

Offered: 3/20/85
Referred: Finance

Original sponsors: Phillips, Goll
and Larson

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 19 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 * Section 1. AS 47.10.140(e) is amended to read:

9 (e) Except for temporary detention pending a detention hearing
10 [OR TEMPORARY DETENTION UNDER (f) OF THIS SECTION], a minor may [NOT]
11 be detained only [EXCEPT] by court order.

12 * Sec. 2. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving
14 a request to locate a minor evading the minor's legal custodian or to
15 locate a minor otherwise missing, a law enforcement agency shall make
16 reasonable efforts to locate the minor and shall immediately complete
17 a missing person's report containing information necessary for the
18 identification of the minor. As soon as practicable, but not later
19 than 24 hours after completing the report, the agency shall transmit
20 the report for entry into the Alaska Public Safety Information Network
21 and the National Crime Information Center computer system. As soon as
22 practicable, but not later than 24 hours after the agency learns that
23 the minor has been located, it shall request that the Department of
24 Public Safety and the Federal Bureau of Investigation remove the
25 information from the computer systems.

26 (b) A peace officer shall take into protective custody a minor
27 described in (a) of this section if the minor is not otherwise subject
28 to arrest or detention. The peace officer shall honor the minor's
29 preference to either (1) return the minor to the legal custodian or

1 (2) take the minor to an office specified by the Department of Health
2 and Social Services or a facility or contract agency of the depart-
3 ment. If an office specified by the department or a facility or
4 contract agency of the department does not exist in the community, the
5 officer shall take the minor to another suitable location and promptly
6 notify the department. A minor under protective custody may not be
7 housed in a jail or other detention facility. Immediately upon taking
8 a minor into protective custody the officer shall advise the minor
9 orally and in writing of the right to social services under AS 47.10.-
10 142(b), and, if known, the officer shall advise the legal custodian
11 that the minor has been taken into protective custody.

12 * Sec. 3. AS 47.10.140(f) and (g) are repealed.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB No. 19
 Title: An Act relating to runaway minors
 Sponsor: HESS
 Requestor: _____
 Date of Request: 3/7/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: Social Services
 BRU, Program or Subprogram(s) Affected: Social Services BRU, Juvenile Custody BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUNDS						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-			
PART-TIME	-0-	-0-				
TEMPORARY	-0-	-0-				

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Price *Frank Hickey* Phone: 465-3170
 Division: Family and Youth Services Date: 3/12/85

Approved by Commissioner: Jon R. O'Byrne Date: 3/12/85 *JOC*
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

IV. ANALYSIS

A. Assumptions

This bill would result in an increase in the number of runaway youth referred to DFYS for assessment, investigation, counseling and placement services. A definitive estimate of this increase cannot be made however. Inadequacies in DFYS' computerized information system and lack of standardization in collection of information by law enforcement result in substantial underreporting of the number of runaway and missing youth. Estimates are that only one-fourth of all cases are reported or known.

Differences in policies and actions taken by state and local police agencies to locate and detain runaways under present discretionary law make estimates of increases in these activities under provisions of this bill impossible.

Field staff estimate that referrals of runaways to DFYS under this bill may double or even triple with increased activity by police and public demand for police action. However, given the lack of data this fiscal note assumes increases in the demand for services could be met by the increased child protection staff levels requested in the Governor's FY 86 budget. The fiscal note assumes full funding of the Governor's request including improvements in DFYS' management information system to allow collection of information on the true impact of this bill. Absent full funding of requested new social work and clerical positions it is estimated that 3 - 5 social work positions would be required to provide additional services to new referrals which will result from this bill.

B. Program Summary

N/A

C. Computations

N/A

D. Economic Impact

N/A

E. Impact on Local Governments

N/A

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST
 Bill/Resolution No. CS HB 19(500)
 Title: An Act Relating to
Runaway Minors
 Sponsor: Rep. Phillips
 Requestor: House HESS
 Date of Request: 1-29-85

FISCAL DETAIL
 Agency Affected: Public Safety
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
----------------	---	---	---	---	---	---

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
 Division: Alaska State Troopers Date: 1/25/85
 Approved by *Michael Clemens* Commissioner: R. J. Sundberg Date: 1-30-85
 Agency: Department of Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 22, 1985

SUBJECT: Sectional analysis of CSHB 19 (Judiciary)
TO: Representative Randy Phillips
FROM: Edward H. Hein *EHH*
Legislative Counsel

Section 1 deletes a reference to AS 47.10.140(f). This is necessitated by the repeal of that subsection in section 3 of the bill.

Section 2 adds a new statute that requires law enforcement agencies to make reasonable efforts to locate missing children after receiving a request to locate the minor. The law enforcement agency must immediately complete a missing person report and, within 24 hours, transmit the report for entry into the Alaska Public Safety criminal information computer system and the FBI's National Crime Information Center computer system. Within 24 hours after learning that the minor has been found, the law enforcement agency must request that the information be removed from the computer systems. When a runaway or minor who is otherwise missing from the minor's custodian is found, a peace officer must take the minor into protective custody and either return the minor home or take the minor to an office specified by the Department of Health and Social Services, or to another suitable location if the community does not have an office specified by the department. The choice is the minor's. While under protective custody of the police, the minor may not be placed in a jail or detention facility. The officer who takes the minor into protective custody must advise the minor of the right to services from the Department of Health and Social Services and must notify the minor's legal custodian that the minor has been taken into protective custody.

Section 3 repeals AS 47.10.140(f) and (g), which are rewritten as AS 47.10.141 in section 2 of the bill.

EHH:csh
c3/059

POSITION PAPER

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 (HESS)

"An Act relating to runaway and missing minors."

This bill would mandate minimum levels of effort by law enforcement agencies to locate runaways or missing children and to take such children into protective custody when they are located. The bill also requires law enforcement agencies to complete reports on missing children which contain information necessary to identify such children and to disseminate these reports through state and national law enforcement computer networks.

Existing Practice

Under present law police agencies are allowed but not required to take action to locate reported runaways or missing children. Law enforcement agencies have discretion to detain runaway youth for the purpose of either returning them to their parents or legal custodian or taking them to an office of the Department of Health and Social Services. Under this discretionary statute police agencies may, and often do, refuse to respond to a parental request unless a court issues an order for detention of a runaway youth. In most instances, parents do not know the procedures required to obtain a court order. They must either seek the aid of an attorney or the Department of Health and Social Services, to whom they are generally referred by police agencies, in order to obtain these orders. This causes frustration on the part of parents, needless preparation of formal court documents, and unnecessary delays in law enforcement action to locate runaways.

The Department of Health and Social Services is presently mandated to assess the circumstances of runaway minors who request services and those of runaways who are detained by law enforcement, and to provide appropriate services to protect the youths and reunite them with their families. The department may assume emergency custody of runaways who request services or who are detained by police officers, if custody is necessary to protect the youth.

Effects of CSHB 19

This bill mandates minimum levels of effort by police to locate runaway or missing youth and eliminates the discretion of police agencies to refuse such requests or wait until court orders are issued before making attempts to locate the youth.

Dissemination of reports on and identifying information about runaway or missing youth is also mandated. Upon receiving a request to locate a child police must complete a report and insure that it is interred into

state and national law enforcement computer networks. The bill also requires police to take protective custody of runaway or missing youth when they are located and clarifies ambiguity in existing law by clearly stating that a child under protective custody may not be housed in a jail or detention facility. Upon taking a youth into protective custody a police officer must advise the youth orally and in writing of the youth's right to social services and must inform the legal custodian that the minor has been taken into protective custody. Peace officers are then required to return the child to his or her legal custodian or, if the child prefers take them to an office, facility, or contract agency of the Department of Health and Social Services. Where no such office or facility exists in a community and the minor refuses to go home, a peace officer may take the minor to another suitable location and immediately inform the Department.

Department Position

The Department supports this bill as a means of insuring efforts are made to locate runaway and missing youth. The bill will also increase the likelihood of finding runaway and missing youth through the prompt dissemination of information about these youth through state and national law enforcement computer systems. In addition this bill would eliminate ambiguity in existing law concerning detention of runaways in jails or juvenile detention facilities and would insure that immediate, but nonpunitive protective action occurs when runaway or missing youth are located by police. The bill maintains an important provision of existing law which avoids returning children to abusive situations by requiring police to take runaway or missing youth to the Department for services if the youth prefers. This allows investigation of allegations of abuse or neglect and promotes reunification of families through mediation services when no neglect or abuse is found.

Though this bill does not address all aspects of the runaway problem it represents significant improvements which can be made within existing fiscal constraints.

RECOMMENDED: Michael L. Price
Michael L. Price, Director
Division of Family
and Youth Services

DATE: John R. Pugk

APPROVED: 3/26/85
John R. Pugk, Commissioner
Department of Health
and Social Services

DATE: _____

RETYPE FROM BARBARA STALEY'S TELECOPY SINCE IT WAS ILLEGIBLE.

January 29th, 1985

Representative
Niilo Koponen
Pouch V
Juneau, AK 99811

I strongly support HB 19 and it's speedy adoption. This bill will allow distraught parents to effect immediate search for their missing children. Under current legislation - Public Safety Officials are not required to effect a search for a missing child until 72 hours have passed. This is a dangerous precedent which could lead to loss of life. While we know that the greater percentage of missing children are runaways, we simply cannot assume that is the circumstance in every case. The loss of one child is too large a price to pay for this kind of blanket assumption.

Another price is paid, under current law, which is extremely detrimental to the overall goal of Health and Social Services Division of Family and Youth, in Alaska - that of assisting in the support and maintenance of strong family units. When a youth leaves home - in many instances - it may be attributed to communication breakdown. The family of this missing youth goes through untold agony until that child is located and is known to be safe. This kind of pain -if unduly prolonged- may preclude the chance of ever healing the breach in family relations. The quicker a youngster is located - the sooner dialogue may begin between parents/guardians and child.

Thirdly - it is imperative Section 1 (b) 3 be enforced, so that careful assessment of current circumstances under which a minor is living may be ascertained. Many of the calls we, at Crisis Line or our family and youth hotline "Roundtable", receive from runaways indicate they are living in questionable surroundings, i.e., with young adults who have just reached majority and are exerting a detrimental influence, or, going from home to home among their friends without the knowledge or consent of friends parents.

Lastly - there young people are extremely vulnerable when out of the home and open to many kinds of victimization. It is imperative that someone be responsible for these minors - since under current law they cannot be forced back into their own homes - (which in some cases would not be appropriate). These minors out of their home currently reside in a grey area - and are without protection or guidance. They are in fact expected (required) to make life decisions that would be difficult for an adult.

I support and urge the speedy adoption of HB 19.

Sincerely,

Barbara Staley, Executive Director
Fairbanks Crisis Center Foundation

January 29th, 1985

Representative
Nilo Koponen
Pouch V
Juneau, Ak 99811

I strongly support H.B. 19 and it's speedy adoption. This bill will allow distraught parents to effect immediate search for their missing children. Under current legislation - Public Safety Officials are not required to effect a search for a missing child until 72 hours have passed. This is a dangerous precedent which could lead to loss of life. While we know that the greater percentage of missing children are runaways, we simply cannot assume that is the circumstance in every case. The loss of one child is too large a price to pay for this kind of blanket assumption.

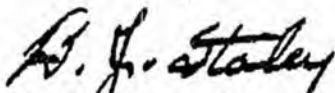
Another price is paid, under current law, which is extremely detrimental to the overall goal of health and Social Services, Division of Family and Youth, in Alaska - that of assisting in the support and maintenance of strong family units. When a youth leaves home - in many instances - it may be attributed to communication breakdown. The family of this missing youth goes through untold agony until that child is located and is known to be safe. This kind of pain - if unduly prolonged - may preclude the chance of ever healing the breach in family relations. The quicker a youngster is located - the sooner dialogue may begin between parents/guardians and child.

Thirdly - It is imperative, Section 1 (h) be enforced, so that careful assessment of current circumstances under which a minor is living may be ascertained. Many of the calls we, at Crisis Line or our family & youth hotline "Roundtable" receive from runaways indicate they are living in questionable surroundings, i.e., with young adults who have just reached majority and are exerting a detrimental influence, or, going from home to home among their friends without the knowledge or consent of friends parents.

Lastly - these young people are extremely vulnerable when out of the home and open to many kinds of victimization. It is imperative - that someone be responsible for these minors - since under current law they cannot be forced back into their own homes - (which in some cases would not be appropriate). These minors out of their home currently reside in a grey area - and are without protection or guidance. They are in fact expected (required) to make life decisions that would be difficult for an adult.

I support and urge the speedy adoption of H.B. 19

Sincerely,



Barbara Staley, Executive Director
Fairbanks Crisis Clinic Foundation

§ 47.10.120

House Journal

criminal offense
of 18 years, he is no
the benefits of the
State, Sup. Ct.
24), 576 P.2d 1352

court's jurisdiction
subsection (a) nor
to extend the
tion to newly
ring between the
birthdays. Henson
No. 1590 (File No.

only by expressly
the sentencing
tion over the
ressly retroactive
its continuing
of the sentence
port v. McGinnis,
e No. 1942), 522

When, in the
the court that
entment of a
is make the
served upon
and within
able. The
partment of
ontrol of the
to state his
5 SLA 1957;

ed of aid is
he parent a
shall pay in
or in part
at minor is
parent of
will cover

ed, he may
ertion and

§ 47.10.130 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.10.140

(c) The sum collected from a parent under this section shall be directly credited to the general fund of the state. (§ 13 art I ch 145 SLA 1957; am § 1 ch 31 SLA 1959; am § 1 ch 141 SLA 1959; am § 23 ch 63 SLA 1977)

Effect of amendment. — The 1977 "aid" for "dependent minor" in two places in amendment substituted "child in need of" the first sentence of subsection (a).

Sec. 47.10.130. Detention. No minor under 18 years of age who is detained pending hearing may be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, his parent, guardian, or custodian shall be notified immediately. (§ 14 art I ch 145 SLA 1957)

A detention which was twice continued by the master of the children's court for a total period of six days exemplifies a usurpation of judicial power. In re P.H., Sup. Ct. Op. No. 357 (File No. 1533), 504 P.2d 337 (1972).

Sec. 47.10.140. Temporary detention and detention hearing. (a) A peace officer may arrest a minor who violates a law or ordinance in his presence, or who he reasonably believes is a fugitive from justice. A peace officer may continue a lawful arrest made by a citizen. He may have the minor detained in a juvenile detention facility if in his opinion it is necessary to do so to protect the minor or the community.

(b) A peace officer who has a minor detained under (a) of this section shall immediately, and in no event more than 12 hours later, notify the court, the minor's parents or guardian, and the Department of Health and Social Services of the officer's action. The department may file with the court a petition alleging delinquency before the detention hearing.

(c) The court shall immediately, and in no event more than 48 hours later, hold a hearing at which the minor and his parents or guardian if they can be found shall be present. The court shall determine whether probable cause exists for believing the minor to be delinquent. The court shall inform the minor of the reasons alleged to constitute probable cause and the reasons alleged to authorize his detention. The minor is entitled to counsel and to confrontation of the witnesses against him.

(d) If the court finds that probable cause exists, it shall determine whether the minor should be detained pending the hearing on the petition or released. It may either order the minor held in detention or order him to be released to the custody of a suitable person pending the hearing on the petition. If the court finds no probable cause, it shall order the minor released and close the case.

(e) Except for temporary detention pending a detention hearing or temporary detention under (f) of this section, no minor may be detained except by court order.

(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142(b), and, if known, the peace officer shall advise the person having the legal custody of the minor of his detention.

(g) No minor who is detained under (f) of this section may be detained in a jail or other facility unless kept out of contact with adult persons convicted or accused of a crime. No minor may be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor. (§ 15 art 1 ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972)

Detention orders neither based on competent testimony nor accompanied by the required statement of facts are invalid. In re P.H., Sup. Ct. Op. No. 357 (File No. 1538), 504 P.2d 337 (1972).

Sec. 47.10.142. Emergency custody and temporary placement hearing. (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

- (1) the minor has been abandoned;
- (2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;
- (3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the

47.08.140

ected to
community
receive
JO.620
alth clinics."

ce.

40
tastrophic
47.08.140
.08.010 —

.l medical
ctee deter-
based on
060;
results in
exceed 12
ave been

ie, created

ent which

marriage

nv .ed to

ccurred in
in, includ-
sportation
or living
munity to
his perma-

id assets;
i dwelling
ngs or an
ient use of

dentist, or
ic, skilled
ance orga-
.08.050 to

§ 47.10.010 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.10.010

(12) "third-party payments" means payments of medical expenses related to a catastrophic illness by sources other than the applicant or the committee, including but not limited to state and federal medical assistance programs, private health insurance, employment-related health insurance, military health insurance, workers' compensation, violent crimes compensation, Indian Health Service of the United States Department of Health, Education and Welfare, and awards in legal actions. (§ 1 ch 107 SLA 1978; § 60 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "workers' compensation" for "workmen's compensation" in paragraph (12).

Chapter 10. Delinquent Minors and Children in Need of Aid.

NOTES TO DECISIONS

Cited in Flores v. Flores, Sup. Ct. Op.
No. 1875 (File No. 3832), 598 P.2d 893
(1979).

Article 1. Children's Proceedings.

Section

10. Jurisdiction
142. Emergency custody and temporary
placement hearing

Sec. 47.10.010. Jurisdiction. (a) Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the court finds the minor

(1) to be a delinquent minor as a result of violating a criminal law of the state or of a municipality of the state; or

(2) to be a child in need of aid as a result of

(A) the child being habitually absent from his home or refusing to accept available care, or having no parent, guardian, custodian or relative caring or willing to care for him, including physical abandonment by

(i) both parents,

(ii) the surviving parent, or

(iii) one parent if the other parent's rights and responsibilities have been terminated under AS 47.10.080 or voluntarily relinquished;

(B) the child being in need of medical treatment to cure, alleviate, or prevent his suffering substantial physical harm, or mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and his parents are unwilling to provide the medical treatment;

(C) the child having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of the actions done by or conditions created by his parent, guardian or custodian or the failure of his parent, guardian or custodian adequately to supervise him;

(D) the child having been sexually abused either by his parent, guardian or custodian, or as a result of conditions created by his parent, guardian or custodian, or by the failure of his parent, guardian or custodian adequately to supervise him;

(E) the child committing delinquent acts as a result of pressure, guidance, or approval from his parents, guardian or custodian.

(F) the child having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian or custodian.

(b) When a minor is accused of violating a traffic statute or regulation, a traffic ordinance or regulation of an incorporated municipality, a fish and game statute or regulation under AS 16 or a parks and recreational facilities statute or regulation under AS 41.20, excepting a statute the violation of which is a felony, the procedure prescribed in AS 47.10.020 — 47.10.090 may not be followed, except that a parent, guardian or legal custodian shall be present at all proceedings. The minor accused of a traffic offense, a fish and game statute or regulation violation under AS 16 or parks and recreational facilities violation under AS 41.20 shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult.

(c) In a controversy concerning custody of a minor, the court may appoint a guardian of the person and property of a minor and may order support from either or both parents. Custody of a minor may be given to the Department of Health and Social Services, and payment of support money to the department may be ordered. (§ 4 art I ch 145 SLA 1957; am § 1 ch 76 SLA 1961; am §§ 1, 2 ch 110 SLA 1967; am § 1 ch 64 SLA 1969; am § 6 ch 104 SLA 1971; am §§ 7, 8 ch 63 SLA 1977; am § 1 ch 104 SLA 1982)

Effect of amendments. — The 1982 amendment, effective July 1, 1982, added subparagraph (2)(F) to subsection (a).

Editor's notes. — Section 7, ch. 110, SLA 1967, as amended by § 80, ch. 69,

SLA 1970, provides: "In exercising its jurisdiction under AS 47.10, the superior court may designate district judges and magistrates as masters under Civil Rule 33."

47.10.085

Int. M.O.W.
File No.

Sup. Ct. Op.
P. 2d 334
No. 2491
(1982).

App. Op.
(1982).

Op. No.
(1982).

Residual

§ 47.10.090 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.10.142

Sec. 47.10.090. Records.

NOTES TO DECISIONS

Cited in M.O.W. v. State, Ct. App. Op.
No. 95 (File No. 4846), P.2d (1982).

Sec. 47.10.142. Emergency custody and temporary placement hearing. (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by his parents or guardian as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;

(3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department;

(4) the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D).

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child and the court of the action and file with the court a petition alleging that the child is a child in need of aid.

(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if his health permits, and his parents or guardian, if they can be found, shall be permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.290(8). The court shall inform the minor, and his parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing his temporary placement.

(e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order him returned to the custody of his parents or guardian subject to the department's supervision of his care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of his parents or guardian. (§ 3 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 24 ch 63 SLA 1977; am § 2 ch 104 SLA 1992)

Effect of amendments. — The 1992 amendment, effective July 1, 1992, added paragraph (4) to subsection (a).

Article 2. Juvenile Institutions.

Sec. 47.10.200. Releasing juveniles after commitment.

NOTES TO DECISIONS

Jurisdiction over probation revocation proceedings. — The Department of Health and Social Services has the authority to conduct revocation proceedings when it has granted the probation allegedly violated, as a corollary to its power under this section to grant probation. However, until such time as the department chooses to establish procedures regarding probation revocation, jurisdiction over such cases will remain in the superior court. *In re L.C. v. State, Sup. Ct. Op. No. 2277 (File Nos. 4401, 4411), 625 P.2d 339 (1981).*

Hearing. — The requirement in Children's Rule 12(a) of a disposition hearing applies to a court-ordered revocation of a juvenile delinquent's administratively granted probation. *In re L.C. v. State, Sup. Ct. Op. No. 2277 (File Nos. 4401, 4411), 625 P.2d 339 (1981).*

The hearing in connection with a juvenile delinquent's probation revocation must be broader than merely determining probable cause that probation conditions are violated. *In re L.C. v. State, Sup. Ct. Op. No. 2277 (File Nos. 4401, 4411), 625 P.2d 339 (1981).*

Article 3. Care of Children.

Sec. 47.10.230. Powers and duties of department over care of child.

NOTES TO DECISIONS

Quoted in *E.A. v. State, Sup. Ct. Op. No. 2289 (File Nos. 4687, 4870), 623 P.2d 1210 (1981).*

Article 4. General Provisions.

Sec. 47.10.290. Definitions.

NOTES TO DECISIONS

Quoted in *N.P.A. v. State, Sup. Ct. Op. No. 2005 (File No. 4618), 604 P.2d 399 (1979).*

history and amendment of will of Estate of Greer Tank & Welding, Inc. Sup. Ct. Op. No. 1398 (1977).

ht directly parent. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (1977).

she is also of Pushruk, Sup. Ct. Op. No. 1398 (1977).

of fact. — des for all ancial loss excessively classification. n of fact. In re Estate of Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (1979).

lude those have been d had he hruk, Sup. Ct. Op. No. 1398 (1977).

he legisla- n the n. nded a position classes and upon the ime of his te of actual ributions of f of time to hat such ued. Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (1979).

deceased and was sed at the a statutory o the estate nd distribu- claims of of Pushruk, Sup. Ct. Op. No. 1398 (1977).

t have the proceeds

of the wrongful death action as a statutory beneficiary by virtue of AS 25.20.030, which requires each child to maintain his parents when they are poor and unable to work and maintain themselves. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Although AS 25.20.030 establishes a duty running between parent and child under specific factual circumstances, it does not create a right of action in the parent against a third-party tort-feasor. Nor does it establish dependency as a matter of law. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Stepchildren. — Because of the lack of precision in the language of this section, the status of stepchildren as potential beneficiaries is not clear. Brown v. Estate of Jonz, Sup. Ct. Op. No. 1808 (File Nos. 3216, 3228), 591 P.2d 532 (1979).

Superior court's ruling excluding the nonadopted stepchildren from recovery was not plainly erroneous, and therefore supreme court did not review the court's instruction, unobjected to at trial, that the word "heir" included deceased's widow and daughter, with no mention of the stepchildren. Brown v. Estate of Jonz, Sup. Ct. Op. No. 1808 (File Nos. 3216, 3228), 591 P.2d 532 (1979).

Decedent's divorced wife and nonadopted stepson were "dependents" under this section where the factual findings of the trial court which were supported by the evidence not only indicated the close familial relationship of the wife and stepson to the deceased, but also their actual dependency upon him for support. Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

Article 8. Removal of Disabilities of a Minor.

Section

590. Removal of disabilities of minority

Sec. 09.55.590. Removal of disabilities of minority. (a) A minor who is a resident of this state and is at least 16 years of age, who is living separate and apart from his parents or guardian, capable of self-support and of managing his own financial affairs, may petition the superior court to have the disabilities of minority removed for limited or general purposes.

(b) A minor may institute this petition under this section in his own name.

- (c) The petition for removal of disabilities of minority must state:
 - (1) the name, age, and residence address of the petitioner;
 - (2) the name and address of each living parent;
 - (3) the name and address of the guardian of the person and the guardian of the estate, if any;
 - (4) the reasons why removal would be in the best interest of the child; and
 - (5) the purposes for which removal is sought.

(d) The petitioner must obtain the consent of each living parent or guardian having control of the person or property of the petitioner. If the person who is to consent to the petition is unavailable or his whereabouts are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of petitioner, may waive this requirement of consent as to that parent or guardian.

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the petitioner at the hearing.

(f) The court may remove the disabilities of minority as requested in the petition if found to be in the best interest of the petitioner, after a hearing. The removal may be for general purposes or the limited purposes specified in the decree.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including but not limited to the right to control himself or herself, the right to be domiciled where he or she desires, the right to receive and control his or her earnings, to sue or to be sued, and the capacity to contract. (§ 2 ch 233 SLA 1976)

Article 9. Domestic Violence.

<p>Section 600. Injunctive relief in case involving domestic violence 610. Emergency injunctive relief in cases involving domestic violence 620. Forms for filing petition</p>	<p>Section 625. Service of process 630. Notification to law enforcement agencies 640. Definitions</p>
---	--

Cross references. — As to domestic violence police training, see AS 18.65, art. 6.

Editor's notes. — Section 5, ch. 139, SLA 1980, provides: "Section 1 of this Act has the effect of changing Rule 3, Rules of Civil Procedure, by enacting a provision that allows a court to proceed upon the filing of a petition rather than a complaint,

and Rule 76, Rules of Civil Procedure, by enacting a provision that allows a court to accept for filing petitions which are handwritten in part. Section 1 of this Act also has the effect of changing Rule 65, Rules of Civil Procedure, by enacting a provision that establishes an alternate procedure for obtaining orders for relief from domestic violence."

Sec. 09.55.600. Injunctive relief in cases involving domestic violence. (a) A person who is subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent.

(b) Upon receiving a petition under (a) of this section, the superior court shall schedule a hearing and shall provide at least 10 days notice to the respondent of the hearing and of the respondent's right to appear and to be heard either in person or by attorney. If, at the hearing, the superior court finds that the petitioner has been subjected to domestic violence by the respondent, the superior court may issue any order it determines to be necessary for the protection of the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this subsection may include provisions which

(1) restrain the respondent from subjecting the petitioner to domestic violence;

The interest to be protected is personal to the wife, for she suffers a loss of her own when the care, comfort, companionship, and solace of her spouse is denied her. *Schreiner v. Fruit*, Sup. Ct. Op. No. 1003 (File No. 1949), 519 P.2d 462 (1974).

Quoted in *Cramer v. Cramer*, Sup. Ct. Op. No. 135 (File No. 280), 379 P.2d 95 (1963).

Chapter 20. Parent and Child.

- Section
- 10. Age of majority
 - 20. Arrival at majority upon marriage
 - 30. Duty of parent and child to maintain each other
 - 40. Maintenance and education of minor out of income of his property

- Section
- 50. Legitimation by subsequent marriage, acknowledgment in writing or adjudication
 - 60. Custody of the child

Sec. 25.20.010. Age of majority. A person is considered to have arrived at majority at the age of 18 years, and thereafter has control of his own actions and business and has all the rights and is subject to all the liabilities of citizens of full age, except as otherwise provided by statute. (§ 20-1-1 ACLA 1949; am § 1 ch 37 SLA 1959; am § 5 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment decreased the age of majority from 19 years to 18 years.

Legislation amending several provisions of the Children's Act was part of an omnibus age-law bill which resolved ambiguities in several codes and generally harmonized all Alaska Statutes with the policy of a 19-year (now 18-year) age of majority. *Davenport v. McGinnis*, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

This section does not carry a broad negative implication. *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Nor imply that infants are incompetent in all things. — The age of majority statute does not imply a legislative judgment that infants are incompetent in all things; it means only that persons above the statutory age minimum are competent in all things except as otherwise provided. *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Stated in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 547 P.2d 827 (1976).

ALR reference. — Statutory change of majority as affecting pre-existing rights or status, 170 ALR 222. S3

Sec. 25.20.020. Arrival at majority upon marriage. A person arrives at the age of majority upon being married according to law, unless he is under the marriageable age of consent as defined in AS 25.05.171(a), in which case he reaches majority upon reaching the marriageable age of consent. (§ 20-1-2 ACLA 1949; am § 100 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "person arrives" for "female person is considered to arrive" and added the language beginning "unless he is under the marriageable age of consent" to the end of the section.

Cited in *RLR v. State*, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

Am. Jur. reference. — 27 Am. Jur., Infants, § 5.

Sec. 25.20.030. Duty of parent and child to maintain each other. Each parent is bound to maintain his children when poor and unable to

work to maintain themselves. Each child is bound to maintain his parents in like circumstances. (§ 21-3-1 ACLA 1949)

Cross reference. — As to persons liable for support and burial, see AS 47.25.230.

When parent performs his duty. — The parent performs his duty when he provides for his child whatever is necessary for its suitable clothing and maintenance according to their situation and condition in life. *State v. Langford*, 90 Ore. 251, 176 P. 197 (1918), construing the Oregon statute.

Obligation of father after divorce. — The obligation of the father is, after divorce, exactly the same as it was before dissolution of the marriage contract. *State v. Langford*, 90 Ore. 251, 176 p. 197 (1918), construing the Oregon statute.

The obligation under this section continues after the parents divorce. *Paige v. Paige*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1357 (1972); *McMillan v. McMillan*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1876 (1973).

How obligation measured. — The obligation of the father must be measured with reference to his ability, honestly exercised, and with regard to his financial resources. *State v. Langford*, 90 Ore. 251, 176 P. 197 (1918), construing the Oregon statute.

The support obligation of the husband and wife are equal even though the ability to meet that obligation may not be equal. *Paige v. Paige*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1357 (1972).

A child support decree in a divorce action does not affect the child's right to demand support from either parent, or the child's creditor's right to demand payment for necessities furnished the child, because it does not affect the underlying parental obligation. *Paige v. Paige*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1357 (1972).

The wife or some third party's actually furnishing support is not available as a

defense to the father against the child or his creditors. *Paige v. Paige*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1357 (1972).

Proceedings under AS 09.55.200, et seq., distribute responsibility for child support. — Proceedings pursuant to AS 09.55.200, et seq., are not intended to determine the child's right to support from his parent, but rather are intended to distribute responsibility for child support between parents; thus, the child can independently of a divorce decree proceed against either parent for support in an appropriate case as can creditors of the child who have furnished him necessities. *McMillan v. McMillan*, Superior Court, 3rd Jud. Dist., C.A. No. 71-1876 (1973).

Mother of decedent did not have the right to receive directly the proceeds of the wrongful death action as a statutory beneficiary by virtue of this section, which requires each child to maintain his parents when they are poor and unable to work and maintain themselves. In re Estate of Pushruk, Sup. Ct. Op. No. 1298 (File No. 2974), 562 P.2d 329 (1977).

Although this section establishes a duty running between parent and child under specific factual circumstances, it does not create a right of action in the parent against a third-party tort-feasor. Nor does it establish dependency as a matter of law. In re Estate of Pushruk, Sup. Ct. Op. No. 1338 (File No. 2974), 562 P.2d 329 (1977).

Am. Jur. and ALR references. — 39 Am. Jur., Parent and Child, §§ 69, 70.

Moral obligation to support, 17 ALR 1307; 79 ALR 1348.

Liability of parent for necessities furnished child, 42 ALR 150.

Parent's duty to support, 121 ALR 176.

Sec. 25.20.040. Maintenance and education of minor out of income of his property. If a minor who has a parent living has property the income of which is sufficient for his maintenance and education in a manner more expensive than the parent can reasonably afford, regard being had to the situation of the parent's family and to all the circumstances of the case, the expenses of the maintenance and education of the child may be defrayed out of the income of his own property, in whole or in part, as shall be judged reasonable by the court, and the charges therefor may be allowed accordingly in the settlement

(b) The sale shall be conducted and the proceeds of the sale shall be applied in the manner provided in §§ 10 - 90 of this chapter, except that property in a state of decay, or that is plainly subject to immediate decay, may be summarily sold by order of a district judge or magistrate, after inspection of it, as provided in this chapter.

(c) The return of the sale shall be made and the proceeds derived from it shall be applied in the manner provided in §§ 60 and 70 of this chapter. (§ 22-7-8 ACLA 1949; am § 3 ch 24 SLA 1966)

Sec. 34.45.090. Fees of officers. The fees allowed to the district judge or magistrate under this chapter are \$3 and to the peace officer the same fees as are allowed by law for sales upon execution and 10 cents a folio for making an inventory of property. (§ 22-7-9 ACLA 1949; am § 3 ch 24 SLA 1966)

Chapter 50. Actions for Injuries to Property Interests.

Section

- 10. Action for injury to the inheritance
- 20. Liability for destruction of property by minors

Sec. 34.50.010. Action for injury to the inheritance. A person seized of an estate in remainder or reversion may maintain a civil action for an injury done to the inheritance, notwithstanding an intervening estate for life or years. (§ 22-1-5 ACLA 1949)

Am. Jur. reference. — 35 Am. Jur., Marriage, § 148 et seq.

Sec. 34.50.020. Liability for destruction of property by minors. (a) A person, municipal corporation, association, village, school district or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and court costs, from either parent or both parents or the legal guardian or person having the legal custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district or religious or charitable organization.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody. (§ 1 ch 98 SLA 1957; am § 1 ch 107 SLA 1967)

Offered: 3/15/85
Referred: Judiciary and
Finance

Original sponsors: Phillips, Goll
and Larson

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 * Section 1. AS 47.10.140(e) is amended to read:

9 (e) Except for temporary detention pending a detention hearing

10 [OR TEMPORARY DETENTION UNDER (f) OF THIS SECTION], a minor may [NOT]

11 be detained only [EXCEPT] by court order.

12 * Sec. 2. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving

14 a request to locate a minor evading the minor's legal custodian or

15 otherwise missing, a law enforcement agency shall make reasonable

16 efforts to locate the minor and shall immediately complete a missing

17 person's report containing information necessary for the identifica-

18 tion of the minor. As soon as practicable, but not later than 24

19 hours after completing the report, the agency shall transmit the

20 report for entry into the Alaska Public Safety Information Network and

21 the National Crime Information Center computer system. As soon as

22 practicable, but not later than 24 hours after the agency learns that

23 the minor has been located, it shall request that the Department of

24 Public Safety and the Federal Bureau of Investigation remove the

25 information from the computer systems.

26 (b) A peace officer shall take into protective custody a minor

27 described in (a) of this section if the minor is not otherwise subject

28 to arrest or detention. The peace officer shall honor the minor's

29 preference to either (1) return the minor to the legal custodian or

1 (2) take the minor to an office specified by the Department of Health
2 and Social Services or a facility or contract agency of the depart-
3 ment. If an office specified by the department or a facility or
4 contract agency of the department does not exist in the community, the
5 officer shall take the minor to another suitable location and promptly
6 notify the department. A minor under protective custody may not be
7 housed in a jail or other detention facility. Immediately upon taking
8 a minor into protective custody the officer shall advise the minor
9 orally and in writing of the right to social services under AS 47.10.-
10 142(b), and, if known, the officer shall advise the legal custodian
11 that the minor has been taken into protective custody.

12 * Sec. 3. AS 47.10.140(f) and (g) are repealed.

Introduced: 1/14/85
Referred: Health, Education & Social
Services, Judiciary and Finance

1 IN THE HOUSE

BY PHILLIPS, GOLL AND LARSON

2

HOUSE BILL NO. 19

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to runaway minors."

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

8 * Section 1. AS 47.10 is amended by adding a new section to read:

9 Sec. 47.10.141. LOCATING RUNAWAY MINORS. (a) Not later than 24
10 hours after receiving a written request to locate a minor who is
11 evading the person having legal custody of the minor, a law enforce-
12 ment agency shall make reasonable efforts to locate the minor. If a
13 peace officer locates the minor and does not detain the minor, the
14 peace officer shall immediately notify the department of the location
15 at which and circumstances under which the minor was found.

16 (b) Not later than 12 hours after receiving notification under
17 (a) of this section that a minor has been located, the department
18 shall notify the person having legal custody of the minor that the
19 minor has been located. As soon as practicable after receiving noti-
20 fication under (a) of this section, and before notifying the person
21 having legal custody of the minor that the minor has been located, the
22 department shall

23 (1) contact the minor in person;

24 (2) determine the condition of the minor and the circum-
25 stances under which the minor is living; and

26 (3) advise the minor in writing of services of the depart-
27 ment available to the minor.