25 47.30.915 alters or impairs the application or availability to a pa-
26 tient, while hospitalized in another state under contractual arrange-
27 ments entered in accordance with AS 47.30.655 - 47.30.915, of the
28 rights, remedies or safeguards provided by the laws of this state.

29 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The

1 department shall insure that

2 (1) no patient is discharged from a treatment facility with-
3 out suitable clothing; and

4 (2) a discharged indigent patient is furnished

5 (A) suitable transportation to his permanent residence
6 in this state or to another suitable place at the discretion of
7 the department; and

8 (B) a reasonable amount of money to meet his immediate
9 needs.

10 Sec. 47.30.895. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
11 FUNDS. (a) Assets in the custody of a treatment facility which belong
12 to a patient who dies before discharge, or to a patient who leaves the
13 hospital without authority, if unclaimed by the patient or his legal
14 heirs or representatives within one year after the death or departure
15 of the patient, shall be disposed of in the manner prescribed by the
16 department and the proceeds shall be deposited in the state treasury.

17 (b) If a mentally ill individual has died in a foreign facility
18 and the department desires to recover the patient's personal property
19 under this section, the commissioner of health and social services or
20 his designated representative may secure the property and for that pur-
21 pose only is designated the decedent's administrator. Property so
22 recovered shall be disposed of as provided by law.

23 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-
24 partment shall make diligent inquiry in every instance after departure
25 without authority or death of a patient, to ascertain the whereabouts
26 of the patient or that of his legal heirs or representatives, and shall
27 turn over to the proper person the money or articles of personal prop-
28 erty in the custody of the facility to the credit of the patient.
29 Claims to the money or articles of personal property, including claims

1 by this state, may be presented to the department at any time. If a
2 claim other than by this state is established by clear and convincing
3 evidence more than one year after the death or departure without
4 authority of a patient, it shall be certified to the legislature for
5 consideration and the legislature may pay the claim.

6 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
7 The witnesses, expert witnesses, and the jury in commitment proceedings
8 under AS 47.30.655 - 47.30.915 are entitled to the fees, compensation,
9 and mileage established by the administrative rules of court for other
10 jurors and witnesses. Compensation, mileage, fees, transportation
11 expenses for a respondent, and other expenses arising from evaluation
12 and commitment proceedings shall be audited and allowed by the superior
13 court of the judicial district in which the proceedings are held. To
14 the extent that services of a peace officer are used to carry out the
15 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and
16 actual expenses from the same source and in the same manner as for his
17 other official duties.

18 (b) An attorney appointed for a person under AS 47.30.655 - 47.-
19 30.915 shall be compensated for his services as follows:

20 (1) the person for whom an attorney is appointed shall, if
21 he is financially able under standards as to financial capability and
22 indigency set by the court, pay the costs of the legal services;

23 (2) if the person is indigent under those standards, the
24 costs of the services shall be paid by the state.

25 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
26 FACILITY. (a) A patient, or his legal representative acting in a
27 representative capacity, or his spouse, or his parents if the patient
28 is under the age of 18, shall pay or contribute to the payment of the
29 charges for the care, transportation, and treatment of the patient when

1 hospitalized under AS 47.30.655 - 47.30.915. Charges assessed after an
2 order for commitment for treatment is issued and charges assessed when
3 a patient is hospitalized at a facility operated by the department, or
4 under a contract for services with the department, may not exceed the
5 actual cost of the care and treatment. The department may order payment
6 by the patient or by the person responsible for payment for the
7 patient's care and treatment under this subsection, according to ability
8 to provide for payment. The department may make necessary investiga-
9 tions to determine the ability to pay and may require sworn statements
10 of income by the patient, or his legal representative acting in a
11 representative capacity, or his spouse or parent. In the exercise of
12 his discretion, the commissioner may impose full liability for the
13 patient's actual cost of care and treatment on the patient, his legal
14 representative, his spouse or parent for refusal to supply a sworn
15 statement of income. An order for payment shall be issued by the de-
16 partment within six months after the date on which the charge was in-
17 curred. The order shall remain in full force and effect unless modified
18 by subsequent court or department order. Liability under this subsec-
19 tion shall be determined as follows: a patient hospitalized under
20 AS 47.30.655 - 47.30.915, or the person responsible for payment of
21 charges for the patient, may be required to pay according to his ability
22 to provide for payment, and in the manner and proportion which the
23 department finds is not detrimental to the patient's rehabilitation.
24 The department shall, at any time that it determines the action will
25 serve the best interests of the state and the patient or the person
26 responsible for payment, relieve the patient or the person responsible
27 for payment from liability for charges for the care, transportation,
28 and treatment of the patient.

29 (b) As used in (a) of this section, the term "actual cost of the

1 care and treatment" means either the rate provided for by a contract
2 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a
3 contract, a daily rate approved by the department.

4 (c) The department may charge, or accept from a person money or
5 property, for the care or treatment of an inpatient or outpatient or
6 for other purposes, even if the payment is not required by an order of
7 the department, so long as the total payments received do not exceed
8 the actual cost of care or treatment.

9 (d) All money paid by the patient or on his behalf, to the depart-
10 ment under this section, shall be deposited in the state treasury.

11 (e) If an order for payment is entered by the department under
12 this section, and delinquency in the payment of any amount due the
13 state under the order continues for a period of more than 30 days after
14 the notification to the patient or the legal representative, spouse, or
15 parent of the patient by the department, the state may proceed to col-
16 lect the amounts due by appropriate proceedings. Actions to enforce
17 the collection of payments may only be brought within three years after
18 the date of notification of a delinquent payment.

19 (f) The orders of the department issued under this section may
20 relate only to charges incurred after October 1, 1981.

21 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

22 (1) "commissioner" means the commissioner of health and
23 social services;

24 (2) "court" means a superior court of the state;

25 (3) "department" means the Department of Health and Social
26 Services;

27 (4) "designated treatment facility" means a hospital, clinic,
28 institution, center or other health care facility which has been desig-
29 nated by the department for the treatment or rehabilitation of mentally

1 ill persons and for the receipt of these persons by court-ordered
2 commitment, but does not include correctional institutions;

3 (5) "evaluation facility" means a health care facility that
4 has been designated or is operated by the department to perform the
5 evaluations described in AS 47.30.655 - 47.30.915; or a medical facility
6 licensed under AS 18.20.020;

7 (6) "evaluation personnel" means mental health professionals
8 designated by the department to conduct evaluations as prescribed in
9 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no
10 staffed evaluation facility exists;

11 (7) "gravely disabled" means a condition in which a person,
12 as a result of mental illness, is in danger of physical harm arising
13 from such complete neglect of basic needs for food, clothing, shelter,
14 or personal safety as to render serious accident, illness or death
15 highly probable if care by another is not taken;

16 (8) "inpatient treatment" means care and treatment rendered
17 inside or on the premises of a treatment facility, or a part or unit of
18 a treatment facility for a continual period of 24 hours or longer;

19 (9) "least restrictive alternative" means mental health
20 treatment facilities and conditions of treatment which are

21 (A) no more harsh, hazardous or intrusive than necessary
22 to achieve the treatment objectives of the patient; and

23 (B) involve no restrictions on physical movement nor
24 supervised residence or inpatient care except as reasonably neces-
25 sary for the administration of treatment or the protection of the
26 patient or others from physical injury;

27 (10) "likely to cause serious harm" means a person who

28 (A) poses a substantial risk of imminent and substantial
29 bodily harm to himself, as manifested by recent attempts at suicide

1 or bodily harm;

2 (B) poses a substantial risk of imminent and substantial
3 bodily harm to one or more other persons as manifested by behavior
4 causing, or attempting harm, including, in regard to evaluations,
5 at least one incident within 30 days before the filing of a petition
6 for emergency hospitalization; or

7 (C) demonstrates a current intent to carry out plans of
8 serious harm to himself or another;

9 (11) "mental health professional" means a psychiatrist or
10 physician who is licensed to practice in this state or employed by the
11 federal government; a clinical psychologist licensed by the state Board
12 of Psychologists and Psychological Associate Examiners; a psychological
13 associate with a clinical psychology or counseling specialty licensed
14 by the Board of Psychologists and Psychological Associate Examiners; a
15 registered nurse with a master's degree in psychiatric nursing, licensed
16 by the State Board of Nursing; and a social worker with a master's
17 degree in social work and experience in the field of mental illness;

18 (12) "mental illness" means an organic, mental or emotional
19 impairment which has substantial adverse effects on an individual's
20 ability to exercise conscious control of his actions or ability to
21 perceive reality or to reason or understand; mental retardation, epi-
22 lepsy, drug addiction and alcoholism do not per se constitute mental
23 illness, although persons suffering from these conditions may also be
24 suffering from mental illness;

25 (13) "peace officer" includes a state police officer, muni-
26 cipal or other local police officer, state, municipal, or other local
27 health officer, public health nurse, United States marshal or deputy
28 United States marshal, or a person authorized by the court;

29 (14) "provider of outpatient care" means a mental health pro-

1 fessional or hospital, clinic, institution, center or other health care
2 facility who has been designated by the department to accept for treat-
3 ment patients who are ordered to undergo involuntary outpatient treat-
4 ment by the court or who are released early from inpatient commitments
5 on condition that they undergo outpatient treatment;

6 (15) "screening investigation" means the investigation and
7 review of facts which have been alleged to warrant emergency exam-
8 ination or treatment, including interviews with the persons making such
9 allegations, any other significant witnesses who can readily be con-
10 tacted for interviews, and, if possible, the respondent;

11 (16) "state" means a state of the United States, the District
12 of Columbia, the territories and possessions of the United States, and
13 the Commonwealth of Puerto Rico, and, with the approval of the United
14 States Congress, Canada;

15 (17) "professional person in charge" means the senior mental
16 health professional at a facility or his designee; in the absence of a
17 mental health professional it means the chief of staff or other senior
18 physician.

19 * Sec. 2. AS 12.45.087(a) is amended to read:

20 (a) If a defendant has filed a notice of intention to rely on the
21 defense of mental disease or defect excluding responsibility, or there
22 is reason to doubt his fitness to proceed, or there is reason to believe
23 that mental disease or defect of the defendant will otherwise become an
24 issue in the cause, the court shall appoint at least one qualified
25 psychiatrist, or a forensic psychologist certified by the American
26 Board of Forensic Psychology, or shall request the superintendent of
27 the Alaska Psychiatric Institute to designate at least one qualified
28 psychiatrist, which designation may be or include himself, to examine
29 and report upon the mental condition of the defendant. If the defen-

1 dant has filed notice under AS 12.45.090(a) the report shall consider
2 whether the defendant can still be committed under AS 12.45.090. The
3 court may order the defendant to be committed to a hospital or other
4 suitable facility for the purpose of the examination for not more than
5 60 days or such longer period as the court determines to be necessary
6 for the purpose and may direct that a qualified psychiatrist retained
7 by the defendant be permitted to witness and participate in the exam-
8 ination.

9 * Sec. 3. AS 12.45.090 is repealed and reenacted to read:

10 Sec. 12.45.090. PROCEDURE AFTER RAISING DEFENSE OF MENTAL DISEASE
11 OR DEFECT. (a) At the time the defendant files notice to raise the
12 affirmative defense of mental disease or defect as excluding responsi-
13 bility he shall also file notice as to whether if found not guilty by
14 reason of mental disease or defect as excluding responsibility he will
15 assert that he is not presently suffering from a mental disease or
16 defect that causes him to be dangerous to the public peace or safety.

17 (b) If the defendant is found not guilty by reason of mental
18 disease or defect as excluding responsibility and he has not filed the
19 notice required under (a) of this section, the court shall immediately
20 commit him to the custody of the commissioner of health and social
21 services.

22 (c) If the defendant is found not guilty by reason of mental
23 disease or defect as excluding responsibility, and he has filed the
24 notice required under (a) of this section, a hearing shall be held
25 immediately after the verdict is returned to determine the necessity of
26 further commitment. The hearing shall be held before the same trier of
27 fact as the underlying charge, but if a jury was the trier of fact, the
28 hearing shall be held before a jury of six drawn from the original jury
29 in accordance with rules adopted by the supreme court. At the hearing,

1 the defendant has the burden of proving by a preponderance of the
2 evidence that he is not presently suffering from a mental disease or
3 defect that causes him to be dangerous to the public. If the court or
4 jury determines that the defendant has failed to meet his burden of
5 proof, the court shall order the defendant committed to the custody of
6 the commissioner of health and social services.

7 (d) A defendant committed under (b) or (c) of this section shall
8 be held in custody for a period of time not to exceed the maximum term
9 of imprisonment for the crime for which the defendant was acquitted
10 under AS 12.45.083 or until the mental disease is cured or the defect
11 corrected as determined at a hearing under (e) of this section.

12 (e) A defendant committed under (b) or (c) of this position may
13 have the need for his continued hospitalization determined or redeter-
14 mined under a petition filed in the superior court at intervals begin-
15 ning no sooner than six months from his initial commitment and yearly
16 thereafter. The burden and standard of proof at a hearing under this
17 subsection is the same as at a hearing under (c) of this section except
18 that the defendant is not entitled to a jury unless he files a motion
19 for a jury no later than 15 days before the date set for the hearing.
20 A copy of all petitions for release shall be served on the attorney
21 general at Juneau, Alaska. A copy shall also be served upon the attor-
22 ney of record, if he is not the attorney general, who represented the
23 state or a municipality at the time the defendant was first committed.

24 (f) Continued commitment following expiration of the maximum term
25 of imprisonment for the crime for which the defendant was acquitted
26 under AS 12.45.083 is governed by the standards pertaining to civil
27 commitments as set out in AS 47.30.735.

28 (g) A person committed under this section may not be released
29 during the term of commitment except upon court order following a

1 hearing in accordance with (c) of this section. On the grounds that
2 the defendant has been cured of the mental disease or defect and is no
3 longer dangerous to public peace or safety the state may at any time
4 request the court to hold a hearing to decide if the defendant should
5 be released.

6 (h) The commissioner of health and social services or his author-
7 ized representative shall submit periodic written reports to the court
8 on the mental condition of a person committed under this section.

9 * Sec. 4. AS 12.45.110 is repealed and reenacted to read:

10 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When
11 the trial court determines by a preponderance of the evidence, in
12 accordance with AS 12.45.100, that a defendant is so mentally incompe-
13 tent that he is unable to understand the proceedings against him or
14 properly to assist in his own defense, the court shall order the pro-
15 ceedings against him stayed, except as provided in (d) of this section,
16 and may commit the defendant to the custody of the commissioner of
17 health and social services or his authorized representative for further
18 evaluation and treatment until the defendant is mentally competent to
19 stand trial, or until the pending charges against him are disposed of
20 according to law, but in no event longer than 90 days.

21 (b) On or before the expiration of the initial 90-day period of
22 commitment the court shall conduct a hearing to determine whether or
23 not the defendant remains incompetent. If the court finds by a pre-
24 ponderance of the evidence that the defendant remains incompetent, the
25 court may recommit the defendant for a second period of 90 days. The
26 court shall determine at the expiration of the second 90-day period
27 whether the defendant has become competent. If at the expiration of
28 the second 90-day period the court determines that the defendant con-
29 tinues to be incompetent to stand trial, the charges against him shall

1 be dismissed without prejudice and continued commitment of the defendant
2 shall be governed by the provisions relating to civil commitments under
3 AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime
4 involving force against a person and the court finds that the defendant
5 presents a substantial danger of physical injury to other persons and
6 that there is a substantial probability that the defendant will regain
7 competency within a reasonable period of time, in which case the court
8 may extend the period of commitment for an additional six months. If
9 the defendant remains incompetent at the expiration of the additional
10 six-month period, the charges shall be dismissed without prejudice and
11 either civil commitment proceedings shall be instituted or the court
12 shall order the release of the defendant. If the defendant remains
13 incompetent for five years after the charges have been dismissed under
14 this subsection, the defendant may not be charged again for an offense
15 arising out of the facts alleged in the original charges, except if the
16 original charge is murder.

17 (c) The defendant is not responsible for the expenses of hospital-
18 ization or transportation incurred as a result of his commitment under
19 this section. Liability for payment under AS 47.30.910 does not apply
20 to commitments under this section.

21 (d) A defendant receiving medication for either a physical or a
22 mental condition may not be prohibited from standing trial, if the
23 medication either enables him to understand the proceedings against him
24 and to properly assist in his own defense or does not disable him from
25 understanding the proceedings and assisting in his own defense.

26 * Sec. 5. AS 12.45.115 is amended to read:

27 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]
28 COMMITMENT. (a) When, in the medical judgment of the custodian of an
29 accused person committed under AS 12.45.110 [AS 12.45.110(a)], the

1 accused is considered to be mentally competent to stand trial, the
2 committing court shall hold a hearing, after due notice, as soon as
3 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At
4 the hearing, evidence as to the mental condition of the accused may be
5 submitted including reports by the custodian to whom the accused was
6 committed for care.

7 (b) If at the hearing the court determines that the accused is
8 presently mentally competent to understand the nature of the proceedings
9 against him and [OR] to assist in his own defense, appropriate criminal
10 proceedings may [SHALL] be commenced against the accused.

11 (c) If at the hearing the court determines that the accused is
12 still presently mentally incompetent, the court shall recommit the
13 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-
14 110(a)].

15 (d) A finding by the court that the accused is mentally competent
16 to stand trial in no way prejudices the accused in a defense based on
17 mental disease or defect excluding responsibility. This finding may
18 not be introduced in evidence on that issue or otherwise be brought to
19 the notice of the jury.

20 * Sec. 6. Except as provided in this Act, the provisions of AS 47.30.-
21 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair
22 any action taken in a proceeding pending under statutes in effect before
23 October 1, 1981, nor do they apply retroactively to terminate the detention
24 of a person previously committed under statutes in effect before October 1,
25 1981. However, 90 days after October 1, 1981, the provisions of this Act
26 apply to all persons committed under statutes in effect before October 1,
27 1981.

28 * Sec. 7. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are
29 repealed.

1 * Sec. 8. This Act takes effect October 1, 1981.

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Introduced: 1/19/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE SENATE

BY PARR, STIMSON AND FISCHER

2 SENATE BILL NO. 100

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mentally ill persons; and providing
7 for an effective date."

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

9 * Section 1. AS 47.30 is amended by adding new sections to read:

10 ARTICLE 6. MENTAL HEALTH PROGRAM.

11 Sec. 47.30.655. PURPOSE. The purpose of this major revision of
12 Alaska civil commitment statutes is to more adequately protect the legal
13 rights of persons suffering from mental illness. The legislature has
14 attempted to balance the individual's constitutional right to physical
15 liberty and the state's interest in (1) protecting society from persons
16 who are dangerous to others; and (2) protecting persons who are dan-
17 gerous to themselves, by providing due process safeguards at all stages
18 of commitment proceedings. In addition, the following principles of
19 modern mental health care have guided this revision:

20 (1) that persons be given every opportunity to accept volun-
21 tary treatment before involvement with the judicial system;

22 (2) that persons be treated in the least restrictive alter-
23 native environment consistent with their treatment needs;

24 (3) that treatment occur as promptly as possible and as close
25 to the individual's home as possible;

26 (4) that a system of mental health community facilities and
27 supports be available;

28 (5) that patients be informed of their legal rights and be
29 informed of and allowed to participate in their treatment program as

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to
3 others be committed only if there is a reasonable expectation of im-
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of
8 mental illness and the care and treatment of the mentally ill, including
9 inpatient and outpatient care and treatment and the procurement of
10 services of specialists or other persons on a contractual or other
11 basis;

12 (2) take the actions and undertake the obligations which are
13 necessary to participate in federal grants-in-aid programs and accept
14 federal or other financial aid from whatever sources for the study,
15 examination, care, and treatment of the mentally ill;

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities
18 equipped and qualified to provide inpatient and outpatient care and
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for
23 the care or treatment of the mentally ill in facilities of the govern-
24 mental agencies in the state or in another state;

25 (7) enter into contracts with treatment facilities for the
26 custody and care or treatment of the mentally ill;

27 (8) enter into contracts which incorporate safeguards consis-
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,
5 requests for release and consents to medical or psychological treatment
6 required by AS 47.30.655 - 47.30.915;

7 (10) require reports from the head of a treatment facility
8 concerning the care of patients;

9 (11) visit each treatment facility at least annually to review
10 methods of care or treatment for patients;

11 (12) investigate complaints made by a patient or an interested
12 party on behalf of a patient;

13 (13) delegate upon mutual agreement to another officer or
14 agency of it, or a political subdivision of this state, or a treatment
15 facility designated, any of the duties and powers imposed upon it by
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-
18 30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14
21 years of age or older may be voluntarily admitted to a treatment facil-
22 ity if he is suffering from mental illness and he voluntarily signs the
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon application for
25 voluntary admission a person shall be given a copy of the following
26 documents which shall be explained to him as necessary:

27 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
28 and an explanation of any document served upon him; and

29 (2) notice that should he desire to leave at a time when the

1 treatment facility determines that he is mentally ill and as a result is
2 likely to cause serious harm to himself or others or is gravely dis-
3 abled, the facility could initiate commitment proceedings against him.

4 (b) If the applicant for voluntary admission does not understand
5 English, the explanation shall be given in a language he understands.

6 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. The professional
7 person in charge of the treatment facility or his designee shall dis-
8 charge any patient who no longer meets the standards established in
9 AS 47.30.670.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT. A
11 voluntary patient who is 14 years of age or older and who desires to
12 leave a treatment facility must submit to the facility a written notice
13 of intent to leave on a form provided to him by the facility. Upon
14 immediate investigation, the professional person in charge of the treat-
15 ment facility or a designated mental health professional shall evaluate
16 the patient in writing and discharge the patient immediately or give him
17 written notice that involuntary commitment proceedings will be initiated
18 against him. The treatment facility may detain the patient for no more
19 than 48 hours after receipt of the patient's notice of intent to leave
20 in order to initiate involuntary commitment proceedings.

21 Sec. 47.30.690. VOLUNTARY ADMISSION OF MINORS UNDER 14 YEARS OF
22 AGE. (a) A minor under the age of 14 may be admitted for 30 days
23 evaluation, diagnosis and treatment at a designated treatment facility
24 if his parent or guardian signs the admission papers and if, in the
25 opinion of the professional person in charge of the facility,

26 (1) he is gravely disabled or is suffering from mental ill-
27 ness and as a result he is likely to cause serious harm to himself or
28 others;

29 (2) there is no less restrictive alternative available for

1 his treatment; and

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

4 (b) The minor may be released by the treatment facility at any
5 time during the 30-day period if the professional person in charge of
6 the facility or his designated mental health professional determines
7 the minor would no longer benefit from continued hospitalization and
8 the minor is not dangerous. The minor's parents or his guardian must
9 be notified by the facility of the contemplated release and that,
10 unless they initiate involuntary commitment proceedings, the minor will
11 be released.

12 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14
13 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT. The parent or
14 guardian of any minor who is less than 14 years of age may request and
15 obtain immediate release of the minor at any time.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult, a judge shall immediately conduct a
19 screening investigation or direct a local mental health professional
20 employed by the department or by a program which receives money from
21 the department under AS 47.30.520 - 47.30.620 to conduct a screening
22 investigation of the person alleged to be mentally ill and, as a result
23 of that condition, alleged to be gravely disabled or to present a
24 likelihood of serious harm to himself or others. Within 48 hours after
25 the completion of the screening investigation, a judge may issue an ex
26 parte order orally or in writing, stating that there is probable cause
27 to believe the respondent is mentally ill and that condition causes the
28 respondent to be gravely disabled or to present a likelihood of serious
29 harm to himself or others. The court shall provide findings on which

1 the conclusion is based, appoint an attorney to represent the respon-
2 dent, and may direct that a peace officer take the person into custody
3 and deliver him to the nearest designated appropriate facility for
4 emergency examination or treatment. The ex parte order shall be pro-
5 vided to the respondent and made a part of the respondent's clinical
6 record.

7 (b) The petition required in (a) of this section shall allege that
8 the respondent is reasonably believed to present a likelihood of serious
9 harm to himself or others or is gravely disabled as a result of mental
10 illness and shall specify the factual information on which that belief
11 is based including the names and addresses of all persons known to the
12 petitioner who have knowledge of those facts through personal observa-
13 tion.

14 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
15 officer who has probable cause to believe that a person is gravely
16 disabled or is suffering from mental illness and is likely to cause
17 serious harm to himself or others of such an immediate nature that con-
18 siderations of safety do not allow initiation of involuntary commitment
19 procedures set out in AS 47.30.700, may cause the person to be taken
20 into custody and delivered to a treatment or evaluation facility. Upon
21 arrival at the treatment facility, the peace officer shall complete an
22 application for examination of the person in custody and be interviewed
23 by a mental health professional at the facility.

24 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
25 under AS 47.30.700 or 47.30.705 for emergency examination and treatment
26 to a treatment facility shall be thoroughly examined and evaluated as to
27 his mental and physical condition by a mental health professional and by
28 a physician within 24 hours after arrival at the facility.

29 (b) If the mental health professional who performs the emergency

1 examination has reason to believe that the respondent is (1) mentally
2 ill and that condition causes the person to be gravely disabled or to
3 present a likelihood of serious harm to himself or others, and (2) is in
4 need of care or treatment, the mental health professional may hospi-
5 talize him on an emergency basis. If a judicial order has not been
6 obtained under AS 47.30.700, the mental health professional shall apply
7 for an ex parte order authorizing hospitalization for emergency treat-
8 ment.

9 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
10 proper order for evaluation, it must accept the order and the respondent
11 for an evaluation period not to exceed 72 hours. The facility shall
12 promptly notify the court of the date and time of the respondent's
13 arrival. The court shall set a date, time and place for a 14-day com-
14 mitment hearing, to be held if needed within 72 hours after the respon-
15 dent's arrival, and the court shall notify the facility, the respondent,
16 his attorney, and the prosecuting attorney of the hearing arrangements.
17 Evaluation personnel, where used, shall similarly notify the court of
18 the date and time when they first met with the respondent.

19 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
20 at any time in the course of the 72-hour period the mental health pro-
21 fessionals conducting the evaluation determine that the respondent does
22 not meet the standards for commitment specified in AS 47.30.700, the
23 respondent shall be discharged from the facility or the place of evalua-
24 tion by evaluation personnel and the petitioner and the court so noti-
25 fied.

26 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)
27 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
28 30.915, he shall be immediately notified orally and in writing of his
29 rights under this section. Notification shall be in a language under-

1 stood by the respondent. His guardian, if any, and if the respondent
2 requests, an adult designated by the respondent, shall also be notified
3 of the respondent's rights under this section.

4 (b) Unless a respondent is released or voluntarily admits himself
5 for treatment within 72 hours of his arrival at the facility or, if he
6 is evaluated by evaluation personnel, within 72 hours from the beginning
7 of his meeting with evaluation personnel, he is entitled to a court
8 hearing to be set for not later than the end of that 72-hour period to
9 determine whether there is cause to detain him after the 72 hours have
10 expired for up to an additional 14 days on the grounds that he is grave-
11 ly disabled or mentally ill and as a result presents a likelihood of
12 serious harm to himself or others. The facility or evaluation personnel
13 shall give notice to the court of the releases and voluntary admissions
14 under AS 47.30.700 - 47.30.820.

15 (c) The respondent has a right to communicate immediately, at the
16 department's expense, with his guardian, if any, or an adult designated
17 by the respondent and the attorney designated in the ex parte order, or
18 any attorney of the respondent's choice.

19 (d) The respondent has the right to be represented by an attorney,
20 to present evidence and to cross-examine witnesses who testify against
21 him at the hearing.

22 (e) The respondent has the right to be free of the effects of
23 medication and other forms of treatment to the maximum extent possible
24 before the 14-day commitment hearing; however, the facility or evalua-
25 tion personnel may treat him with medication under prescription by a
26 licensed physician or by a less restrictive alternative of his pre-
27 ference if, in the opinion of a licensed physician and another mental
28 health professional, the treatments are necessary to

29 (1) prevent bodily harm to the respondent or others;

1 (2) prevent such deterioration of the respondent's mental
2 condition that subsequent treatment might not enable him to recover; or

3 (3) allow the respondent to prepare for and participate in
4 the proceedings.

5 (f) A respondent, if he is represented by counsel, may waive,
6 orally or in writing, the 72-hour time limit on the 14-day commitment
7 hearing and have the hearing set for a date no more than seven calendar
8 days after his arrival at the facility. The respondent's counsel shall
9 immediately notify the court of the waiver.

10 Sec. 47.30.730. PROCEDURE FOR 14-DAY COMMITMENT; PETITION FOR
11 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
12 petition for commitment to a treatment facility may be filed in court.
13 The petition must be signed by two mental health professionals who have
14 examined the respondent. The petition must

15 (1) allege that the respondent is mentally ill and as a
16 result is likely to cause harm to himself or others or is gravely dis-
17 abled;

18 (2) allege that the evaluation staff has considered but has
19 not found that there are any less restrictive alternatives available
20 that would adequately protect the respondent or others; or, if a less
21 restrictive involuntary form of treatment is sought, specify the treat-
22 ment and the basis for supporting it;

23 (3) allege with respect to a gravely disabled respondent that
24 there is reason to believe that the respondent's mental condition could
25 be improved by the course of treatment sought;

26 (4) allege that a specified treatment facility or less re-
27 strictive alternative that is appropriate to the respondent's condition
28 has agreed to accept the respondent;

29 (5) allege that the respondent has been advised of the need

1 for, but has not accepted, voluntary treatment, and request that the
2 court commit the respondent to the specified treatment facility or less
3 restrictive alternative for a period not to exceed 14 days;

4 (6) list the prospective witnesses who will testify in sup-
5 port of commitment or involuntary treatment;

6 (7) list the facts and specific behavior of the respondent
7 supporting the allegation in (1) of this subsection.

8 (b) A copy of the petition shall be served on the respondent, his
9 attorney, and his guardian, if any, before the 14-day commitment hear-
10 ing.

11 Sec. 47.30.735. 14-DAY COMMITMENT. (a) Upon receipt of a proper
12 petition for commitment, the court shall hold a hearing at the date and
13 time previously specified according to procedures set out in AS 47.30.-
14 715.

15 (b) The hearing shall be conducted in a physical setting least
16 likely to have a harmful effect on the mental or physical health of the
17 respondent, within practical limits. At the hearing, in addition to
18 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
19 the right

20 (1) to be present at the hearing; this right may be waived
21 only with the respondent's informed consent; if the respondent is in-
22 capable of giving informed consent, the respondent may be excluded from
23 the hearing only if the court, after hearing, finds that the incapacity
24 exists and that there is a substantial likelihood that the respondent's
25 presence at the hearing would be severely injurious to his mental or
26 physical health;

27 (2) to view and copy all petitions and reports in the court
28 file of his case;

29 (3) to have the hearing open or closed to the public as he

1 elects;

2 (4) to be proceeded against according to the rules of evi-
3 dence applicable to civil proceedings;

4 (5) to have an interpreter if he does not understand English;

5 (6) to present evidence on his behalf;

6 (7) to cross-examine witnesses who testify against him;

7 (8) to remain silent.

8 (c) At the conclusion of the hearing the court may commit the re-
9 spondent to a treatment facility for not more than 14 days if it finds,
10 by clear and convincing evidence, that the allegations required in
11 AS 47.30.730(a) are true.

12 (d) If the court finds that there is a viable less restrictive
13 alternative available and that the respondent has been advised of and
14 refused voluntary treatment through the alternative, the court may order
15 the less restrictive alternative treatment for not more than 14 days.

16 (e) The court shall specifically state to the respondent, and
17 give him written notice, that if commitment or other involuntary treat-
18 ment beyond the 14 days is to be sought, the respondent shall have the
19 right to a full hearing or jury trial.

20 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 14-DAY
21 COMMITMENT. (a) At any time during the respondent's 14-day commitment,
22 the professional person in charge of the treatment facility to which the
23 respondent has been confined, or his professional designee, may file
24 with the court a petition for 90-day commitment of that respondent. The
25 petition must include all material required under AS 47.30.730(a) except
26 that references to "14 days" shall be read as "90 days"; and

27 (1) allege that the respondent has attempted to inflict or
28 has inflicted serious bodily harm upon himself or another since his
29 acceptance for evaluation, or that he was committed initially as a

1 result of conduct in which he attempted or inflicted serious bodily harm
2 upon himself or another, or that he continues to be gravely disabled;

3 (2) allege that the respondent has received appropriate and
4 adequate care and treatment during his 14-day commitment;

5 (3) be verified by the professional person in charge of the
6 facility providing treatment during the 14-day commitment, or his pro-
7 fessional designee.

8 (b) The court shall have copies of the petition for 90-day commit-
9 ment served upon the respondent, his attorney, and his guardian, if any.
10 The petition for 90-day commitment and proofs of service shall be filed
11 with the clerk of the court, and a date for hearing shall be set, by the
12 end of the next judicial day, for not later than five judicial days from
13 the date of filing of the petition. The clerk shall notify the respon-
14 dent, his attorney, and the petitioner of the hearing date at least
15 three judicial days in advance of the hearing.

16 (c) Findings of fact relating to the respondent's behavior made at
17 a 14-day commitment hearing under AS 47.30.735 shall be admitted as
18 evidence and may not be rebutted except that newly discovered evidence
19 may be used for the purpose of rebutting the findings.

20 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
21 dent subject to a petition for 90-day commitment has, in addition to the
22 rights specified elsewhere in this chapter, or otherwise applicable, the
23 rights enumerated in this section. Written notice of these rights shall
24 be served on the respondent, his attorney, his guardian, if any, and an
25 adult designated by the respondent at the time the petition for 90-day
26 commitment is served. An attempt shall be made by oral explanation to
27 insure that the respondent understands the rights enumerated in the
28 notice. If the respondent does not understand English, the explanation
29 shall be given in a language he understands.

1 (b) Unless the respondent is released or voluntarily admits him-
2 self following the filing of a petition and before the hearing, he is
3 entitled to a judicial hearing within five judicial days of the filing
4 of the petition as set out in AS 47.30.740(b) to determine whether the
5 allegations required in AS 47.30.740(a) are true. If the respondent
6 voluntarily admits himself following the filing of the petition, the
7 voluntary admission constitutes a waiver of any hearing rights under
8 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-
9 dent's voluntary admission under this subsection, the respondent submits
10 to the facility a written notice of intent to leave, the professional
11 person in charge of the treatment facility may file with the court a
12 petition for 120-day commitment of the respondent under AS 47.30.770.
13 The 120-day commitment hearing shall be scheduled for a date not
14 earlier than 90 days after the respondent's voluntary admission.

15 (c) The respondent is entitled to a jury trial upon request filed
16 with the court if the request is made at least two judicial days before
17 the hearing. If the respondent requests a jury trial, the hearing may
18 be continued for no more than 10 calendar days. The jury shall consist
19 of six persons.

20 (d) If a jury trial is not requested, the court may still con-
21 tinue the hearing at the respondent's request for no more than 10
22 calendar days.

23 (e) The respondent has a right to retain an independent licensed
24 physician or other mental health professional to examine him and to
25 testify on his behalf. Upon request by an indigent respondent, the
26 court shall appoint an independent licensed physician or other mental
27 health professional to examine him and testify on his behalf. The
28 court shall consider an indigent respondent's request for a specific
29 physician or mental health professional. A motion for the appointment

1 may be filed in court at any reasonable time before the hearing and
2 shall be acted upon promptly. Reasonable fees and expenses for expert
3 examiners shall be determined by the rules of court.

4 (f) The proceeding shall in all respects be in accord with con-
5 stitutional guarantees of due process and, except as otherwise specifi-
6 cally provided in AS 47.30.700 - 47.30.815, the rules of evidence and
7 procedure in civil proceedings.

8 (g) Until the court issues a final decision, the respondent shall
9 continue to be treated at the treatment facility unless the petition for
10 90-day commitment is withdrawn. If no decision has been made within 20
11 days of filing of the petition, not including extensions of time due to
12 jury trial or other requests by the respondent, he shall be released.

13 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-
14 ducted in the same manner, and with the same rights for the respondent,
15 as set out in AS 47.30.735(b).

16 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within
17 the time limit specified in AS 47.30.745, the court may commit the
18 respondent to a treatment facility for no more than 90 days if the court
19 or jury finds by clear and convincing evidence that the allegations
20 required in AS 47.30.740(a) are true.

21 (b) If the court finds that there is a less restrictive alterna-
22 tive available and that the respondent has been advised of and refused
23 voluntary treatment through the alternative, the court may order the
24 less restrictive alternative treatment after acceptance by the program
25 of the respondent for a period not to exceed 90 days.

26 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall
27 always be available at a state-operated hospital; however, if space is
28 available and upon acceptance by another treatment facility, a respon-
29 dent who is committed shall be placed by the court at the treatment

1 facility closest to his home unless the court finds that

2 (1) another treatment facility in the state has a program
3 more suited to the respondent's condition, and this interest outweighs
4 the desirability of the respondent being closer to home;

5 (2) another treatment facility in the state is closer to the
6 respondent's friends or relatives who could benefit him through their
7 visits and communications; or

8 (3) the respondent wants to be further removed from his
9 home, and the mental health professionals who sought his commitment
10 concur in the desirability of removed placement.

11 Sec. 47.30.765. APPEAL. The respondent has the right to an
12 appeal from any order of involuntary commitment. The court shall
13 inform the respondent of this right.

14 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent
15 shall be released from involuntary treatment at the expiration of 90
16 days unless the professional person in charge of the treatment facility,
17 or his designee, files a petition for a 120-day commitment conforming
18 to the requirements of AS 47.30.740(a) except that all references to
19 "14-day commitment" shall be read as "the previous 90-day commitment"
20 and all references to "90-day commitment" shall be read as "120-day
21 commitment".

22 (b) The procedures for service of the petition, notification of
23 rights and judicial hearing shall be as set out in AS 47.30.740 -
24 47.30.750. If the court or jury finds by clear and convincing evidence
25 that the grounds for 90-day commitment as set out in AS 47.30.755 are
26 present, the court may order the respondent committed for an additional
27 treatment period not to exceed 120 days from the date on which the
28 first 90-day treatment period would have expired.

29 (c) Successive 120-day commitments are permissible on the same

1 ground and under the same procedures as the original 120-day commitment.
2 No order of commitment may exceed 120 days.

3 (d) Findings of fact relating to the respondent's behavior made at
4 a 14-day commitment hearing under AS 47.30.735, a 90-day commitment
5 hearing under AS 47.30.750, or a previous 120-day commitment hearing
6 under this section shall be admitted as evidence and may not be rebutted
7 except that newly discovered evidence may be used for the purpose of
8 rebutting the findings.

9 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-
10 30.700 - 47.30.815 apply to minors. However, all notices required to be
11 served on the respondent in AS 47.30.700 - 47.30.815 shall also be
12 served on the parent or guardian of a respondent who is a minor, and
13 parents or guardians of a minor respondent shall be notified that they
14 may appear as parties in any commitment proceeding concerning the minor
15 and that as parties they are entitled to retain their own attorney or
16 have one appointed for them by the court. A minor respondent has the
17 same rights to waiver and informed consent as an adult respondent under
18 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel in
19 waiver and consent proceedings.

20 Sec. 47.30.780. EARLY DISCHARGE. The professional person in
21 charge of a treatment facility or his designee shall at any time dis-
22 charge a respondent on the ground that the respondent is no longer
23 gravely disabled or likely to cause serious harm as a result of mental
24 illness. A certificate to this effect shall be sent to the court which
25 shall enter an order officially terminating the involuntary commitment.

26 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing
27 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-
28 815 may be authorized to be absent from the treatment facility during
29 times specified by the professional person in charge of the facility, or

1 his professional designee, when an authorization to be absent is in the
2 best interests of the respondent and he is not likely to cause harm to
3 himself or others.

4 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
5 spondent undergoing involuntary treatment on an inpatient basis is
6 absent from the treatment facility without, or in excess of, authoriza-
7 tion under AS 47.30.785, the professional person in charge of the facil-
8 ity or his professional designee may cause the respondent to be taken
9 into custody and returned to the treatment facility.

10 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

11 (a) A respondent who was not originally committed to involuntary out-
12 patient care under AS 43.30.700 - 43.30.915 may be released before the
13 expiration of his commitment period on the condition that he receive
14 specified outpatient treatment from a provider of outpatient care, for a
15 length of time not to exceed the duration of his commitment period, when
16 the professional person in charge of the treatment facility or his
17 professional designee finds that

18 (1) security for the respondent or others no longer requires
19 that he be treated on an inpatient basis; and

20 (2) there is reason to believe that the respondent's mental
21 condition would improve as a result of the specified outpatient treat-
22 ment.

23 (b) A copy of the conditions for early release shall be given to
24 the respondent, his attorney, his guardian, if any, the provider of out-
25 patient care, and the court.

26 (c) If at any time during the commitment period the provider of
27 outpatient care determines that the respondent can no longer be treated
28 on an outpatient basis because he is likely to cause harm to himself or
29 others or is gravely disabled, the provider shall give the respondent

1 oral and written notice, with copies to the respondent's attorney, his
2 guardian, if any, the court and inpatient treatment facility, that he
3 must return to the inpatient treatment facility within 24 hours for a
4 length of time not to exceed the duration of his commitment period. If
5 the respondent fails to arrive at the treatment facility under a 24-hour
6 notice, the facility shall cause him to be taken into custody and trans-
7 ported to the facility. A peace officer shall assist the provider of
8 outpatient care or the facility if requested.

9 (d) If the provider of outpatient care determines that the respon-
10 dent will require continued outpatient care after the expiration of his
11 commitment period, the provider is entitled to initiate further commi-
12 tment proceedings in the same manner as if the provider were the pro-
13 fessional person in charge of a treatment facility, and the provisions
14 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to
15 inpatient treatment shall be read as applicable to outpatient treatment.

16 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO
17 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
18 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient
19 treatment may be required to undergo inpatient treatment when the pro-
20 vider of outpatient care finds that (1) the respondent is mentally ill
21 and is likely to cause serious harm to himself or others or is still
22 gravely disabled; (2) the respondent's behavior since the hearing re-
23 sulting in courtordered treatment indicates that he now needs inpatient
24 treatment to protect himself or others; (3) there is reason to believe
25 that the respondent's mental condition will improve as a result of
26 inpatient treatment; and (4) there is an inpatient facility appropriate
27 to the respondent's need which will accept him as a patient. Treatment
28 for these respondents shall be available at state-operated hospitals at
29 all times.

1 (b) Upon making the findings specified in (a) of this section,
2 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745
3 relating to hearing apply.

4 Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-
5 vided in (b) of this section,

6 (1) computations of a 72-hour evaluation period do not in-
7 clude Saturdays, Sundays, legal holidays, or any period of time neces-
8 sary to transport the respondent to the treatment facility;

9 (2) a 14-day commitment period expires at the end of the
10 14th day after the 72 hours following initial acceptance;

11 (3) a 90-day commitment period expires at the end of the
12 90th day after the expiration of a 14-day period of treatment;

13 (4) a 120-day commitment period expires at the end of the
14 120th day, after the expiration of a 90-day period of treatment or
15 previous 120-day period, whichever is applicable.

16 (b) When a respondent has failed to appear or absented himself
17 contrary to any order properly made or entered under AS 47.30.655 -
18 47.30.915, the relevant commitment period shall be extended for a
19 period of time equal to the respondent's absence if written notice of
20 absence is promptly provided to the respondent's attorney and his
21 guardian, if there is one, and if, within 24 hours after the respondent
22 has returned to the evaluation or treatment facility, written notice of
23 the corresponding extension and the reason for it is given to the
24 respondent, his attorney, and to the court.

25 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-
26 915 may be construed as limiting a person's right to a writ of habeas
27 corpus.

28 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
29 CATION. (a) A person acting in good faith upon either actual knowledge

1 or reliable information who makes application for evaluation or treat-
2 ment of another person under AS 47.30.700 - 47.30.915 is not subject to
3 civil or criminal liability.

4 (b) The following persons may not be held civilly or criminally
5 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
6 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
7 of the period for which the person was admitted or committed for evalua-
8 tion or treatment if the persons have performed their duties in good
9 faith and without gross negligence:

10 (1) an officer of a public or private agency;

11 (2) the superintendent, the professional person in charge,
12 the professional designee of the professional person in charge, and the
13 attending staff of a public or private agency;

14 (3) a public official performing functions necessary to the
15 administration of AS 47.30.700 - 47.30.915;

16 (4) a peace officer responsible for detaining a person under
17 AS 47.30.700 - 47.30.915.

18 (c) A person who wilfully initiates an involuntary commitment pro-
19 cedure under AS 47.30.700 without having good cause to believe that the
20 other person is suffering from a mental illness and as a result is
21 gravely disabled or likely to cause serious harm to himself or others,
22 is guilty of a felony.

23 ARTICLE 9. PATIENT RIGHTS.

24 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are
25 receiving services from a treatment facility licensed under AS 18.20.-
26 020, have the following rights:

27 (1) The patient, or his counsel, guardian, or the adult
28 designated in accordance with AS 47.30.725 if the patient is mentally
29 incapable of participation, shall be entitled to participate in form-

1 ulating his individualized treatment plan and in the evaluation process
2 as much as possible, at minimum to the extent of requesting specific
3 forms of therapy, inquiring why specific therapies are or are not in-
4 cluded in his treatment program, and being informed as to his present
5 medical and psychological condition and prognosis. The treating phy-
6 sician may not withhold any of this information from the patient.

7 (2) Counsel and guardian for a patient, or if there is no
8 guardian the adult designated in accordance with AS 47.30.725, have the
9 right at all reasonable times to examine all records of, and plans for,
10 the patient's treatment and to make copies, upon payment of costs if
11 requested, of any portion of these records.

12 (3) Every patient has the right to know the name of medica-
13 tion that he is asked to take, what its purpose is, and what side
14 effects may occur with this medication. If the patient is incapable of
15 understanding the purpose and side effects of the medication, the treat-
16 ing physician or mental health professional shall explain it to the
17 patient's counsel or guardian, or if there is no guardian the adult
18 designated in accordance with AS 47.30.725.

19 (4) The quiet room, or other form of physical restraint, may
20 not be used, except as provided in this paragraph unless a patient is
21 likely to physically harm himself or others unless restrained. The form
22 of restraint utilized shall be that which is in the patient's best
23 interest and which constitutes the least restrictive alternative avail-
24 able. When practicable, the patient shall be consulted as to his pre-
25 ference among forms of adequate, medically advisable restraints in-
26 cluding medication, and his preference shall be considered. Nothing in
27 this section is intended to limit the right of staff to use the quiet
28 room at the patient's request or with his knowing concurrence when
29 considered in the best interests of the patient. Patients placed in a

1 quiet room or other physical restraint shall be checked at least every.
2 15 minutes or more often if good medical practice so indicates. Pa-
3 tients in the quiet room must be visited by a staff member at least once
4 every hour and must be given adequate food and drink and access to
5 bathroom facilities. At no time may a patient be kept in the quiet room
6 or other form of physical restraint against his will longer than neces-
7 sary to accomplish the purposes set out in this paragraph. All uses of
8 the quiet room or other restraint shall be recorded in the patient's
9 medical record, the information including but not limited to the reasons
10 for its use, the duration of use, and the name of the authorizing staff
11 member.

12 (5) All persons have the right to be free from unnecessary or
13 excessive medication. Psychotropic medication shall be administered
14 only on the order of a licensed physician when the physician determines
15 that such medication is in the best interest of the patient or will
16 prevent serious harm to others.

17 (6) A patient capable of giving informed consent has the
18 absolute right to accept or refuse electro-convulsive therapy or aver-
19 sive conditioning. Patients who lack substantial capacity to make this
20 decision may not be given such therapy or conditioning without a court
21 order following a hearing compatible with full due process.

22 (7) In no event may treatment include psychosurgery, lobotomy
23 or other comparable form of treatment without specific informed consent
24 of the patient, including a minor unless he is clearly too young or
25 disabled to give an informed consent in which case the consent of his
26 legal guardian shall be required. In addition, no such treatment may be
27 given without a court order after hearing compatible with full due
28 process.

29 (8) When, in the written opinion of a patient's attending

1 physician, a true medical emergency exists and a surgical operation is
2 necessary to save the life, physical health, eyesight, hearing or member
3 of the patient, the professional person in charge of the treatment
4 facility or his professional designee may give consent to the surgical
5 operation if time will not permit obtaining the consent of the proper
6 relatives or guardian or appropriate judicial authority. However, no
7 operation may be authorized if the patient is not a minor and knowingly
8 withholds consent on religious grounds.

9 (9) Each patient upon discharge shall be given a discharge
10 plan specifying the kinds and amount of care and treatment he should
11 have after discharge and such other steps as he might take to benefit
12 his mental health after leaving the facility. The patient shall have
13 the right to participate, as far as practicable, in formulating his
14 discharge plan. A copy of the plan shall be given to the patient, his
15 guardian, the court, if appropriate, and any follow-up agencies.

16 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)
17 Experimental treatments involving any significant risk of physical or
18 psychological harm may not be administered to a patient.

19 (b) If the personnel of an evaluation or treatment facility are
20 uncertain as to whether a proposed treatment is experimental or is
21 experimental as applied to a particular patient or would involve a
22 significant risk of mental or physical harm to the patient, the matter
23 may be referred to the commissioner of health and social services for a
24 determination. The patient, his attorney, his guardian, if any, and an
25 adult designated by the patient, shall, simultaneously with the referral
26 to the commissioner, be provided with copies of all the documents by
27 which the referral is made and shall have the opportunity to provide
28 evidence to the commissioner on the question.

29 (c) A determination that a treatment is experimental and entails

1 significant risks of mental or physical harm is binding upon all persons
2 involved in the administration of treatment to a patient.

3 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. A person undergoing
4 evaluation or treatment under AS 47.30.655 - 47.30.915 may not be denied
5 a civil right, including but not limited to, the right to free exercise
6 of religion and the right to dispose of property, sue and be sued, enter
7 into contractual relationships and vote. Court-ordered treatment or
8 evaluation under this chapter is not a determination of legal incompe-
9 tency.

10 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
11 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915
12 shall

13 (1) not be photographed without his consent and that of his
14 guardian if a minor, except that he may be photographed upon admission
15 to a facility for identification and for administrative purposes of the
16 facility; all photographs shall be confidential and may not be released
17 by the facility except under court order;

18 (2) at the time of admission to an evaluation or treatment
19 facility, have reasonable precautions taken by the staff to inventory
20 and safeguard his personal property; a copy of the inventory signed by
21 the staff member making it shall be given to the patient and made avail-
22 able to his attorney and any other person authorized by the patient to
23 inspect the document;

24 (3) have access to individual storage space for his private
25 use while undergoing evaluation or treatment;

26 (4) be permitted to wear his own clothing, to keep and use
27 his own personal possessions including his toilet articles if they are
28 not considered unsafe for him or other patients who might have access to
29 them, and to keep and be allowed to spend a reasonable sum of his own

1 money for his own needs and comfort;

2 (5) be allowed to have visitors at reasonable times;

3 (6) have ready access to letter writing materials, including
4 stamps, and have the right to send and receive unopened mail;

5 (7) have reasonable access to a telephone, both to make and
6 receive confidential calls.

7 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
8 obtained in the course of evaluation, examination or treatment are
9 confidential and are not public records, except as the requirements of a
10 hearing under AS 47.30.655 - 47.30.915 may necessitate a different pro-
11 cedure. Information and records may be disclosed under regulations
12 established by the department only to

13 (1) physicians and providers of health, mental health or
14 social and welfare services involved in caring for, treating or rehabil-
15 itating the patient;

16 (2) individuals to whom the patient has given written consent
17 to have information disclosed;

18 (3) persons authorized by a court order;

19 (4) persons doing research or maintaining health statistics,
20 if the anonymity of the patient is assured, and the facility recognizes
21 the project as a bona fide research or statistical undertaking;

22 (5) the division of corrections in a case in which a prisoner
23 confined to the state prison is a patient in the state hospital on
24 authorized transfer either by voluntary admission or by court order;

25 (6) governmental or law enforcement agencies when necessary
26 to secure the return of a patient who is on unauthorized absence from a
27 facility where the patient was undergoing evaluation or treatment.

28 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
29 of a respondent from a treatment facility or the issuance of a court

1 order denying a petition for commitment, the respondent may at any time
2 move to have all court records pertaining to the proceedings expunged on
3 condition that he file a full release of all claims of whatever nature
4 arising out of the proceedings and the statements and actions of persons
5 and facilities in connection with the proceedings.

6 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-
7 30.825 - 47.30.855 shall be prominently posted in all treatment facili-
8 ties in places accessible to all patients. A patient who does not
9 understand English shall have his rights explained to him in a language
10 he understands.

11 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where
12 practicable all documents and notices required by AS 47.30.655 - 47.30.-
13 915 to be served on a respondent, or on his parents, guardian or adult
14 designee, shall be explained in a language the person understands if he
15 is not competent in English.

16 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a
17 person is or has been evaluated or treated for mental illness may not be
18 a basis for discrimination in:

- 19 (1) seeking employment;
- 20 (2) resuming or continuing professional practice or previous
21 occupation;
- 22 (3) obtaining or retaining housing;
- 23 (4) obtaining or retaining licenses or permits, including but
24 not limited to motor vehicle licenses, motor vehicle operator's and
25 chauffeur's licenses, and professional or occupational licenses.

26 (b) Applications for positions, licenses, and housing may not
27 contain requests for information concerning evaluation or treatment
28 experiences.

29 (c) It is unlawful for a person to aid, abet, incite, compel or

1 coerce the doing of an act forbidden under this section or to attempt to
2 do so.

3 ARTICLE 10. MISCELLANEOUS PROVISIONS.

4 Sec. 47.30.870. TRANSPORTATION. When a person is to be evaluated
5 or involuntarily committed to a facility, or presented for a judicial
6 hearing under this chapter, the department shall arrange, and is autho-
7 rized to pay for, the person's necessary transportation to the desig-
8 nated facility or hearing accompanied by appropriate medical or nursing
9 attendants and if necessary by a peace officer. The department shall
10 pay return transportation of a person, appropriate medical and nursing
11 attendants, and if necessary a peace officer, after a determination that
12 the person is not committable, at the end of a commitment period, or at
13 the end of a voluntary stay at a treatment facility following an evalu-
14 ation conducted in accordance with AS 47.30.715. When advisable, one or
15 more relatives or friends shall be permitted to accompany the person.
16 The department may pay necessary travel, housing and meal expenses
17 incurred by one relative or friend in accompanying the person if the
18 department determines that the person's best interests require that he
19 be accompanied by the relative or friend and the relative or friend is
20 indigent.

21 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers
22 of a person who is admitted to a treatment facility under AS 47.30.655 -
23 47.30.915 shall include a statement as to his residence. The department
24 may return a patient who is not a resident of the state to the state of
25 his residence with court approval if the person has been committed. If
26 the state in which he has residence does not accept him as a patient,
27 the person shall be treated as a resident of this state under the pro-
28 visions of AS 47.30.655 - 47.30.915.

29 (b) To facilitate the return of nonresident patients the depart-

1 ment may enter a reciprocal agreement or compact with another state
2 providing for the prompt return under appropriate supervision of resi-
3 dents of that state who are mentally ill. Mentally ill residents of
4 this state who have been placed in a facility outside this state may be
5 admitted with the approval of the department to a treatment facility in
6 the state designated by the department. The department may enter into
7 reciprocal agreements or contracts with another state providing for
8 custody, care or treatment, or return of mentally ill residents of this
9 state by the other state and for the custody and care or treatment of
10 mentally ill residents of that state by this state on a reimbursable
11 basis. A resident of this state who has been committed in another state
12 and is returned in accordance with this section shall, within 72 hours
13 of his admission to the designated facility, be examined. After exami-
14 nation the mental health professional in charge of the facility shall
15 release him or shall petition for involuntary commitment as prescribed
16 in AS 47.30.740.

17 (c) In taking action under (a) and (b) of this section, consider-
18 ation shall be given to the best interests of the patient particularly
19 to the relationship of the patient to his family, legal guardian, or
20 friends to maintain relationships and encourage visits beneficial to the
21 patient.

22 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -
23 47.30.915 alters or impairs the application or availability to a pa-
24 tient, while hospitalized in another state under contractual arrange-
25 ments entered in accordance with AS 47.30.655 - 47.30.915, of the
26 rights, remedies or safeguards provided by the laws of this state.

27 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The
28 department shall insure that

29 (1) no patient is discharged from a treatment facility with-

1 out suitable clothing; and

2 (2) a discharged indigent patient is furnished

3 (A) suitable transportation to his permanent residence
4 in this state or to another suitable place at the discretion of
5 the department; and

6 (B) a reasonable amount of money to meet his immediate
7 needs.

8 Sec. 47.30.895. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
9 FUNDS. (a) Assets in the custody of a treatment facility which belong
10 to a patient who dies before discharge, or to a patient who leaves the
11 hospital without authority, if unclaimed by the patient or his legal
12 heirs or representatives within four years after the death or departure
13 of the patient, shall be disposed of in the manner prescribed by the
14 department and the proceeds shall be deposited in the state treasury.

15 (b) If a mentally ill individual has died in a foreign facility
16 and the department desires to recover the patient's personal property
17 under this section, the commissioner of health and social services or
18 his designated representative may secure the property and for that pur-
19 pose only is designated the decedent's administrator. Property so
20 recovered shall be disposed of as provided by law.

21 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-
22 partment shall make diligent inquiry in every instance after departure
23 without authority or death of a patient, to ascertain the whereabouts
24 of the patient or that of his legal heirs or representatives, and shall
25 turn over to the proper person the money or articles of personal prop-
26 erty in the custody of the facility to the credit of the patient.
27 Claims to the money or articles of personal property, including claims
28 by this state, may be presented to the department at any time. If a
29 claim other than by this state is established by clear and convincing

1 evidence more than four years after the death or departure without
2 authority of a patient, it shall be certified to the legislature for
3 consideration and the legislature may pay the claim.

4 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
5 The witnesses and the jury in commitment proceedings under AS 47.30.-
6 655 - 47.30.915 are entitled to the fees, compensation, and mileage
7 established by the administrative rules of court for other jurors and
8 witnesses. Compensation, mileage, fees, and other expenses arising
9 from commitment proceedings shall be audited and allowed by the superior
10 court of the judicial district in which the proceedings are held. To
11 the extent that services of a peace officer are used to carry out the
12 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and
13 actual expenses from the same source and in the same manner as for his
14 other official duties.

15 (b) An attorney appointed for a person under AS 47.30.655 - 47.-
16 30.915 shall be compensated for his services as follows:

17 (1) the person for whom an attorney is appointed shall, if
18 he is financially able under standards as to financial capability and
19 indigency set by the court, pay the costs of the legal services;

20 (2) if the person is indigent under those standards, the
21 costs of the services shall be paid by the state.

22 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
23 FACILITY. (a) A patient, or his legal representative acting in a
24 representative capacity, or his spouse, or his parents if the patient
25 is under the age of 18, shall pay or contribute to the payment of the
26 charges for the care or treatment of the patient when hospitalized
27 under AS 47.30.655 - 47.30.915. The charges may not exceed the actual
28 cost of the care and treatment as determined by the department. The
29 department may order payment by the patient or by the person responsible

1 for payment for the patient's care and treatment under this subsection,
2 according to ability to provide for payment. The department may make
3 necessary investigations to determine the ability to pay and may require
4 sworn statements of income by the patient, or his legal representative
5 acting in a representative capacity, or his spouse or parent. In the
6 exercise of his discretion, the commissioner may impose full liability
7 for the patient's actual cost of care and treatment on the patient, his
8 legal representative, his spouse or parent for refusal to supply a
9 sworn statement of income. An order for payment shall be issued by the
10 department within six months after the date on which the charge was in-
11 curred. The order shall remain in full force and effect unless modified
12 by subsequent court or department order. Liability under this subsec-
13 tion shall be determined as follows: a patient hospitalized under
14 AS 47.30.655 - 47.30.915, or the person responsible for payment of
15 charges for the patient, may be required to pay according to his ability
16 to provide for payment, as determined by the department, and in the
17 manner and proportion which the department finds is not detrimental to
18 the patient's rehabilitation; however, after the patient has been
19 hospitalized under AS 47.30.655 - 47.30.915 for an aggregate period of
20 12 months, the patient or person responsible for payment may not be re-
21 quired to pay more than \$50 a month toward the charges for the care and
22 treatment of the patient.

23 (b) As used in (a) of this section, the term "actual cost of the
24 care and treatment" means either the rate provided for by a contract
25 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a
26 contract, a daily rate fixed by the department, and includes expenses
27 of transportation incidental to examination or hospitalization.

28 (c) The department may charge, or accept from a person money or
29 property, for the care or treatment of an inpatient or outpatient or for

1 other purposes, even if the payment is not required by an order of the
2 department, so long as the total payments received do not exceed the
3 actual cost of care or treatment.

4 (d) All money paid by the patient or on his behalf, under this
5 section, shall be deposited in the state treasury.

6 (e) If an order for payment is entered by the department under
7 this section, and delinquency in the payment of any amount due the state
8 under the order continues for a period of more than 30 days after the
9 notification to the patient or the legal representative, spouse, or
10 parent of the patient by the department, the state may proceed to col-
11 lect the amounts due by appropriate proceedings. Actions to enforce the
12 collection of payments may only be brought within three years after the
13 date of notification of a delinquent payment.

14 (f) The orders of the department issued under this section may
15 relate only to charges incurred after October 1, 1981.

16 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

17 (1) "commissioner" means the Commissioner of Health and
18 Social Services;

19 (2) "court" means a superior court of the state;

20 (3) "department" means the Department of Health and Social
21 Services;

22 (4) "evaluation facility" means a health care facility that
23 has been designated or is operated by the department to perform the
24 evaluations described in AS 47.30.655 - 47.30.915; however, a correc-
25 tional institution or facility or jail may not be used as an evaluation
26 facility;

27 (5) "evaluation personnel" means mental health professionals
28 designated by the department to conduct evaluations as prescribed in
29 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no

1 staffed evaluation facility exists;

2 (6) "gravely disabled" means a condition in which a person,
3 as a result of mental illness, is in danger of physical harm arising
4 from such complete neglect of basic needs for food, clothing, shelter,
5 or personal safety as to render serious accident, illness or death
6 highly probable if care by another is not taken;

7 (7) "inpatient treatment" means care and treatment rendered
8 inside or on the premises of a treatment facility, or a part or unit of
9 a treatment facility for a continual period of 24 hours or longer;

10 (8) "least restrictive alternative" means mental health
11 treatment facilities and conditions of treatment which are

12 (A) no more harsh, hazardous or intrusive than necessary
13 to achieve the treatment objectives of the patient; and

14 (B) involve no restrictions on physical movement nor
15 supervised residence or inpatient care except as reasonably neces-
16 sary for the administration of treatment or the protection of the
17 patient or others from physical injury;

18 (9) "likely to cause serious harm" means

19 (A) a substantial risk of imminent and substantial
20 bodily harm to the person himself, as manifested by recent attempts
21 at suicide or bodily harm; or

22 (B) substantial risk of imminent and substantial bodily
23 harm to one or more other persons as manifested by behavior caus-
24 ing, or attempting harm, including, in regard to evaluations, at
25 least one incident within 30 days before the filing of a petition
26 for emergency hospitalization;

27 (10) "mental health professional" means a psychiatrist or
28 physician who is licensed to practice in this state; a clinical psychol-
29 ogist certified by the state Board of Psychologist and Psychological

1 Associate Examiners; a registered nurse with psychiatric training,
2 licensed by the State Board of Nursing; and a social worker with a
3 master's degree and experience in the field of mental illness;

4 (11) "mental illness" means an organic, mental or emotional
5 impairment which has substantial adverse effects on an individual's
6 ability to exercise conscious control of his actions or ability to
7 perceive reality or to reason or understand; mental retardation, epi-
8 lepsy, drug addiction and alcoholism do not per se constitute mental
9 illness, although persons suffering from these conditions may also be
10 suffering from mental illness;

11 (12) "peace officer" includes a state police officer, muni-
12 cipal or other local police officer, state, municipal, or other local
13 health officer, public health nurse, United States marshal or deputy
14 United States marshal, or a person authorized by the court;

15 (13) "provider of outpatient care" means a mental health pro-
16 fessional or hospital, clinic, institution, center or other health care
17 facility who has been designated by the department to accept for treat-
18 ment patients who are ordered to undergo involuntary outpatient treat-
19 ment by the court or who are released early from inpatient commitments
20 on condition that they undergo outpatient treatment;

21 (14) "screening investigation" means the investigation and
22 review of facts which have been alleged to warrant emergency examination
23 or treatment, including interviews with the persons making such allega-
24 tions, any other significant witnesses who can readily be contacted for
25 interviews, and, if possible, the respondent;

26 (15) "state" means a state of the United States, the District
27 of Columbia, the territories and possessions of the United States, and
28 the Commonwealth of Puerto Rico, and, with the approval of the United
29 States Congress, Canada;

1 (16) "treatment facility" means a hospital, clinic, institu-
2 tion, center or other health care facility which has been designated by
3 the department for the treatment or rehabilitation of mentally ill
4 persons and for the receipt of these persons by court-ordered commit-
5 ment, but does not include correctional institutions;

6 (17) "professional person in charge of the treatment facility"
7 means the senior mental health professional at the facility; in the
8 absence of a mental health professional it means the chief of staff or
9 other senior physician.

10 * Sec. 2. AS 12.45.090 is repealed and reenacted to read:

11 Sec. 12.45.090. COMMITMENT AFTER JUDGMENT OF NOT GUILTY. (a) If
12 the court or jury finds the defendant not guilty on the ground of mental
13 disease or defect as excluding responsibility and the court considers
14 his being at large dangerous to the public peace or safety, the court
15 shall immediately commit the defendant to the custody of the commis-
16 sioner of health and social services.

17 (b) If the defendant asserts at the time a verdict of not guilty
18 on the ground of mental disease or defect as excluding responsibility is
19 returned that he is not presently suffering from a mental disease or
20 defect which causes him to be a danger to the public, a hearing shall be
21 set within 60 days to determine the necessity of further commitment.
22 The hearing shall be held before either the court or a jury of six
23 persons who may be drawn from the jury impaneled for a trial on the
24 underlying charge in accordance with rules promulgated by the supreme
25 court. At the hearing, the defendant has the burden of proving by a
26 preponderance of the evidence that he is not presently suffering from a
27 mental disease or defect which causes him to be a danger to the public.

28 (c) If the court or jury determines that the defendant has failed
29 to sustain his burden of proof, the court shall order him to be committed

1 to the custody of the commissioner of health and social services and
2 held in custody for a period of time not to exceed the maximum sentence
3 for the offense committed by the defendant or until the disease is cured
4 or the defect corrected or he is otherwise discharged from the institu-
5 tion by authority of law.

6 (d) The defendant may file a petition in the superior court for a
7 hearing to have the need for his continued hospitalization determined or
8 redetermined. The defendant is entitled to a hearing on the question no
9 sooner than six months after his initial commitment and annually there-
10 after. The burden and standard of proof at a release hearing shall be
11 the same as at the initial hearing and the defendant shall be entitled
12 to a hearing before a jury of six upon request filed not later than 15
13 days before the date set for the hearing with the court.

14 (e) Continued hospitalization following the expiration of the
15 maximum term of sentence of the criminal offense for which the defendant
16 was acquitted on the ground of mental disease or defect shall be gov-
17 erned by the standards and burden of proof relating to civil commitments
18 under AS 47.30.700 - 47.30.915.

19 (f) A person committed under this section may not be released
20 during the term of commitment except upon court order following a hear-
21 ing under this section. The state may at any time request the court to
22 release the defendant on the grounds that the defendant has been cured
23 of the mental disease or defect and is no longer a danger to the public
24 peace or safety.

25 (g) The committing court in its commitment order shall require the
26 commissioner of health and social services or his authorized representa-
27 tive to submit periodic written reports on the mental condition of a
28 person who is committed under (a) of this section.

29 (h) A copy of all petitions for release shall be served on the

1 attorney general. A copy shall also be served upon the attorney of
2 record, if he is not the attorney general, who represented the state at
3 the time the defendant was first committed.

4 * Sec. 3. AS 12.45.110 is repealed and reenacted to read:

5 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When
6 the trial court determines by a preponderance of the evidence, in accor-
7 dance with AS 12.45.100, that a defendant is so mentally incompetent
8 that he is unable to understand the proceedings against him or properly
9 to assist in his own defense, the court shall order the proceedings
10 against him stayed, except as provided in (d) of this section, and may
11 commit the defendant to the custody of the commissioner of health and
12 social services or his authorized representative for further evaluation
13 and treatment until the defendant is mentally competent to stand trial,
14 or until the pending charges against him are disposed of according to
15 law, but in no event longer than 90 days.

16 (b) On or before the expiration of the initial 90-day period of
17 commitment the court shall conduct a hearing to determine whether or not
18 the defendant remains incompetent. If the court finds by a preponder-
19 ance of the evidence that the defendant remains incompetent, the court
20 may recommit the defendant for a second period of 90 days. The court
21 shall determine at the expiration of the second 90-day period whether
22 the defendant has become competent. If at the expiration of the second
23 90-day period the court determines that the defendant continues to be
24 incompetent to stand trial, the charges against him shall be dismissed
25 without prejudice and continued commitment of the defendant shall be
26 governed by the provisions relating to civil commitments under AS 47.-
27 30.700 - 47.30.915 unless the defendant is charged with a crime involv-
28 ing force against a person and the court finds that the defendant pre-
29 sents a substantial danger of physical injury to other persons and that

1 there is a substantial probability that the defendant will regain compe-
2 tency within a reasonable period of time, in which case the court may
3 extend the period of commitment for an additional six months. If the
4 defendant remains incompetent at the expiration of the additional six-
5 month period, the charges shall be dismissed without prejudice and
6 either civil commitment proceedings shall be instituted or the court
7 shall order the release of the defendant. If the defendant remains
8 incompetent for five years after the charges have been dismissed under
9 this subsection, the defendant may not be charged again for an offense
10 arising out of the facts alleged in the original charges, except if the
11 original charge is murder.

12 (c) The defendant is not responsible for the expenses of hospital-
13 ization or transportation incurred as a result of his commitment under
14 this section. Liability for payment under AS 47.30.910 does not apply
15 to commitments under this section.

16 (d) A defendant receiving medication for either a physical or a
17 mental condition may not be prohibited from standing trial, if the
18 medication either enables him to understand the proceedings against him
19 and to properly assist in his own defense or does not disable him from
20 understanding the proceedings and assisting in his own defense.

21 * Sec. 4. AS 12.45.115 is amended to read:

22 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]
23 COMMITMENT. (a) When, in the medical judgment of the custodian of a
24 accused person committed under AS 12.45 110 [AS 12.45.110(a)], the
25 accused is considered to be mentally competent to stand trial, the
26 committing court shall hold a hearing, after due notice, as soon as
27 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At
28 the hearing, evidence as to the mental condition of the accused may be
29 submitted including reports by the custodian to whom the accused was

1 committed for care.

2 (b) If at the hearing the court determines that the accused is
3 presently mentally competent to understand the nature of the proceedings
4 against him and [OR] to assist in his own defense, appropriate criminal
5 proceedings may [SHALL] be commenced against the accused.

6 (c) If at the hearing the court determines that the accused is
7 still presently mentally incompetent, the court shall recommit the
8 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-
9 110(a)].

10 (d) A finding by the court that the accused is mentally competent
11 to stand trial in no way prejudices the accused in a defense based on
12 mental disease or defect excluding responsibility. This finding may
13 not be introduced in evidence on that issue or otherwise be brought to
14 the notice of the jury.

15 * Sec. 5. Except as provided in this Act, the provisions of AS 47.30.-
16 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair
17 any action taken in a proceeding pending under statutes in effect before
18 October 1, 1981, nor do they apply retroactively to terminate the detention
19 of a person previously committed under statutes in effect before October 1,
20 1981. However, 90 days after October 1, 1981, the provisions of this Act
21 apply to all persons committed under statutes in effect before October 1,
22 1981.

23 * Sec. 6. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are
24 repealed.

25 * Sec. 7. This Act takes effect October 1, 1981.
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