CSSB

79

HOUSE COMMITTEE REPORT

(11)

Date referred: 4/22/88

FURTHER REFERRALS:

DATE: 5/4/88

The Finance Committee has considered CSSB 79(Jud)am

"An Act relating to runaway and missing minors."

RECOMMENDS:

[X] replace with HCS CSSB 79(Fin.) [X] the same title

[ ] attached amendment(s) [ ] a new title

- [ ] do pass
- [ ] do not pass
- [X] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the _____ Committee

ADOPTS: [ ] _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

[X] fiscal impact Courts

(4) [X] zero fiscal notes House Finance, Dept. Law, Public Safety, Public Defenders (Admin)

[ ] zero with analysis

[ ] same as previous fiscal note published _____

[X] same as previous zero fiscal note published 4/22/88

SIGNING DO PASS:

LARSON Ronald R. Larson

SWACK [illegible]

[illegible]

RIEGER [illegible]

FRANK [illegible]

DAVIS Mike Davis

SIGNING OTHER RECOMMENDATIONS:

ADAMS [illegible] - No Rec

PISURCHOT [illegible] no rec

GOLL [illegible] - no rec

BOYER [illegible] no rec.

WALLIS [illegible]

BROWN [illegible]

[illegible]

Chairman's signature

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 791 ( )
PUBLISH DATE: HOUSE 4/22/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to runaway and missing minors."
Sponsor: Rodey, Faiks, Fischer, et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: _____
Components: _____

381

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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 FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

N/A

Prepared by: Russell Webb for Yvonne M. Chase, ACSW, Director — Phone: 465-3170
Division: Family & Youth Services — Date: 4-20-88

Approved by Commissioner: Myra M. Munson — Date: 4-20-88
Agency: Department of Health & Social Services

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

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST:

Bill Version: HCS CS SB 79 (FIN)
Publish Date: 05/03/88

Revision Date: 05/03/88
Title: An act relating to runaway and missing minors
Sponsor: Rodey, Faiks, Fischer, ...
Requestor: House Finance

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)						
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	9.0	9.0	9.0	9.0	9.0
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	9.0	9.0	9.0	9.0	9.0
CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
REVENUE	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
FUNDING: (Thousands of Dollars)						
General Funds	0.0	9.0	9.0	9.0	9.0	9.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	9.0	9.0	9.0	9.0	9.0
POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Jan Strandberg, General Counsel — Phone: 264-8228
Division: Alaska Court System — Date: 05/03/88

Approved by: Arthur H. Snowden, II, Administrative Director — Date: 05/03/88
Agency: Alaska Court System

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management & Budget
Impacted Agency(ies)
Senate Secretary

ALASKA COURT SYSTEM

Fiscal Analysis

HCS for CSSB 79 (FIN)

This bill will require court hearings before a minor can be placed in a juvenile detention facility as well as hearings to determine the most appropriate placament in the best interests of the minor. Based on an approximate hearing time of 30 minutes each and on a population of 180 per year (as estimated in DHSS' position paper), this bill will increase court time by 90 hours. Because the impact does not warrant the addition of a permanent master, the court system intends to contract state-wide for special master's services based on an average cost of $100 per hour.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CS SB 79 (FIN)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: Relating to runaway and missing minors.
Sponsor: Rodey, Faiks, et. al.
Requestor: House Finance Committee

Agency Affected: Administration
BRU: Office of Public Advocacy
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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 FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

ADA

Prepared by: Al Adams, Chair — Phone: 465-3706
Division: House Finance Committee — Date: 5/3/88

Approved by Commissioner: _____ Date: _____
Agency: _____

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79 (-)
PUBLISH DATE:

FISCAL NOTE

REQUEST

Revision Date: 3/16/88
Title: "An Act relating to runaway and missing minors."
Sponsor: Sen. Rodey
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Phone: 269-5691
Date: 3/16/88

Approved by Commissioner: Dale H. Sitton, Lt. Col. Dep. Comm
Agency: Public Safety
Date: 3-16-88

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

MAR 17 1988

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSCSSB 79 (.)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: April 25, 1988
Title: "An Act relating to runaway and missing minors."
Sponsor: House Judiciary
Requestor: House Finance

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Phone: 465-3672
Division: Administrative Services
Date: April 25, 1988

Richard I. Pegues

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Date: April 25, 1988
Agency: Department of Law

RECEIVED
APR 26 1988
LEGISLATIVE FINANCE

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCCSSB 79 (Jud.)

The House Committee Substitute for CSSB 79 (Jud.) amends AS 47.10 by changing existing law and adding new sections and subsections that provide for the detention of runaway minors, and that provide for the establishment of programs for runaway minors.

The Department of Law is primarily concerned with Section 3, which provides that a juvenile detained under this section is entitled to a detention hearing within 24 hours of being detained. At that hearing the state must show that the minor's current situation poses a severe and imminent risk to the minor's health or safety and that no reasonable placement alternative exists within the community. The hearing is specifically to determine if the minor is in civil contempt of court. Each of these detained minors will already be in the legal custody of the Department of Health and Social Services and DHSS will have obtained a temporary placement order with a provision in it which stated that the minor must stay in the department's arranged placement and if he or she does not he or she may be found in civil contempt of court.

The statute apparently assumes that as the minor will be held in civil contempt that there will be no requirement for a jury trial. However, this may not be a valid assumption given the uncertain, or indefinite period of detention provided for by the bill. In civil contempt the contemnor holds the keys to the cell in his or her hand. In this case it will be difficult to tell when the child is actually in a position to use those keys to open the doors. Will it be sufficient for the minor to say that he or she will not run away? Will there need to be a clearance from the Department of Health and Social Services? Will the State be able to keep the child in a detention setting indefinitely? What subsequent hearings will be required? Based upon these considerations, it appears that there will have to be multiple hearings regarding the child's detention.

The Division of Family and Youth Services, in its separate fiscal note analysis, concludes that it will not experience a fiscal impact because the court ordered detention provided by the bill will be used in only those cases involving the few chronic runaways in clear danger to themselves. A judge may not view what situation constitutes a severe and imminent risk to a minor's health or safety quite so narrowly when faced with determining the disposition of a thirteen-year-old or fourteen-year-old runaway who has been found alone on the streets.

Up until the present, the Division of Family and Youth Services has not had a means to detain runaways if they decide to run again. For instance, a child is picked up, placed in a foster home, and runs away again the next day. Running away is a status offense and children cannot be found delinquent and detained based upon that behavior. If there is a means to detain children it is likely that children

who may well have been considered unreachable previously will now warrant an attempt at detention as a means of dealing with them. Certainly there will be parents who will strongly urge the DFYS to use this option on behalf of the child who refuses to stay at home or in a foster home setting. The fact that this alternative is being created is because there are children who cannot be served with the current legal remedies available to DFYS.

For these reasons, the Department of Law believes the number of runaways who will be subject to court ordered detention may be substantially greater than a few chronic runaways. There is, however, no realistic or accurate way to determine the number of hearings that may be required by the bill and, consequently, fiscal note costs cannot be predicted at this time. The attorneys in the Department of Law who would be responsible for preparing for and attending court hearings for runaways are already shouldering extreme caseloads. To the extent that DFYS may find it necessary to request court ordered detention for more than a few chronic runaways, the Department of Law would have to seek and receive a supplemental appropriation before any additional runaway caseload could be handled.

It should also be noted that at detention hearings the child as well as the child's parents may need legal counsel, because the child will be deprived of his or her liberty, while at the same time the state is taking legal and physical custody from the child's parents. The parents and child's interests may well be dissimilar and the court will need to appoint an additional attorney to represent the child (in addition to the non-attorney guardian ad litem). Any significant number of runaway hearings may have a fiscal impact on the Office of Public Advocacy and the court system, in addition to the Department of Law.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79 (Fin.)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: "An Act relating to runaway minors..."
Sponsor: Senator Rodey
Requestor: Senate Finance

Agency Affected: Dept. of Administration
BRU: Public Defender Agency
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of D

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

(See attachment)

Prepared by: Dana Fabe, Public Defender
Phone: 279-7541
Division: Public Defender Agency
Date: May 3, 1988

Approved by Commissioner: John Andrews
Date: _____
Agency: Department of Administration

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

D R A F T

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCS CSSB 79 (Finance)

The House Finance Committee's substitute for this bill eliminates use of contempt powers to place juveniles in detention facilities if they are in violation of a placement order. While runaways may be "incarcerated" in a detention facility under limited circumstances, they must be brought to court the same day for release within a period not to exceed 24 hours. With the elimination of potential contempt hearings and continued detention, any additional hearings resulting from this bill will not require an increase in our staff.

D R A F T

5-0310H

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE BY THE FINANCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 79 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 47.10.141 is amended to read:

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

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors licensed by

the department under AS 47.10.310, or a facility or contract agency of the department. If an office specified by the department, a licensed program for runaway minors, or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody, the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court upon a finding of probable cause that (1) the minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court on the day the minor is detained, or if that is not possible, within 24 hours after the detention for a hearing to determine the most appropriate placement in the best interests of the minor. A minor taken into emergency protective custody under this subsection may not be detained for more than

24 hours, except as provided under AS 47.10.140. Emergency protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors, as defined in AS 47.10.390.

* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court may require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

* Sec. 4. AS 47.10 is amended by adding new sections to read:

ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The department shall

(1) review, inspect, and approve or disapprove for licensing proposed or established programs for runaway minors to ensure the health and safety of minors in the program;

(2) mairtain a register of licensed programs for runaway minors;

(3) award grants for the establishment or operation of licensed programs for runaway minors;

(4) submit to the legislature and governor each January a report on programs for runaway minors in the state;

(5) adopt regulations for the administration of AS 47.10.-300 - 47.10.390, including regulations providing for the coordination of services to be provided by licensed programs for runaway minors and by the department.

Sec. 47.10.310. LICENSING OF PROGRAMS FOR RUNAWAY MINORS. (a) A person may not operate a program for runaway minors in the state without a license issued under this section. A person who violates this subsection is guilty of a violation.

(b) The department may license a program for runaway minors under AS 47.10.300 - 47.10.390 only if the program

(1) is operated by a corporation organized under AS 10.20 or a municipality; and

(2) meets the requirements of (c) of this section.

(c) A program for runaway minors shall

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

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

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

(4) promptly inform the department of a minor in the program who claims to be the victim of child abuse or neglect, as defined in AS 47.17.070, or whom an employee of the program has cause to believe has been a victim of child abuse or neglect;

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

(6) maintain adequate staffing and accommodations to ensure

physical security and to provide crisis services to minors residing in a facility operated by the program; residents under 18 years of age shall be segregated from residents who are 18 years of age or older.

(d) A program for runaway minors may provide services for the protection of the health and welfare of a person under 21 years of age who is in need of the services and who is without a place of shelter in which supervision and care of the person are available.

Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES. A runaway minor may maintain residency for a period not exceeding 45 days at a facility operated as part of a licensed program for runaway minors. The minor may maintain residency without the consent of the person or agency having custody of the minor, except that if the court has ordered the minor committed to the custody of the department, written consent of the department is required. The residency may be extended for an additional period of 45 days with the written consent of the person or agency having custody of the minor. A minor may not maintain residency beyond the 90th day following admission to a licensed program for runaway minors without the written consent of the person or agency having custody of the minor and the written consent of the department.

Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The director of a program for runaway minors shall make a good faith effort to notify a minor's legal custodian as soon as possible, but in no event more than 48 hours after the minor is admitted to the program, unless there are compelling circumstances that justify withholding notice. The notice must describe the minor's physical and emotional condition and the circumstances surrounding the minor's admission to the program.

(b) The director of a program for runaway minors shall promptly

notify a minor's legal custodian if the minor is released from the program into the custody of a person other than the legal custodian or a person representing the legal custodian.

Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of a licensed program for runaway minors that identify a minor who has been admitted to or has sought assistance from the program are confidential and are not subject to inspection or copying under AS 09.25.110 - 09.25.120, unless

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

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

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

Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers, directors, and employees of a licensed program for runaway minors are not liable for civil damages as a result of an act or omission in admitting a minor to the program.

(b) This section does not preclude liability for civil damages as a result of recklessness or intentional misconduct.

Sec. 47.10.360. MUNICIPAL POWERS. Authority to establish and operate a licensed program for runaway minors is granted to municipalities that do not otherwise have that authority.

Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

(1) "licensed program for runaway minors" means a residential or nonresidential program licensed by the department under AS 47.10.310;

(2) "runaway minor" means a person under 18 years of age

who

(A) is habitually absent from home;

(B) refuses to accept available care;

(C) has no parent, guardian, custodian, or relative able or willing to provide care; or

(D) has been physically abandoned 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 25.23.180(c) or AS 47.10.080 or voluntarily relinquished.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSCSSB 79 (J·)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: April 25, 1988
Title: "An Act relating to runaway and missing minors."
Sponsor: House Judiciary
Requestor: House Finance

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Please see the attached analysis.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
Phone: 465-3672
Division: Administrative Services
Date: April 25, 1988

Richard I. Pegues

Approved by Commissioner: Grace Berg Schaible, Atty. Gen.
Date: April 25, 1988
Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCCSSB 79 (Jud.)

The House Committee Substitute for CSSB 79 (Jud.) amends AS 47.10 by changing existing law and adding new sections and subsections that provide for the detention of runaway minors, and that provide for the establishment of programs for runaway minors.

The Department of Law is primarily concerned with Section 3, which provides that a juvenile detained under this section is entitled to a detention hearing within 24 hours of being detained. At that hearing the state must show that the minor's current situation poses a severe and imminent risk to the minor's health or safety and that no reasonable placement alternative exists within the community. The hearing is specifically to determine if the minor is in civil contempt of court. Each of these detained minors will already be in the legal custody of the Department of Health and Social Services and DHSS will have obtained a temporary placement order with a provision in it which stated that the minor must stay in the department's arranged placement and if he or she does not he or she may be found in civil contempt of court.

The statute apparently assumes that as the minor will be held in civil contempt that there will be no requirement for a jury trial. However, this may not be a valid assumption given the uncertain, or indefinite period of detention provided for by the bill. In civil contempt the contemnor holds the keys to the cell in his or her hand. In this case it will be difficult to tell when the child is actually in a position to use those keys to open the doors. Will it be sufficient for the minor to say that he or she will not run away? Will there need to be a clearance from the Department of Health and Social Services? Will the State be able to keep the child in a detention setting indefinitely? What subsequent hearings will be required? Based upon these considerations, it appears that there will have to be multiple hearings regarding the child's detention.

The Division of Family and Youth Services, in its separate fiscal note analysis, concludes that it will not experience a fiscal impact because the court ordered detention provided by the bill will be used in only those cases involving the few chronic runaways in clear danger to themselves. A judge may not view what situation constitutes a severe and imminent risk to a minor's health or safety quite so narrowly when faced with determining the disposition of a thirteen-year-old or fourteen-year-old runaway who has been found alone on the streets.

Up until the present, the Division of Family and Youth Services has not had a means to detain runaways if they decide to run again. For instance, a child is picked up, placed in a foster home, and runs away again the next day. Running away is a status offense and children cannot be found delinquent and detained based upon that behavior. If there is a means to detain children it is likely that children

who may well have been considered unreachable previously will now warrant an attempt at detention as a means of dealing with them. Certainly there will be parents who will strongly urge the DFYS to use this option on behalf of the child who refuses to stay at home or in a foster home setting. The fact that this alternative is being created is because there are children who cannot be served with the current legal remedies available to DFYS.

For these reasons, the Department of Law believes the number of runaways who will be subject to court ordered detention may be substantially greater than a few chronic runaways. There is, however, no realistic or accurate way to determine the number of hearings that may be required by the bill and, consequently, fiscal note costs cannot be predicted at this time. The attorneys in the Department of Law who would be responsible for preparing for and attending court hearings for runaways are already shouldering extreme caseloads. To the extent that DFYS may find it necessary to request court ordered detention for more than a few chronic runaways, the Department of Law would have to seek and receive a supplemental appropriation before any additional runaway caseload could be handled.

It should also be noted that at detention hearings the child as well as the child's parents may need legal counsel, because the child will be deprived of his or her liberty, while at the same time the state is taking legal and physical custody from the child's parents. The parents and child's interests may well be dissimilar and the court will need to appoint an additional attorney to represent the child (in addition to the non-attorney guardian ad litem). Any significant number of runaway hearings may have a fiscal impact on the Office of Public Advocacy and the court system, in addition to the Department of Law.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79( )
PUBLISH DATE: HOUSE 4/22/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to runaway and missing minors."
Sponsor: Rodey, Faiks, Fischer, et al.
Requestor: _____

Agency Affected: Health & Social Services
BRU: _____
Components: _____

381

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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 FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

N/A

Prepared by: Russell Webb for Yvonne M. Chase, ACSW, Director
Phone: 465-3170
Division: Family & Youth Services
Date: 4-20-88

Approved by Commissioner: Myra M. Munson
Date: 4-20-88
Agency: Department of Health & Social Services

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

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79 (-[illegible])
PUBLISH DATE:

FISCAL NOTE

REQUEST

Revision Date: 3/16/88
Title: "An Act relating to runaway and missing minors."
Sponsor: Sen. Rodey
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Phone: 269-5691
Date: 3/16/88

Approved by Commissioner: Dale A. Mettler, Dep. Comm.
Agency: Public Safety
Date: 3-16-88

Distribution: (by preparer):
Legislative Finance
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Requestor
Office of Management and Budget
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MAR 17 1988

Page 1 of 1

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CS SB 79 (FIN)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: Relating to runaway and missing minors.
Sponsor: Rodey, Faiks, et al.
Requestor: House Finance Committee

Agency Affected: Administration
BRU: Office of Public Advocacy
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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 FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Al Adams, Chair APA
Division: House Finance Committee
Phone: 465-3706
Date: 5/3/88

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

H(Z.C)

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: House CS CS SB 79
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: "An Act relating to runaway minors..."
Sponsor: Senator Rodey
Requestor: Senate Finance

Agency Affected: Dept. of Administration
BRU: Public Defender Agency

Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		172.8	179.7	186.9	194.4	202.2
TRAVEL		-0-	-0-	-0-	-0-	-0-
CONTRACTUAL		10.0	10.4	10.8	11.2	11.6
SUPPLIES		3.0	3.1	3.2	3.3	3.4
EQUIPMENT		4.5				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		190.3	193.2	200.9	208.9	217.2

CAPITAL						

REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		190.3	193.2	200.9	208.9	217.2
FEDERAL FUNDS						
OTHER						
TOTAL		190.3	193.2	200.9	208.9	217.2

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See attached)

Prepared by: Dana Fabe, Public Defender
Division: Public Defender Agency
Phone: 279-7541
Date: 4/22/88

Approved by Commissioner: John Andrews
Agency: Department of Administra
Date: 4/26/88

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Distribution (by preparer):
Legislative Finance
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Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. House CS CS SB 79 (Judiciary)

The House Committee Substitute for this bill continues to authorize peace officers to place runaway minors into juvenile detention facilities if they are in violation of a court Child in Need of Aid placement order. In fact, the Committee Substitute broadens the class of Child in Need of Aid hearings in which detention is permitted. This law differs drastically from the current law which does not permit runaways to be "incarcerated" in a detention facility. Under the CS, the runaway has a right to a hearing within 24 hours. Each runaway will have a right to an attorney at this hearing which will amount to a criminal contempt proceeding for violation of the court order. Criminal contempt proceedings require a jury trial prior to the use of detention as a penalty and many of these juvenile runaways will qualify for full 12-person jury trials in Superior Court. The Committee Substitute drops the mischaracterization of the contempt proceeding as "civil," thus more accurately reflecting the criminal nature of the proceeding and all of the criminal procedure safeguards which must be implemented. In fact, the Committee Substitute specifically indicates that an attorney must be appointed in each of these cases. The Public Defender Agency will be providing representation in virtually all of these cases.

In Anchorage alone, it has been estimated that there are as many as 1200 runaway minors. Even if only a small percentage of these minors qualify for juvenile detention under this bill, each case will involve numerous additional court hearings and the possibility of a full jury trial, as noted above. Based on the expectation that the vast majority of these cases will be concentrated in Anchorage and Fairbanks, the Public Defender Agency is requesting an Attorney III and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks for a total of 190.3.

BUDGET ANALYSIS

100	Anchorage - Attorney III	66.0	
	Legal Secty I	32.4	
	Fairbanks - Attorney III	74.4	
			172.8
200	Travel		-0-
300	Contractual: Space, phone, etc.		10.0
400	Supplies: Law library, office, etc.		3.0
500	Equipment: One time		4.5
		TOTAL	190.3

Position Title	Attorney III	No. of Positions	1	Range/Step	22A	Barg. Unit	PX
Time Status	PFT	Staff Months	12.0	Location	Anchorage	Election District	92

Type of Expenditure		Amount
1	2	3
Salary	49,140	
Benefits	16,834	
Premium Pay		
Other		
Total Personal Services		65,974
Travel		-0-
Contractual		5,000
Commodities		1,000
Equipment		1,500
Other		
Total Cost		73,474

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	73,474
GF Program Receipts	1005	
Other		

Justification

CS CS SB 79 would authorize detention of runaway minors and mandate detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting an Attorney III and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

FY 89

Position Title	No. of Positions	Range/Step	Barg. Unit
Legal Secretary I	1	10A	GGU

Time Status	Staff Months	Location	Election District
PFT	12.0	Anchorage	92

Type of Expenditure		Amount
1	2	3
Salary	22,020	
Benefits	10,339	
Premium Pay		
Other		
Total Personal Services		32,359
Travel		-0-
Contractual		-0-
Commodities		1,000
Equipment		1,500
Other		
Total Cost		34,859

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	34,859
GF Program Receipts	1005	
Other		

Justification

CS CS SB 79 would authorize detention of runaway minors and mandate detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting an Attorney III and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

FY 89

Position Title	Attorney III	No. of Positions	1	Range/Step	22A	Barg. Unit	PX
Time Status	PFT	Staff Months	12.0	Location	Fairbanks	Election District	94

Type of Expenditure		Amount
1	2	3
Salary	56,244	
Benefits	18,129	
Premium Pay		
Other		
Total Personal Services		74,373
Travel		-0-
Contractual		-0-
Commodities		5,000
Equipment		1,000
Other		1,500
Total Cost		81,873

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	81,873
GF Program Receipts	1005	
Other		

Justification

CS CS SB 79 would authorize detention of runaway minors and mandate detention for repeat offenders. Juveniles detained under this act would be entitled to representation so the Public Defender Agency is requesting an Attorney III and a Legal Secretary I for Anchorage and an Attorney III for Fairbanks.

Request For New Position

Agency: Dept. of Administration
BRU: Public Defender Agency
Component: Third Judicial District

FY 89

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79 (Fin.)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to runaway minors..."
Sponsor: Senator Rodey
Requestor: Senate Finance

Agency Affected: Dept. of Administration
BRU: Public Defender Agency

Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

(See attachment)

Prepared by: Dana Fabe, Public Defender
Division: Public Defender Agency
Phone: 279-7541
Date: May 3, 1988

Approved by Commissioner: John Andrews
Agency: Department of Administration
Date: _____

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

D R A F T

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCS CSSB 79 (Finance)

The House Finance Committee's substitute for this bill eliminates use of contempt powers to place juveniles in detention facilities if they are in violation of a placement order. While runaways may be "incarcerated" in a detention facility under limited circumstances, they must be brought to court the same day for release within a period not to exceed 24 hours. With the elimination of potential contempt hearings and continued detention, any additional hearings resulting from this bill will not require an increase in our staff.

D R A F T

4/30/88
H (Fin)

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCSCSSB 79 (Jud)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST: _____

Revision Date: 4/28/88
Title: "An Act relating to runaway and missing minors."
Sponsor: Rodev, Faiks, et. al.
Requestor: Judiciary, Finance

Agency Affected: Administration
BRU: Office of Public Advocacy
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	55.0	57.2	59.5	61.9	64.4
TRAVEL		0	0	0	0	0
CONTRACTUAL		5.7	5.9	6.1	6.3	6.5
SUPPLIES		1.0	1.4	1.5	1.6	1.7
EQUIPMENT		3.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	64.7	64.5	67.1	69.8	72.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	64.7	64.5	67.1	69.8	72.6
FEDERAL FUNDS						
OTHER						
TOTAL	0	64.7	64.5	67.1	69.8	72.6

POSITIONS:

FULL-TIME	0	1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy
Phone: 274-1684
Date: 4/28/88

Approved by Commissioner: John Andrews
Agency: Department of Administration
Date: 4-28-88

Distribution (by preparer):
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Requestor
Office of Management and Budget
Impacted Agency(ies)

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LEGISLATIVE FINANCE

The bill's primary fiscal impact will be in Anchorage where the largest concentration of runaways is located. The Office of Public Advocacy will require an additional Associate Attorney II position in order to provide guardian ad litem representation in runaway cases. There is no question but that a court will appoint a guardian ad litem in each case where a determination on the issue of whether the minor's current situation "poses a severe and imminent risk to the minor's health or safety" is required.

An Associate Attorney II position is warranted as a far less costly alternative to a new attorney position. While a significant number of such guardian ad litem appointments will require staff attorney consultation and representation, OPA will maintain its policy of using non-attorney guardians ad litem whenever possible. Anchorage OPA staff attorneys currently maintain an active caseload of 120 cases, some of which will undoubtedly have to be absorbed by the new associate attorney position in order to enable current staff attorneys to devote time to the several hearings that will be required in each case authorized under the bill.

The guardian ad litem representation required under by bill will be far more time intensive than that under current law. Current Office of Public Advocacy staff in Anchorage simply cannot absorb the additional workload contemplated by this bill without overwhelming already strained resources devoted to the representation of abused and neglected children in Child in Need of Aid and custody cases.

Though it is clear that the Office of Public Advocacy will incur additional contractual costs under this bill because conflicts of interest will give rise to the need for OPA payments to private attorneys for both parents and children, there is no formula by which these costs can be projected. It is for this reason that no additional contractual funds are requested at this time.

PERSONAL SERVICES

Anchorage

1	Associate Attorney II Position Salary & Benefits 55,016	55.0
	Subtotal Personal Services	55.0

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HCSCSSB 79 (Judiciary)

CONTRACTUAL

Additional Office Space in Anchorage for 2 Associate Attorney II Positions 190 sq.ft. x 2.50 = 475.00 475.00 x 12 months = 5,700	5.7	
Subtotal Contractual		5.7

SUPPLIES

Misc. Stationary, Library and Office Supplies for 4 New Positions 1,000 x 1 = 1,000	1.0	

EQUIPMENT

Office Furniture and Equipment for 1 Professional Position 3,000 x 1 = 3,000	3.0	
Subtotal Equipment		3.0
TOTAL		64.7

Position Title	No. of Positions	Range/Step	Barg. Unit
Associate Attorney II	1	19/A	X

Time Status	Staff Months	Location	Election District
PFT	12.0	EBA-Anchorage	8

Type of Expenditure		Amount
1	2	3
Salary	40,236	
Benefits	14,780	
Premium Pay		
Other		
Total Personal Services		55,016
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		55,016

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	55,016
GF Program Receipts	1005	
Other		

Justification

The Anchorage OPA office presently has 2 associate attorney positions which handle GAL appointments and 2 attorney positions who handle a combined caseload of GAL appointments and other civil litigation matters. Because of the anticipated increase in GAL appointments to runaways under this legislation, OPA estimates that at least 1 additional associate attorney would be needed to handle the increased workload.

Request For New Position

Agency: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy

FY 89

HESS versions

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSCSSB 79 (HES
PUBLISH DATE: 1/5/88

FISCAL NOTE

REQUEST:

Revision Date: 1/21/88
Title: "An Act relating to runaway and missing minors."
Sponsor: Rodey, Faiks, et al.
Requestor: Judiciary, Finance

Agency Affected: Administration
BRU: Office of Public Advocacy
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	204.5	212.7	221.2	230.0	239.2
TRAVEL		15.0	15.6	16.2	16.8	17.5
CONTRACTUAL		148.9	154.9	161.1	167.5	174.2
SUPPLIES		4.0	4.2	4.4	4.6	4.8
EQUIPMENT		15.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	387.4	387.4	402.9	418.9	435.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	387.4	387.4	402.9	418.9	435.7
FEDERAL FUNDS						
OTHER						
TOTAL	0	387.4	387.4	402.9	418.9	435.7

POSITIONS:

FULL-TIME	0	4.0	4.0	4.0	4.0	4.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Brant McGee
Phone: 274-1684
Division: Office of Public Advocacy
Date: 1/20/88

Approved by Commissioner: John Andrews
Date: 2/1/88
Agency: Department of Administration

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSCSSB 79

PERSONAL SERVICES

Anchorage

2 Associate Attorney II Positions
Salary & Benefits 55,016 x 2 = 110,032 — 110.0

1 Legal Secretary - Civil Section
Salary & Benefits = 32,363 — 32.2

Fairbanks

1 Associate Attorney II
Salary & Benefits = 62,150 — 62.2

Subtotal Personal Services 204.5

TRAVEL

Additional travel funds to accommodate caseload increase. — 15.0

15.0

CONTRACTUAL

Approximately 200 cases in Rural Areas
@ 687.56 = 137,512 — 137.5

Additional Office Space in Anchorage for 2 Associate Attorney II positions.
380 sq.ft. x 2.50 = 950.00
950.00 x 12 months = 11,400 — 11.4

Subtotal Contractual 148.9

SUPPLIES

Misc. stationary, library and office supplies for 4 new positions.
1,000 x 4 = 4,000 — 4.0

4.0

EQUIPMENT

Office furniture and equipment for 3 professional positions.
3,000 x 3 = 9,000 — 9.0

Office furniture and equipment for Legal Secretary position = 6,000 — 6.0

Subtotal Equipment 15.0

 TOTAL 387.4

Position Title	No. of Positions	Range/Step	Barg. Unit
Associate Attorney II	2	19/A	X

Time Status	Staff Months	Location	Election District
PFT	24	EBA-Anchorage	8

Type of Expenditure		Amount
1	2	3
Salary 40,236 X 2	80,472	
Benefits 14,780 X 2	29,560	
Premium Pay		
Other		
Total Personal Services		110,032
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		110,032

Funding Source for Total Cost	
Federal Receipts 1002	
G. F. Match 1003	
General Fund 1004	110,032
GF Program Receipts 1005	
Other	

Justification

The Anchorage OPA office presently has 2 associate attorney positions which handle GAL appointments and 2 attorney positions who handle a combined caseload of GAL appointments and other civil litigation matters. Because of the anticipated increase in GAL appointments to runaways under this legislation, OPA estimates that at least 2 additional associate attorneys would be needed to handle the increased workload.

Request For New Position

Agency Administration

BRU Office of Public Advocacy

Component

Revised Date

FY 89

Position Title	No. of Positions	Range/Step	Barg. Unit
Legal Secretary I	1	10/A	G

Time Status	Staff Months	Location	Election District
PFT	12	EBA-Anchorage	8

Type of Expenditure		Amount
1	2	3
Salary	22,020	
Benefits	10,343	
Premium Pay		
Other		
Total Personal Services		32,363
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		32,363

Funding Source for Total Cost	
Federal Receipts 1002	
G. F. Match 1003	
General Fund 1004	32,363
GF Program Receipts 1005	
Other	

Justification

The Anchorage civil section presently has one legal secretary who provides clerical support to 4 professional positions, 2 Vista volunteers, and the VGAL program. This one clerical position will not be able to absorb the workload increase which will be created by 2 additional associate attorney positions handling a full GAL caseload. Therefore, an additional Legal Secretary I position will be required to handle clerical support for the 2 associate attorney positions.

Request For New Position

Agency: Administration

BRU: Office of Public Advocacy

Component:

Revised Date

FY 89

Position Title	No. of Positions	Range/Step	Barg. Unit
Associate Attorney II	1	19/A	X

Time Status	Staff Months	Location	Election District
PFT	12	JBA-Fairbanks	16

Type of Expenditure		Amount
1	2	3
Salary	45,972	
Benefits	16,178	
Premium Pay		
Other		
Total Personal Services		62,150
Travel		
Contractual		
Commodities		
Equipment		
Other		
Total Cost		62,150

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	62,150
GF Program Receipts	1005	
Other		

Justification

The Fairbanks OPA office has only one associate attorney position which is devoted to GAL appointments. This one positions would not be able to absorb the additional GAL appointments to runaway cases, nor can the other 3 attorney positions absorb the anticipated increase caused by this bill. OPA estimates that at least one additional associate attorney position for the Fairbanks office would be needed to handle the increased workload in GAL appointments.

Request For New Position

Agency: Administration

BRU: Office of Public Advocacy

Component:

Revised Date

FY 89

H 24SS
No HFC Impact

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: Bill Version: CS SB 79
Publish Date:

Revision Date: 1/20/88
Title: An act relating to runaway and missing minors
Sponsor: Rodey, Faiks, Fischer, ...
Requestor:

Agency Affected: Alaska Court System
BRU: Trial Courts
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	9.0	9.0	9.0	9.0	9.0
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	9.0	9.0	9.0	9.0	9.0
CAPITAL	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
REVENUE	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

FUNDING: (Thousands of Dollars)

General Funds	0.0	9.0	9.0	9.0	9.0	9.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	9.0	9.0	9.0	9.0	9.0

POSITIONS:

Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Jan Strandberg, General Counsel — Phone: 264-8228
Division: Alaska Court System — Date: 1/20/88

Approved by: Stephanie Cole, for Arthur H. Snowden, II, Administrative Director — Date: 1/20/88
Agency: Alaska Court System

RECEIVED
JAN 26 1988
LEGISLATIVE FINANCE

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management & Budget
- Impacted Agency(ies)
- Senate Secretary

Fiscal Analysis: HCS for CSSB 79

This bill will require court hearings before a minor can be placed in a juvenile detention facility as well as hearings to determine if a minor is in civil contempt. Based on an approximate hearing time of 30 minutes each and on a population of 180 per year (as estimated in DHSS' position paper), this bill will increase court time by 90 hours. Because the impact does not warrant the addition of a permanent master, the court system intends to contract state-wide for special master's services based on an average of $100 per hour.

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS CSSB 79 (HESS)
PUBLISH DATE:

FISCAL NOTE

REQUEST

Revision Date: 3/16/88
Title: "An Act relating to runaway and missing minors."
Sponsor: Sen. Rodey
Requestor: House Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY88	FY89	FY90	FY91	FY92	FY93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Phone: 269-5691
Date: 3/16/88

Approved by Commissioner: Lauf H. Hellen Dep. Comm
Agency: Public Safety
Date: 3-16-88

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

MAR 17 1988

SB 79

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM May 2, 1988

SUBJECT: Custodian's consent for runaway minor to return home (HCS CSSB 79 (Finance) (5-0310J, 5/3/88 draft))

TO: Representative Peter Goll

FROM: Edward H. Hein
Legislative Counsel

You have asked that I explain how your latest proposed House Finance CS for SB 79 (5-0310J, 5/3/88 draft) addresses the issue of requiring a legal custodian's consent before a runaway minor has a right to be returned home by a peace officer who has picked up the minor. As I have explained, your earlier version (5- 0310Z, 5/2/88 draft) would have allowed the minor to demand that the peace officer take him home and release him there. If the legal custodian refused to take the minor in, the minor would be back out on the street.

Your latest proposed House Finance CS (5-0310J, 5/3/88 draft) circumvents the whole problem by eliminating the minor's option of demanding to be taken home. (See page 1, lines 25 - 26) Under this version, the minor may choose from among the same three other options provided in other versions of the bill, including the House Judiciary CS.

Note that under any version of the bill, the legal custodian remains liable for the support and care of the runaway until the minor becomes an adult or until the custodian is relieved of that responsibility by a court.

cc: Representative Al Adams

EHH:lmb
G3/055

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM May 3, 1988

SUBJECT: Comparative sectional analysis of HCS CSSB 79(Judiciary) and HCS CSSB 79 (Finance)(5-0310J, 5/3/88 draft)

TO: Representative Pat Pourchot
Chairman, Finance Subcommittee on SB 79

FROM: Edward H. Hein EHH
Legislative Counsel

You have asked for a comparative sectional analysis of two versions of SB 79: the House Judiciary Committee substitute and a proposed House Finance Committee substitute (5-0310J, 5/3/88 draft).

Section 1 of the Judiciary CS provides that a runaway is entitled to the representation by legal counsel in a contempt proceeding under AS 47.10.141(c). This provision is absent from the Finance CS because that version no longer requires the hearing under AS 47.10.141(c) to be a contempt hearing.

Sec. 2 of the Judiciary CS amends AS 47.10.141(a) by specifying that law enforcement agencies must make reasonable efforts to locate a minor who is reported missing regardless of whether the request to locate is made in person, in writing, over the telephone, or otherwise. Section 1 of the Finance CS is identical with respect to subsection (a).

Both versions amend AS 47.10.141(b) by expanding and qualifying the options a runaway minor has when picked up by police. Under the Judiciary CS the minor may choose to be returned to his legal custodian, but only if the custodian consents; to be taken to a nearby location agreed upon between the custodian and the minor; or to be taken to an office, facility or contract agency of the Department of Health and Social Services, or to a licensed program for runaway minors. Under the Finance CS the minor's option to

be returned to the legal custodian is eliminated; the other options are the same as in the Judiciary CS.

Sec. 3 of the Judiciary CS and Sec. 2 of the Finance CS add a new subsection (c) to AS 47.10.141 that provides requirements and a procedure for detaining a minor who has run away from a court-ordered placement. Under both versions, before the minor is placed in protective custody and detained, the court must make a probable cause finding that the minor wilfully violated the previous placement order, that there is no reasonable placement alternative to a detention home in the community, and that the minor's health and safety (Judiciary) or life and safety (Finance) are at risk. In the Judiciary CS the minor must be brought before a court for a contempt hearing within 24 hours after being detained. In the Finance CS the minor must be brought before a court on the same day he is detained, if possible, but not more than 24 hours later. The hearing in the Finance CS is not necessarily for contempt; the judge instead decides the most appropriate placement in the best interests of the minor. Under the Finance CS a contempt citation is still possible, but the court would also have a full range of other options for dealing with the minor. The Finance CS states specifically what is already implicit in the law -- that the minor may not be detained more than 24 hours, except as provided under AS 47.10.140, which relates to detention hearings on delinquency petitions.

Sec. 4 of the Judiciary CS and Sec. 3 of the Finance CS require the court, when issuing a temporary placement order under AS 47.10.142 (emergency custody), to specify the terms, conditions, and duration of placement. The Judiciary CS requires the court also to require the minor to remain in the placement provided by the department; the Finance CS says the court "may" require the minor to remain in the placement. Both versions require the court to clearly warn the minor in the order of the possible consequences of violating the placement order, including possible detention.

The remaining sections of both bills are identical.

EHH:gc
WKG3:054

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM May 3, 1988

SUBJECT: Effect of requiring custodian's consent for runaway minor to return home (HCS CSSB 79( ))

TO: Representative Pat Pourchot

FROM: Edward H. Hein
Legislative Counsel

You have asked what is the difference in legal effect between two proposed versions of HCS CSSB 79( ), with respect to the requirements under Sec. 47.10.141(b).

Under Senator Rodey's version (5-0310O, 5/2/88 draft), a peace officer who picks up a runaway minor must take the minor home if the minor wants to go home, but only if the legal custodian also consents to allowing the minor back. Thus, the peace officer must determine whether the custodian consents and, presumably, if the custodian does not consent, then the peace officer could not drop the minor off at home. The minor would have to choose from among the other options: another location agreed to by the minor and the custodian, an office of the Department of Health and Social Services, a licensed program for runaway minors, or a facility or contract agency of the department.

Under Representative Goll's version (5-0310Z, 5/2/88 draft), the legal custodian's consent is not required. The minor can demand to be taken home and the police would have to release the minor there. If the legal custodian refused to take the minor in, the minor would be back out on the street. The custodian, however, would still be legally liable for the support of the minor until the minor becomes an adult or until the custodian is relieved of that responsibility by a court.

If you have further questions about this matter, feel free to contact me at your convenience.

EHH:bb
b5/087

Patrick M. Rodey
Senator

Alaska State Legislature

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

Senate

MEMORANDUM

TO: All Members, House Finance Committee

FROM: Senator Pat Rodey

DATE: May 2, 1988

RE: SB 79, "An Act relating to runaway and missing minors."

It has been proposed that the committee delete language in SB 79 which requires the parent's consent to return a runaway minor to their home. I would like to explain why this provision is crucial and must remain in the bill.

SB 79 is very much a children's protection bill, geared toward helping those children who are truly "throwaways" or "castaways", or running away from an abusive home situation. However, when we draft legislation to help those children, we must be careful not to undercut those parents who have not and do not wish to abandon their chilren. Instead, we need to empower those families with the ability to work toward a resolution of family tensions.

Many kids who run away are also into drugs and alcohol. It is important that parents not be forced to become enablers in their child's addiction. To support the drug-related behavior would be harmful to both the child and the family, and goes against everything we know about co-dependent and enabling behavior.

It is a typical pattern for runaways who are also into drugs to miss enough school so that they are suspended, to refuse to work, ano to steal from their home to support their drug habit. They will be gone 3-4 days at a time, and then return home when they are hungry, to clean up, get some sleep, and leave again.

Parents who have decided not to support this type of behavior, or other unacceptable behavior such as violence in the home, need to be able to tell their children that they have to give up these behaviors and get appropriate help if they wish to live at home. In the alternative, they may not continue to live at home if they wish to continue these unacceptable behaviors.

This proposal allows the home to be used as a "carrot", a technique used successfuly by parent's support groups throughout the country. Parents of troubled teenagers in Alaska need to know that they can legally exercise their option as parents to control the behavior which occurs in their home. Police officers need to know that they can legally honor the parent's choice in this situation.

SECTIONAL ANALYSIS

HOUSE CS FOR CS FOR SENATE BILL 79 (JUDICIARY)

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

Section 1 AS 47.10.141 (c) is amended to clarify the child's right to an attorney in a contempt hearing under AS 47.10.141 (c).

Section 2 AS 47.10.141 (a) is amended to require law enforcement agencies to accept any form of request to locate missing minors.

AS 47.10.141 (b) is amended to provide that a minor shall be returned to the legal custodian only if the custodian consents to the minor's return to the home, and allows the minor and custodian to agree to a location other than the home.

Section 3 AS 47.10.141 is amended by adding a new subsection.

Section (c) allows a minor to be taken into protective custody and placed into temporary detention in a juvenile detention home if there has been an order issued by a court upon a finding of probable cause that

(1) the minor is a runaway in wilful violation of a valid court order,

(2) the minor's current situation poses a severe and imminent risk to the minor's health or safety, and

(3) no reasonable placement alternative exists within the community.

A risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor.

The minor must be brought before a court within 24 hours after detention for a hearing to determine whether the minor is in comtempt of court, and may be subject to further detention to cure the contempt.

A minor may not be placed in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors.

Section 4 AS 47.10.142 is amended by adding a new subsection.

Section (f) clarifies the court's responsibility to clearly inform a minor of the consequences of violating their court-ordered placement, including the possibility of detention.

Section 5 creates a new Article 5 in AS 47.10 that provides for review, inspection and licensure by the Department of Health and Social Services of residential and nonresidential programs for runaway minors.

Sec. 47.10.300 sets out the duties and powers of the department with respect to runaway programs. These include approving or disapproving the programs, maintaining a register of licensed programs, awarding grants to licensed programs, submitting an annual report on runaways, and adopting regulations.

Sec. 47.10.310 sets out the requirements for a program to be licensed by the department. A program must be operated by an Alaskan nonprofit corporation or municipality; explain to a runaway his or her legal rights and responsibilities and the services and assistance available from the program, state, and local municipality; try to determine why the minor is a runaway; provide or help arrange services for runaway minors and, if appropriate, their families; inform the department if child abuse or neglect of the minor is claimed or reasonably suspected; operate with the goal of reuniting the runaway minor and family, unless that is clearly contrary to the best interest of the minor; and provide physical security and crisis services for residents of the program, and separate minors under 18 from residents 18 and older.

Sec. 41.10.320 establishes limits on the duration of a runaway's residency in a program. The limits are 45 days without consent of the legal custodian, 90 days with consent, beyond 90 days with consent of both the legal custodian and the department.

Sec. 41.10.330 requires the program director to notify a minors legal custodian as soon as possible, but in no event more than 48 hours after the minor is admitted to the program, unless there are compelling circumstances justifying withholding notice. The legal custodian is also entitled to notice when the minor is released from the program if he or she is released into the custody of someone other than the custodian or the custodian's representative.

Sec. 41.10.340 provides for confidentiality of records that identify particular runaway minors who have been in the program or sought assistance from it. Exceptions are provided for instances in which the minor consents to disclosure of the records, when the records are relevant to an investigation or proceeding involving child abuse or neglect or a child in need of aid petition, and when the disclosure is necessary to protect the life or health of the minor.

Sec. 41.10.350 provides immunity from civil liability for officers, directors and employees of a licensed runaway program with regard to admitting a minor to the program, unless the damages are a result of recklessness or intentional misconduct.

Sec. 41.10.360 grants authority to establish and operate licensed runaway programs to municipalities that do not otherwise have that authority.

Sec. 41.10.390 defines "licensed program for runaway minors" and "runaway minor".

Patrick M. Rodey
Senator

Alaska State Legislature

3111 C. St., Suite 510
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(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

Senate

MEMORANDUM

TO: All Members
House Finance Committee

FROM: Senator Pat Rodey Pat

DATE: April 28, 1988

RE: SB 79, "An Act relating to runaway and missing minors."

We have all heard the story many times: runaway and homeless youth present enormous problems for themselves, their families, and our communities as a whole. Runaway youths are much more likely to be exposed to exploitive situations, to abuse or deal drugs and alcohol, or to get in trouble with the law for committing illegal acts. The community must deal with an increased incidence of child prostitution and higher levels of drug involvement and crime.

Senate Bill 79 is one attempt to encourage a positive response to the plight of children on the streets.

- We have attempted to provide greater flexibility for law enforcement officers, parents and children by allowing the child and the parent to choose a temporary "neutral" location, such as a neighbor or relative's home, when a runaway child has been picked up by a police officer. Police approve of this provision because it more clearly defines their options. Families approve because it allows them greater opportunity to solve family problems outside of the state legal system. Under no circumstance, however, is a child forced to return home if they do not wish; the minor's preference is honored.

- We have attempted to encourage Covenant House and other existing runaway programs, and have developed program licensing language to promote the innovative development of new runaway programs in smaller communities throughout the state.

- We have attempted to meet the crisis needs of those few chronic runaways who are in severe danger without intervention by the state. By exempting from protective custody those minors who are residing in licensed runaway programs, we hope to encourage runaway youth to seek out these programs and look for assistance on their own. We believe this bill represents a reasonable, balanced, effort to allow secure detention.

There are those who strongly oppose any detention of runaways, regardless of the surrounding circumstances. However, as Covenant House's Greg Loken has stated, "Purity of concern for the rights of children and adolescents should not obscure the fact that a few, a very few, are simply so out of control that some coercion is necessary if they are to have any real hope of survival, let alone happiness."

Commission Myra Munson has agreed that, "...this bill avoids the damaging and ineffective use of detention as a means of addressing the problems of most runaways by limiting the use of detention to those few chronic runaways whose behavior places them in clear danger. It also avoids the danger of over use of detention by requiring that detention occur only if no other alternative exists."

Many others have expressed support for Senate Bill 79, including:

Department of Public Safety
Office of Public Advocacy
Public Defender
Bill Hitchcock, Children's Court Master, Anchorage
Alaska Foster Parents Association
Alaska Chapter, National Association of Social Workers
Alaska Juvenile Crime Commission
Child Advocacy Network (representing 60 children's service agencies)
Victims for Justice
Mothers Against Drunk Drivers
Tough Love

Senate Bill 79 is not a perfect solution to Alaska's runawy problems; it is however, an important step in the right direction. I urge your support of this legislation and stand ready to answer any questions you may have.

BILL NO: HCS CSSB 79 (HESS) DATE: March 16, 1988

TITLE: An Act relating to runaway and missing minors.

CONTACT: Col. Robert E. Jent 269-5641

DEPARTMENT OF PUBLIC SAFETY

There is a need to have a solution for protecting minors other than to arrest and detain them. Society simply cannot allow runaway minors to seek shelter on the streets. These youngsters often commit criminal acts simply to survive, and they frequently become victims of crimes themselves.

This bill allows law enforcement to act in a preventative manner on behalf of the community and those reported minors who are avoiding legal custodial control, or are considered missing from their normal custodial situation, by requiring the minor to go to an appropriate housing facility and ultimately address the issues underlying the "running".

The Department supports this bill.

Arthur English
Commissioner

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX H
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030

April 8, 1988

The Honorable John Sund
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Representative Sund:

John Hartle of your staff asked the department to explain why SB 79 was drafted to exclude runaway programs from licensure or regulation under AS 47.35. As you know, this provision of law grants the department the authority to license and supervise private residential care facilities and foster homes for children and dependent adults, and child care centers and homes for children.

This exclusion was to promote the innovative development of runaway programs. We do not believe it is desirable to require runaway programs to conform to regulations which were written to regulate facilities providing services which are fundamentally different than the services runaway facilities and programs will provide. Exempting licensure under AS 47.35 was an attempt by the department to affirmatively recognize this difference.

The DHSS does not intend that this exclusion from AS 47.35 means runaway programs are exempt from DHSS regulation. This legislation requires the DHSS to adopt regulations necessary to implement the bill. These regulations, as adopted by the DHSS, would impose strict but appropriate health and safety licensure standards upon runaway programs. The department intends that these licensing regulations will be just as stringent in protecting children in runaway programs as current regulations are in protecting children in other types of facilities. If this intent is not clear from the current version of the bill, the department would support changes suggested by the committee to clarify the department's regulatory responsibility toward runaway programs.

Should you have additional questions regarding this matter, please do not hesitate to contact me.

Sincerely,

Myra M. Munson

Myra M. Munson
Commissioner

06-F38LH

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3820

MEMORANDUM April 11, 1988

SUBJECT: Confidentiality of runaway minor program records HCS CSSB 79 (Judiciary)

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Edward H. Hein EHA
Legislative Counsel

In connection with the latest draft of HCS CSSB 79 (Judiciary), your assistant, John Hartle, asked what records pertaining to a minor and held by a program for runaway minors could be obtained by police.

Under proposed Sec. 47.10.340, records that identify a minor who has been admitted to a runaway program or who has sought assistance from a program are confidential. They may be obtained under any of three circumstances: (1) if the minor consents, after being told of the right to confidentiality; (2) if the records are relevant to an investigation or proceeding involving child abuse, neglect, or a child in need of aid petition; or (3) if disclosure is necessary to protect the life or health of the minor.

Presumably, police could obtain these records under any of the three exceptions to confidentiality. With regard to number (2), it is not clear whether the minor would need to be the victim of abuse or neglect, or whether the minor could be a suspected abuser of another minor, in order to trigger this exception. Perhaps it would be appropriate to limit (2) to cases in which the minor is a victim. This would be in keeping with the philosophy inherent in all three exceptions, that confidential records are to be disclosed only for the benefit of the minor. Exception (3) is very broad. It is not clear what police would have to show to obtain records under that exception. Presumably, there would have to be some showing of imminent danger to the minor's life or health, but that is not stated.

With respect to the kinds of records at issue, Greg Lokan, attorney for Covenant House in New York, told me that they maintain full records on minors admitted to their programs. These include, among others, admission records; assessment records, including long conversations with minors about their background and problems; case records on all contacts made concerning a minor; meal records; and statistical records. Greg said that the confidentiality section is crucial to the bill because the runaways must feel free to talk to counselors without fear that what they say will be turned over to authorities. He asked that he be informed if any substantial changes are made to this section.

If you have further questions about this matter, feel free to contact me at your convenience.

EHH:gc
WKG2:107

The Fairbanks Child Sexual Abuse Task Force
1423 Peger Road
Fairbanks AK 99709

March 17, 1988

House Judiciary Committee Members:
Representatives Sund, Ulmer, Cotten, Gruenberg, Navarre, Barnes, and Taylor
Interior Delegation Members:
Representatives Boyer, Davis, Frank, Koponen, Miller, Shultz
Senators Coghill, Fahrenkamp, Fanning
P.O. Box V
Juneau, AK 99811

Re: House CS for CS for Senate Bill 79

Dear Legislators,

We are writing on behalf of the Fairbanks Child Sexual Abuse Task Force, a coalition of agencies, organizations and associations involved in prevention and treatment of child sexual abuse. The CSATF wants to express its views on the current version of Senate Bill 79.

The bill as it is currently worded is a great improvement over the original version, but it creates several problems which we wish to bring to your attention.

First and foremost, this bill leaves unaddressed what we regard as the most crying need in this area, that of more funding for treatment programs for runaways. Without a substantial commitment on the part of the state to fill that need, the bill is more of a placebo than a solution.

Second: the bill leaves unclear what is to happen after the court holds its 48-hour hearing under the new AS 47.10.141. It is a little confusing in referring to "civil contempt of court under AS 09.50.010(5)" in that the Supreme Court has regarded that statutory subdivision as providing for criminal contempt rather than civil contempt, L.A.M. v. State, 547 P.2d 827, 832 (Alaska 1976), while AS 09.50.050 is the civil contempt section. It is also confusing in that the only remedy generally available for violations of AS 09.50.010(5) is a fine, under AS 09.50.020. Also, our group had questions about whether the protections of the Indian Child Welfare Act would apply to these hearings.

Third: it is unclear whether new AS 47.10.142(f), providing that the court commitment order is to specify the terms, conditions and duration of placement, is intended to overrule prior case law interpreting the existing statute to mean that the Division, not the court, is to make specific placement decisions. See B.A.M. v. State, 528 P.2d 437 (Alaska 1974).

Fourth: the bill makes no provision for an attorney for the child being taken into detention under a court order. It would appear that the child is facing a loss of liberty and accordingly should be entitled to an appointed attorney as a matter of due process. It is possible that an attorney has been already appointed in the pre-existing child-in-need case that is a prerequisite under the new statute; but it is more likely that the child has had a Guardian ad Litem appointed, not an attorney. These roles are substantially different, and a GAL would not fulfill the constitutional requirement that a child facing the potential deprivation of liberty under the new statute be given the right to counsel, including appointed counsel if necessary.

There are a couple of miscellaneous points we would like to bring to your attention: regarding the language on page 4, lines 21-22 providing that the program is to maintain adequate staffing and accommodations to ensure physical security and provide crisis services, it should be made clear that this refers to security in the sense of sufficient staff to keep the residents secure from danger, not sufficient staff to keep the residents securely held as in a detention facility. Also, our group felt that the language on page 4, line 20 should be changed from "contrary to the health and welfare of the minor" to "contrary to the best interests of the minor".

Thank you for your consideration.

Sincerely,

Theresa Tanoury
Coordinator
452-1342

Ruth Lister
Chair
452-2293

UNIVERSITY OF ALASKA, ANCHORAGE
3211 Providence Drive
Anchorage, Alaska 99508

MAR 04 1988

COLLEGE OF ARTS AND SCIENCES
DEPARTMENT OF SOCIAL WORK

February 29, 1988

Put in SB79 file.

Representative John Sund, Chair
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Re:CSSB79-Runaway Minors

Dear Representative Sund,

This letter is intended to advise you of my support for the provisions in CSSB79 which will enable the Department of Health & Social Services to facillitate the development of programs and services for runaway minors.

At the same time I am also concerned about Sec. 2 of the Bill and its potential for violation of the constitutional rights of minors adjudicated Child In Need of Aid under AS 47.10.080. At present, incarceration in McLaughlin Youth Cener is not one of the dispositional alternatives possible for a Child In Need of Aid because the child has not broken the law and therefore cannot be deprived of her/his constitutional right to liberty. Yet, Sec.2 of CSSB 79 would appear to permit such an alternative if the child violates a court order which requires that he/she remain in the placement ordered by the Department of Health & Social Services. To provide for institutionalizing children adjudicated delinquent who violate a court order not to run away is alredy permitted under present statutes , but to do so for children who have not broken the law would be a mistake in my opinion. I realize that CSSB 79 intends that such an alternative would only be utilized in the most extreme cases where "no reasonable placement alternative" exists, but the constitutionality still seems questionable.

I believe that the House Judiciary Committee should consider amending CSSB79 to limit the provisions of Sec. 2 to only those minors who have been adjudicated delinquent or eliminate it altogether.

If the Committee decides to retain Sec. 2 it would also seem advisable that the statute delineate the possible consequences of a contempt of court finding so that minors can be made aware of actions that the court may take while at the same time providing guidance for the court in these situations.

Sec. 3 of the Bill also raises some concerns about situations where the minor might have had good reason to run from a Department arranged placement. Nor does it require that consideration be given to such possibility before the court holds the minor in contempt. I would urge the Committee to consider amending CSSB 79 to require such consideration and make it part of the court record in a contempt hearing.

I would very much appreciate notification regarding future hearings on

CSSB 79 so that I could give testimony on these issues. The portions of the Bill which support the development of ruaway shelters and other runaway services is badly needed in Alaska and should proceed to final passage as rapidly as possible.

Thank you for your consideration of my concerns regarding CSSB 79 and the issue of runaway minors.

Sincerely,

Pudge Kleinkauf

Cecilia "Pudge" Kleinkauf, MSW, ACSW
Associate Professor and Chair
Department of Social Work

COVENANT HOUSE UNDER 21
460 WEST 41 STREET
NEW YORK N Y 10036
(212) 613-0300

THE INSTITUTE FOR YOUTH ADVOCACY

Statement on Senate Bill No. 79

Before the Judiciary Committee

Alaska House of Representatives

March 22, 1988

Gregory A. Loken
Executive Director

Statement on Senate Bill No. 79

Mr. Chairman and Members of the Committee, I am very grateful for this opportunity to appear before you on behalf of Covenant House and the Institute for Youth Advocacy. My name is Gregory Loken, and I am executive director of the Institute and senior staff attorney at Covenant House New York. It is an honor to be in Alaska for the first time, especially at a moment when you are considering legislation, Senate Bill No. 79, of the highest importance to vulnerable children and their families.

Covenant House is the largest private organization in North America serving homeless and runaway children. Founded officially in 1972 by Fr. Bruce Ritter, a Franciscan priest, Covenant House annually provides crisis and long-term help to over 20,000 children and teenagers in New York City, Houston, Toronto, Fort Lauderdale, New Orleans, Guatemala, Panama and Honduras. Separated at least temporarily, but often permanently, from their families, these children and adolescents are forced into a desperate struggle for survival on the street, pushed into petty crime, prostitution, panhandling, and despair. The crisis shelters of the agency operate on an "open-intake" basis: no child or teenager is ever turned away on the first visit, and only serious misconduct or refusal to make use of proffered services limits repeat visits.

It was with great pride, but with also the deepest sense of challenge, that Covenant House determined this past year to accept the invitation of public officials, religious leaders, and private citizens to open a program in Anchorage. Brenda Moscarella, the project director responsible for launching the program in collaboration with Catholic Social Services, is here today, ready to discuss with you, as interest and time permits, the specific nature of our Anchorage program and the background of need to which it is addressed. As a friend and colleague of Brenda's for many years, I can only imagine your state to be already happier and saner for her presence.

The Institute for Youth Advocacy, my own branch of Covenant House, was established in 1982 to fight for homeless and runaway children in professional, legislative, and judicial forums throughout the country. Particularly concerned about the exploitation of street kids in prostitution and pornography, the Institute played a key role in passage of the federal Child Protection Act of 1984 and Child Abuse Victims Rights Act of 1986--both designed to launch a strong federal attack on the sexual exploitation of the young. Our battle to protect children on the street has involved, too, strong support for expansion of the federal network of runaway and homeless youth shelters under Title III of the Juvenile Justice and Delinquency Prevention Act of 1974. Perhaps most crucially, though, we have attempted to bring attention to the crying need for careful,

comprehensive state legislation addressing the plight of homeless and runaway children and the frequent desperation of their parents.

Senate Bill No. 79, before you today, seems to me a luminous example of such legislation, and I urge you to give it searching, and favorable, consideration. In three important ways it seems to me an exemplary bill that could easily serve as a model for the rest of the country. First, it appears to provide clear guidance to law enforcement officials in an area of their responsibility often left inexcusably murky in the past. Second, it contains a thoughtful, if necessarily imperfect, approach to the intractable problem of "secure detention" for runaways. Finally, it establishes a vitally important framework for development of runaway and homeless youth programs throughout Alaska--programs that will meet the crisis needs of kids while reunifying and strengthening families. While you can assess far better than I the bill's impact from a specifically local perspective, it seems to me a remarkably well-balanced answer to problems that have frustrated legislators in every state in the Union.

1. Procedures for Peace Officers. Law enforcement officers are routinely given an overwhelmingly enormous range of responsibility with only the sketchiest, and sometimes self-contradictory, guidance to carry it out. Thus the apprehension of juvenile "status offenders" is an extraordinarily time-consuming and often thankless task that

is exacerbated in most states by the failure to give police officers any reasonable means of placing or handling the youths once they are in custody. Current Alaska law [AS 47.10.141(b)] already seems somewhat clearer than average in this last respect, providing for delivery of status offenders to their parents or to the Department of Health and Social Services. Yet Senate Bill No. 79 offers even more useful guidance, especially in situations where relations between parent and child are tense but not hopeless. Thus Section 1 of the bill would require that parental wishes be respected regarding a return home, and would allow for the often important alternative of placement in the home of a friend or relative that both parent and child can agree on. And in communities with approved programs for runaway and homeless children, peace officers would have yet another significant option currently not spelled out in law. As an attorney at Covenant House New York for the past eight years, I have the deepest admiration for the policemen and -women who struggle daily to help kids on the street, and I know my friends in the New York Police Department would welcome in their own work the clear and comprehensive language of this section.

2. Protective Custody. Probably the most wrenching issue for youth advocates over the past decade has been the extent to which secure detention should play a role in helping "status offenders". I have never been an admirer of detention of juveniles, and even less of the specific forms

such detention has taken in the past--from the most outrageously abusive and corrupt "reform schools" to the most perilous adult jails. And at Covenant House we have consistently supported the goals of the federal Juvenile Justice and Delinquency Prevention Act to remove juveniles from jail and otherwise reduce to an absolute minimum the number of children in secure detention for whatever cause.

Yet there are, in our experience, worse things than secure detention. It is worse for a 13- or 14-year-old girl to be selling herself on the street so that her pimp won't beat her or withhold her heroin. It is worse for an emotionally disturbed or mentally handicapped youth, whose parents have permanently exiled him from the house, to be forced to commit a crime before he can receive intensive help. Purity of concern for the rights of children and adolescents should not obscure the tragic fact that a few, a very few, are simply so out of control that some coercion is necessary if they are to have any real hope of survival, let alone happiness.

Section 2 of the Senate Bill No. 79 deserves your most careful review, both because of the long history of abusive detention of runaways in this country, and because it seems a reasonable, delicately balanced effort to allow secure detention only when strictly necessary, and only in licensed juvenile detention facilities. From New York it is impossible to assess whether the language perfectly suits the nature of your own institutions--particularly your

judiciary--but it seems a careful attempt to address all the competing interests and concerns. And, again, it offers an opportunity for Alaska to shape national policy in this area, for I do believe it strikes a balance that has eluded legislators in many other states.

3. Runaway and Homeless Youth Programs. The greatest virtue of Senate Bill No. 79, however, appears to lie in its effort to encourage a positive response to the plight of children on the street through establishment of state-approved and monitored runaway and homeless youth programs. Such programs exist in all fifty states, largely through funding under the federal Runaway and Homeless Youth Act, but nearly all of them operate without adequate state statutory authorization or state supervision. Section 4 of the bill before you would place Alaska alongside New York as the only states with a clear framework for operating these critically important programs.

That framework would include crucial protections for children and parents alike. Thus the Department of Health and Social Services would be given the authority to monitor and approve runaway and homeless youth programs to insure the quality of their services, and children who used the programs would be assured that their records there would be confidential. (Because of the stigma attached to even the briefest period on the street, and the fear runaways so often have of public humiliation on returning home, the assurance of confidentiality is an indispensable part of

successful efforts to reach and help them.) Parents would be guaranteed rapid notification of their children's presence in such a program, and would know that the services provided there are aimed at "the goal of reuniting runaway minors with their families." Both parents and children would benefit from the full range of services authorized by the bill.

Runaway and homeless youth programs would benefit, too, of course, and Covenant House makes no secret of its strong interest in passage of this section of the bill. Because runaway services have developed only recently, it is as yet extremely unclear in the law how they fit into traditional common-law and statutory structures. It is by no means certain that any substantial help can be offered to a homeless or runaway child without incurring risk of legal liability and, in some states, even criminal prosecution. Parental consent to giving such assistance is frequently unavailable in precisely those cases where the need for assistance is most critical. Section 4, which closely resembles New York statutory provisions that have worked exceedingly well for over a decade, again strikes a balance between crisis intervention and the longer-term need for family reunification. It is of the greatest importance in encouraging community groups to open and operate runaway and homeless youth programs--by removing their worst fears of legal conflict and crushing insurance bills.

Covenant House is, of course, itself committed to establishing its Alaskan program whatever the legislative resolution of these important issues. The need in Anchorage simply too great to wait. But we applaud the efforts of the sponsors of Senate Bill No. 79 to produce legislation of real merit and sensitivity. Homeless and runaway children do not vote, and their voices are rarely heard. You and your fellow legislators have made an effort to listen, and for that we at Covenant House are deeply grateful.

Please know that we stand ready to offer any assistance in our power during your deliberations, and that we will strive our utmost to justify the faith and good wishes the people of Alaska have already so generously extended our own efforts on behalf of vulnerable kids. Those kids deserve faith, they deserve good will, and they deserve a chance to escape the street. Thank you for lending their needs your Committee's valuable time, and for your serious consideration of this worthy legislation.

Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

committee on SB 79 , dated March 22, 1988.
bill/subject

The Alaska Chapter of National Association of Social Workers (NASW) supports SB 79 in its present version. We support the provision of detaining runaway minors in a secure home or facility, if needed. We believe that at the time of detainment, the minor will have legal advocacy to protect his/her rights.

Signed: Marsha Schneider, Executive Director
Testifier

NASW
Representing (Optional)

PO Box 10430 Fairbanks 99710
Address

457-5914
Phone No.

9/88 Legislative Information Office

SB79

ess there appears
nd specific objec-
evidence. (*State*
. 506 P.2d 1132.)
the points raised
al and we find no
would require re-
Accordingly, the
t is affirmed.

In the Matter of L. A. M., Appellant,
v.
STATE of Alaska, Appellee.
No. 2221.

Supreme Court of Alaska.
March 15, 1976.

The Superior Court, Third Judicial District, Anchorage, James K. Singleton, J., entered order declaring minor a delinquent child for her willful failure to comply with certain court orders made after prior adjudication that she was child in need of supervision, and she appealed. The Supreme Court, Erwin, J., held that evidence supported conclusion that minor, who was chronic runaway, would not be distinguishable in sophistication or exposure to criminal activity from average child in population at state youth center, and thus, placement of such minor in state youth center was not precluded; that superior court had authority to enforce order entered against child in need of supervision, which order provided that child was not to remain away from children's home in which she had been placed without permission of appropriate adult authorities of the home; and that failure of minor to abide by court orders regarding her supervision constituted willful criminal contempt of court's authority, and she was, therefore, properly declared delinquent and subject to those sanctions available for correction of delinquent minor's behavior.

Affirmed.

Boochever, J., concurred and filed opinion in which Rabinowitz, C. J., joined.

Rabinowitz, C. J., concurred and filed opinion.

1. Contempt ⇐20

Before party may be held in criminal or civil contempt for failure to abide by court order, certain elements must be established: existence of valid order directing alleged contemnor to do or refrain from doing something and court's jurisdiction to enter that order; contemnor's notice of order within sufficient time to comply with it; and in most cases, contemnor's ability to comply with order; and contemnor's willful failure to comply with order.

2. Contempt ⇐2

Distinction between criminal and civil contempt is generally phrased in terms of whether character and purpose of contempt is "remedial" or "punitive."

3. Contempt ⇐3, 4

Where contempt power is invoked to punish alleged contemnor for "past, willful, flouting of the court's authority," contempt is criminal, but where contempt proceeding is instituted to "coerce future conduct," contempt is civil. AS 09.50.010(5), 09.50.050.

4. Contempt ⇐3

Contempt order issued against minor for minor's willful failure to comply with certain court orders made after adjudication that minor was child in need of supervision constituted criminal contempt. AS 09.50.010(5).

5. Infants ⇐16.5

Proceedings against children alleged to be in need of supervision are in substance and effect custody disputes where contestants are parent and child, and parent appeals to court to vindicate and enforce his custody rights in child against that child.

6. Adoption ⇐7.2(1)
Names ⇐9
Parent and Child ⇐2(1), 4, 5(1), 8

The following are "parental rights" protected to varying degrees by constitution: physical possession of child, which, in case of custodial parent, includes day-to-day care and companionship of child; right to discipline child, which includes right to inculcate in child parent's moral and ethical standards; right to control and manage minor child's earnings; right to control and manage minor child's property; right to be supported by adult child; right

to have child bear parent's name; and right to prevent adoption of child without parents' consent.

See publication Words and Phrases for other judicial constructions and definitions.

7. Adoption ⇐7.2(1)
Names ⇐9
Parent and Child ⇐2(17)

Of the so-called residual parental rights, those that remain after custody is placed in another include right to consent to adoption and to withhold consent to prevent adoption, right to visitation and right to have child bear parents' name.

8. Parent and Child ⇐2(1)

Like all legal rights, parent's right to custody of his child is not absolute and may be lost through divorce, by conduct depriving child of necessities of life, by abandonment, by child's emancipation, or, subject to constitutional limitations, where welfare of child requires limitation or termination of parental rights. AS 09.55.205, 25.20.010, 47.10.010(a)(4, 5), 47.10.080(c), 47.10.290(3).

9. Infants ⇐13

State has legitimate interest in protecting children from venereal disease, from exposure to use of dangerous and illicit drugs, from attempted rape, and from physical injury.

10. Infants ⇐16.1

Purpose of statute creating classification of child in need of supervision is reintegration of child into her family and resumption of parental custody, including parental control. AS 47.10.010(a)(2), 47.10.290.

11. Infants ⇐16.8

Evidence in delinquency hearings supported conclusion that minor, who was chronic runaway, would not be distinguishable in sophistication or exposure to criminal activity from average child in population at state youth center, and thus, placement of such minor in state youth center was not precluded.

12. Infants ⇐16.4

Whether child is characterized as delinquent child, child in need of supervision, dependent child, or merely child whose custody is disputed in domestic relations proceeding, court has authority, upon extending all procedural safeguards, to make orders affecting her custody. Const. art. 4, § 1.

13. Contempt ⇐33

While court may have limitations on its power to act, there are only due process limitations on its authority to compel enforcement of its orders.

14. Infants ⇐16.12

Superior court had authority to enforce order entered against child in need of supervision, which order provided that child was not to remain away from children's home in which he had been placed without permission of appropriate adult authorities of the home.

15. Infants ⇐16.2

Failure of minor to abide by court orders regarding her supervision, following adjudication that such minor was child in need of supervision, constituted willful criminal contempt of court's authority, and she was, therefore, properly declared delinquent and subject to those sanctions available for correction of delinquent minor's behavior. AS 09.50.010, 47.10.010(a) (2, 3, 6), 47.10.080(j), 47.10.290.

Herbert D. Soll, Public Defender, Phillip P. Weidner, Asst. Public Defender, and R. Collir Middleton Anchorage, Alaska, for appellant.

Avrum M. Gross, Atty. Gen., Juneau and Larry R. Weeks, Asst. Atty. Gen., Anchorage, for appellee.

Before RABINOWITZ, Chief Justice, and CONNOR, ERWIN, BOOCHEVER and BURKE, Justices.

OPINION

ERWIN, Justice.

L.A.M. seeks review of the superior court's order dated July 26, 1973, declaring her a delinquent [1] child for violation of AS 09.50.010,[2] i.e., willful failure to comply with certain court orders made after a prior adjudication that she was a child in need of supervision.[3]

In order to understand L.A.M.'s arguments and place her situation in context, it will be necessary to set out her history at some length.

L.A.M. was born in Canada in 1958 and was adopted by the M's shortly thereafter. The M.'s soon were divorced and Mrs. M. moved with L.A.M. to Alaska. In 1971 Mrs. M. married Mr. C. and retired from work, intending to spend more time with L.A.M. Difficulties arose almost immediately with L.A.M. neglecting to return home after staying with friends.

L.A.M. began a consistent pattern of running away in the Spring and Summer of 1972. During this period two petitions were filed seeking to have her declared a child in need of supervision, but in both cases the petitions were dismissed on stipulation and the matter handled informally.[4] On November 2, 1972, a new petition was filed. At the hearing L.A.M. admitted the allegations of the petition and was declared a child in need of supervision. She was ordered detained at the McLaughlin Youth Center pending adjudication.

On December 12, 1972, the disposition hearing was continued and L.A.M. was released to her parents. One week later the court was informed that she had run away. A pick-up order was issued and the minor was brought back to court on December 27, 1972, at which time she was detained pending disposition. The disposition hearing was finally held on January 11, 1973. Upon listening to testimony, the Master for the Family Court filed his recommendation that the minor be "released to her parents." A superior court judge adopted the finding and executed a release.

On March 19, 1973, L.A.M. was brought back to court by an intake officer who in-

1. AS 47.10.010(a)(1) provides in relevant part:
   (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 minor (1) violates a law of the state, or an ordinance or regulation of a political subdivision of the state . . . .

2. AS 09.50.010 provides in relevant part:
   Acts or omissions constituting contempt. The following acts or omissions in respect to a court of justice or court proceedings are contempts of the authority of the court:
   . . . . .
   (5) disobedience of a lawful judgment, order, or process of the court . . . .

3. AS 47.10.290 provides in relevant part:
   In this chapter, unless the context otherwise requires,
   . . . . .
   (7) "child in need of supervision" is a minor whom the court determines is within the provisions of (AS 47.10.010(a)(2), (3), (4), and (6)). [Matter in parentheses supplied.]

   AS 47.10.010(a)(2), (3) and (6) respectively provide:
   [B]y reason of being wayward or habitually disobedient is uncontrolled by his parent, guardian or custodian;
   [I]s habitually truant from school or home, or habitually so conducts himself as to injure or endanger the morals or health of himself or others;
   . . . . .
   [A]ssociates with vagrant, vicious or immoral people, or engages in an occupation or is in a situation dangerous to life or limb or injurious to the health, morals, or welfare of himself or others . . . .

4. Children's Rule 4(d) provides:
   Informal Disposition. If the intake officer, after investigation, believes that in the best interest of the child the matter should be handled on an informal basis, he may thereafter refrain from filing a petition and shall thereafter on behalf of the court, counsel with the child and parents, guardian or custodian, and with their consent and cooperation establish such informal supervision or disposition of the child matter as the circumstances may require.

formed the court that she had "been a runaway almost constantly since the time the court released her." The intake officer then filed a petition with the court alleging that the minor was a "child in need of supervision" by virtue of having been truant from school in violation of AS 47.10.010(a)(3) and AS 14.30.010 (truancy).[5] At the hearing the court was informed that Mrs. C. had obtained a child psychiatrist who had met with the child and her mother, and together they had worked out some program of counseling. The parties agreed that L.A.M. would be placed in a foster home during a period of counseling and the judge accepted a stipulation to that effect. Having previously explained to L.A.M. that if she violated a court order she could be held in contempt of court and incarcerated, the judge informed the child that she was not to leave the foster home without contacting her psychiatrist, her social worker, or her mother. She agreed. The minor was released from McLaughlin on March 31, 1973, and placed in a foster home. She ran away on April 2, without notification, and was not apprehended until May 4.

A hearing was held on May 14, 1973, at which time L.A.M. was charged with contempt of court by the intake officer. Because of the uncertainty in this area, the trial court appointed the public defender to represent her. On May 17, 1973, the hearing resumed. The state argued that a child in need of supervision could not thereby be held in contempt of court and incarcerated, but that a child guilty of "criminal contempt" could on that basis be adjudicated a "delinquent child" and thereafter institutionalized. The State, therefore, moved to dismiss the petitions, alleging contempt of court and substituting a petition of alleged delinquency. The court denied the motion but permitted the State to file an amended petition alleging as a separate count an act of delinquency predicated upon "criminal contempt."

A petition alleging delinquency was filed on May 23, 1973, at which time a hearing was held. In responding to the petition L.A.M. denied the allegations and requested a trial. Pending trial, she was placed at the Alaska Children's Services receiving home. A written order was entered on June 8, 1973, specifically setting out the conditions under which L.A.M. would reside at the receiving home pending her adjudication hearing. Specifically, it provided that "[T]he child is not to remain away from the Anchorage Children's Christian Home overnight without the permission of the appropriate adult authorities of the home."

On July 26, 1973, an intake officer filed a petition for revocation of conditions of release pending L.A.M.'s adjudication hearing. In part, the petition stated that she had left the receiving home without permission on July 3, 1973, and remained away until July 24, 1973. A detention hearing was held on July 26th, and at the hearing L.A.M., through her counsel, admitted the allegations of the petition of alleged delinquency based on violation of a court order filed on May 23, 1973. L.A.M.'s counsel made it clear that the minor was only admitting the facts and reserving the right to litigate the legal consequences of those facts.

The court then proceeded to a consideration of the petition for revocation of conditions of release pending adjudication hearing filed on July 26, 1973. Upon admitting the allegations of this petition as well L.A.M. requested through her attorney that a disposition hearing be scheduled within thirty days.

5. AS 14.30.010 provides in relevant part:
When attendance compulsory. (a) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent, guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

At the disposition hearing held on August 28, 1973, and on August 31, 1973, two experts testified on behalf of the minor and two testified on behalf of the State. The expert testimony pointed up the substantial differences of opinion both as to principle and policy that exists regarding runaways and their treatment. After considering all of the evidence, the court accepted the recommendation of the Division of Corrections and ordered the minor institutionalized, but deferred execution of the order for a period of sixty days to give L.A.M. one more opportunity to establish that she could be rehabilitated within the community. During the deferred period L.A.M. was assigned to Sheila Lankford of the Division of Corrections Probation Department.

On November 2, 1973, the superior court, on the request of Ms. Lankford, vacated the deferred order of institutionalization and placed the child on regular probation, having been advised that L.A.M. was functioning effectively within the community while living at home. On November 5, 1973, the minor ran away but returned of her own accord on November 7. Two days later she ran away again and remained away until December 5, 1973, when she was apprehended by the police. On December 6, 1973, Ms. Lankford petitioned to revoke the minor's probation. At the hearing on this matter held on December 18, the superior court granted the petition to revoke probation but reinstated it on new conditions in light of a request by Ms. Lankford that the minor not be institutionalized. It was agreed that the child would reside in the Alaska Children's Services Receiving Home.

On March 18, 1974, Ms. Lankford filed a further petition seeking revocation of probation. In it she alleged that on February 20, 1974, the minor ran away from the receiving home and remained away until March 16, 1974, when she was apprehended by the police. At the hearing on the petition, held on March 22, 1974, the court found the minor had violated the conditions of her probation and had run away from the receiving home. The court considered the minor's objections presented by her attorney and, after considering the evidence and the argument of the parties, directed that the minor be institutionalized.

L.A.M. seeks to have her adjudication of delinquency set aside on two grounds. She contends that both as a matter of statutory interpretation and constitutional law, a child in need of supervision may not be prosecuted for criminal contempt; or, in the alternative, if such a prosecution is allowable, such prosecution cannot result in incarceration. Upon discussing the nature of contempt in this case, each of these grounds will be dealt with in order.

[1] Before a party may be held in criminal or civil contempt for failure to abide by a court order, certain elements must be established: (1) the existence of a valid order directing the alleged contemnor to do or refrain from doing something and the court's jurisdiction to enter that order; (2) the contemnor's notice of the order within sufficient time to comply with it; and in most cases, (3) the contemnor's ability to comply with the order; and (4) the contemnor's willful failure to comply with the order.

[2] The distinction between criminal and civil contempt is generally phrased in terms of whether the character and purpose of the contempt is "remedial" or "punitive."

[3] In *Johansen v. State*[6] we used a balancing test in determining that the failure to pay child support was criminal rather than civil contempt. We did so because incarceration was imposed for a fixed period under AS 09.50.020[7] to punish a completed act rather than to coerce future con-

6. 491 P.2d 759 (Alaska 1971).

7. See n. 2, *supra*.

duct pursuant to AS 09.50.050.[8] Specifically, the court held that where the contempt power was invoked to punish the alleged contemnor for "past, willful, flouting of the court's authority" pursuant to AS 09.50.010(5) (cf. AS 09.50.020), contempt was criminal, but where the contempt proceeding was instituted to "coerce future conduct" pursuant to AS 09.50.050, the contempt is civil.

[4] Applying that distinction here, the contempt order issued by the court would obviously be classified as "criminal." Were L.A.M. an adult, her failure to abide by court orders would be characterized as a "crime" under AS 09.50.010(5). Hence, L.A.M. could properly be declared a delinquent under AS 47.10.010(a)(1) after a proceeding in the Children's Court.

L.A.M. grounds her constitutional argument in *Breese v. Smith*,[9] where this court ruled that the right to liberty set out in Art. I, Sec. 1, of the Alaska State Constitution[10] guarantees every Alaskan regardless of age ". . . total personal immunity from governmental control: the right to be let alone . . . ," which L.A.M. contends the supreme court qualified only to the extent that it ". . . must yield when [it] intrudes upon the freedom of others. . . ." Therefore, she continues, a citizen's right to liberty as enunciated in *Breese*, *supra*, (bolstered by the more recently enacted "right to privacy")[11] cannot be infringed by preventing her from doing anything that does not injure a specific definable victim. Consequently, L.A.M. concludes since her conduct, i.e. running away from home and foster home placement, did not injure anyone (except perhaps herself, which she contends has not been proved), it necessarily follows that it cannot constitutionally be interfered with by the State because there is no compelling state interest to justify such an interference.

L.A.M. assumes that the only interest to be protected by legislation in this area is that of the children. This is simply not the case. The parents' interest as well as the State's must be considered.[12]

[5–7] Proceedings against children alleged to be in need of supervision are in substance and effect custody disputes where the contestants are parent and child, and the parent appeals to the court to vindicate and enforce his custody rights in the child against that child.[13] Viewed in

8. AS 09.50.050 states in relevant part:
When the contempt consists of the omission or refusal to perform an act which is yet in the power of the defendant to perform, he may be imprisoned until he has performed it.

9. 501 P.2d 159, 168–170 (Alaska 1972).

10. Art. I of the declaration of rights of the Alaska Constitution, § 1, provides:
Inherent Rights. This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

11. Alaska Constitution, Art. I, § 22, provides:
Right of Privacy. The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

12. The U. S. Supreme Court has on a number of occasions held that a parent's "right" to the custody and control of his child was constitutionally protected. *See Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973); *Wisconsin v. Yoder*, 406 U.S. 205, 92 S.Ct. 1526, 32 L.Ed.2d 15 (1972); *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); *Armstrong v. Manzo*, 380 U.S. 545, 85 S.Ct. 1187, 14 L.Ed.2d 62 (1965); *May v. Anderson*, 345 U.S. 528, 73 S.Ct. 840, 97 L.Ed. 1221 (1953); *Pierce v. Society of Sisters*, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1932).

13. While there is much discussion of parental rights in reported cases, few cases attempt to define those rights making discussion difficult. A careful review of the literature, including case law, treatise and law review, indicates that the following have

this light, the statutes creating the status "child in need of supervision" provide a judicial remedy and discourage resort to self-help and the attendant risk of violence.[14]

[8] Thus, before L.A.M. can sustain her case that the child in need of supervision procedure, including the invocation of the court's contempt power to enforce orders made pursuant to it, is an unconstitutional invasion of her liberty and privacy, she must first establish that her mother has no legally enforceable right to her custody and the State thus has no right to enforce such an order. We note at the outset, however, that there is more to the parent-child relationship than simple custody. It is love and trust and a responsibility toward each other which cannot be defined legally. It is impossible to discuss severing this relationship without considering the heartache and anguish of the parents who must ultimately live with themselves and the decision after the child reaches adulthood. Further, the consideration of such an issue must accept the limitations of the State to be a parent; good intentions are not adequate substitutes for the day-to-day relationship which we have come to accept as necessary to the growth of children into responsible adults. True, like all legal rights, a parent's right to the custody of his child is not absolute and may be lost through divorce,[15] by conduct depriving the child of the necessities of life,[16] by abandonment,[17] by the child's emancipation,[18] or, subject to constitutional limitations, where the welfare of the child requires a limitation or termination of parental rights.[19]

been listed as "parental rights" protected to varying degrees by the Constitution:

(1) Physical possession of the child which, in the case of a custodial parent includes the day-to-day care and companionship of the child. In the case of a non-custodial parent, possession is tantamount to the right to visitation.

(2) The right to discipline the child, which includes the right to inculcate in the child the parent's moral and ethical standards.

(3) The right to control and manage a minor child's earnings.

(4) The right to control and manage a minor child's property.

(5) The right to be supported by an adult child.

(6) The right to have the child bear the parent's name.

(7) The right to prevent an adoption of the child without the parents' consent.

Of these so called residual parental rights, those that remain after custody is placed in another include the right to consent to an adoption and to withhold consent to prevent an adoption, the right to visitation and the right to have the child bear the parents' name. See the discussion in Burt, Forcing Protection on Children and Their Parents, 69 Michigan 1259 (1971); Dobson, The Juvenile Court and Parental Rights, 4 Family Law Quarterly 393 (1979); Young, The Problem of Neglect: The Legal Aspects, 43 Journal of Family Law 29 (1964); Note, Child Neglect: Due Process for the Parent, 70 Col.L.Rev. 465 (1970).

14. By withdrawing court assistance (and police assistance) from embattled parents, the state is not inducing compromise but may encourage violence, since parents have the right under Alaska law to physically control their children. See AS 11.15.110(1) as interpreted in *State v. England*, 220 Or. 395, 349 P.2d 668 (1960), and compare the civil liability of parents for disciplining their children which is discussed in *Hebel v. Hebel*, 435 P.2d 8, 14–15 (Alaska 1967).

15. AS 09.55.205 gives a court in a divorce action the right to provide for the custody of the children.

16. See AS 47.10.010(a)(5) which, when read in conjunction with AS 47.10.080(c) and AS 47.10.290(3), permits the state to take custody of a child who "lacks proper parental care by reason of the faults, habit or neglect of his parent, guardian or custodian."

17. See AS 47.10.010(a)(4), which authorizes the state to take custody of a child who has been abandoned.

18. A child is emancipated as a matter of law when he or she reaches the age of majority which in Alaska is 19 years of age; AS 25.20.010. *See R.L.R. v. State*, 487 P.2d 27 (Alaska 1971).

19. *Turner v. Pannick*, 540 P.2d 1051, (Op. No. 1189, 1975); *In the Matter of the Adoption of K. S.*, 543 P.2d 1191, (Op.No.1219, 1975).

L.A.M. was given an opportunity to show any of the foregoing as a defense to a finding that she was a "child in need of supervision" or, subsequent thereto, to a finding that she had committed criminal contempt of court and was therefore delinquent by violating orders regarding her placement; but she failed to do so.

Runaway children of L.A.M.'s age are generally incapable of providing for or protecting themselves. As a result, police spend a substantial amount of time protecting these youths from those who would prey upon them, as well as protecting the community from those who are ultimately driven to criminal activity to provide themselves with the necessities of life.

Various other social agencies also expend considerable efforts attempting to protect and shelter runaways in an effort to provide both an alternative to criminal activities and counseling in lieu of that they received from their parents. Without question these children's matters are of broad public interest and concern. They go to all aspects of the physical and mental well being of such children.[20]

The family, school, social agency and police resources allocated to aid the runaway are enormous. In this case, the child had continuing aid and support of (1) her mother and step-father, (2) a private psychiatrist hired by her mother, (3) counseling with social workers in Division of Family and Children's Services, (4) probation officers in Division of Corrections, (5) school counselors, (6) psychologists and psychiatrists from Langdon Clinic, (7) Alaska Youth Advocates, (8) group home counselors, (9) her court-appointed attorney, and (10) the court. To assert that the State has no interest in this child is to deny that the function of government is to protect its citizens. All of this presupposes the heartache and anguish of the parents, who in the first instance have been unable to deal with this problem but who must also live with the solution.

This court has previously found that there is sufficient State interest to justify restrictive measures on much less substantial grounds.[21] Further, this court has noted that distinct government interests with reference to children may justify legislation that could not properly be applied to adults.[22]

[9] The State has a legitimate interest in protecting children from venereal disease, from exposure to the use of dangerous and illicit drugs, from attempted rape, and from physical injury, all of which occurred in this case. Doubtless the State will never be entirely successful in its efforts. It does, however, have the right and obligation to *try* to protect its young people from such conditions.[23] The test set out by this court in *Ravin v. State*,[24] is whether the means chosen by the State are closely and substantially related to an appropriate government interest. Clearly they are here.

[10] While it may be argued that the necessary "supervision" contemplated by the statute is simply the furnishing of food, clothing, shelter and schooling in lieu of that which would otherwise have been provided by a parent, this argument begs the question, for the purpose of the supervision or treatment contemplated by the creation of the child in need of supervision and its predecessor non-criminal delinquency was reintegration of the child into her family and resumption of parental custody including parental control (cf. AS 47.10.-

20. *In Re G.M.B.*, 483 P.2d 1006 (Alaska 1971); *Wagstaff v. Superior Court*, 535 P.2d 1220 (Alaska 1975).

21. *Kingery v. Chapple*, 504 P.2d 831 (Alaska 1972).

22. *Ravin v. State*, 537 P.2d 494 (Alaska 1975).

23. In the analogous equal protection argument concerning ". . . economics and social welfare, a State does not violate the Equal Protection Clause merely because the classification made by its laws are imperfect." *Dandridge v. Williams*, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed.2d 491.

24. 537 P.2d 494 (Alaska 1975).

280). Thus, the State's efforts regarding the child are not directed solely at providing an alternate living situation (as they are in a true case of dependency) but at putting the child back in her own home. The reestablishment of her mother's custody and supervision over her and any foster placement is merely a means to that end, not an end in itself. Thus, by rejecting these efforts L.A.M. defeats, or at least slows, this reintegration process and thereby prejudices her mother's right to her custody and control, subjecting herself to the more severe sanction contemplated by AS 09.50.020.

We note that L.A.M.'s primary argument in this case is that as a child in need of supervision whose conduct from the inception of the case to the present has not changed, she may not be placed in a closed setting, i.e. one where the doors may be locked. However, the cases upon which L.A.M. relies proceed to a different point, namely that the child should not be placed in a state training school. In Colorado, California, Illinois and New York,[25] children in need of supervision can at the first instance be placed in juvenile halls or youth centers, i.e. places with locked doors, but cannot be placed at the state training school, i.e. maximum security institutions. The McLaughlin Youth Center in Anchorage is more the equivalent of a juvenile hall than it is a state training school. It should be noted that Alaska has contracts with Colorado and California to place Alaska delinquents who are too sophisticated for McLaughlin in the state institutions in those states. Thus L.A.M. is not to be placed at either the California or Colorado training schools; she is threatened with placement at the McLaughlin Youth Center.

[11] Substantial evidence was introduced during the many hearings of this case regarding the population at the McLaughlin Youth Center. Based upon that evidence, it is clear that the kind of children who are extremely agressive, and extremely hardened in delinquency, are not treated at McLaughlin Youth Center but are sent outside for placement at schools in Colorado and California under contract with the State of Alaska. While the population at McLaughlin is made up at the present time exclusively of "delinquents," the evidence introduced at trial convinces us that while delinquency in some form is a prerequisite to gaining admission to McLaughlin, it is not the real reason that the child is at McLaughlin. The overwhelming majority of delinquents with strong family ties are treated in the community. Those delinquents who end up at McLaughlin are by and large there for the same reason that L.A.M. may be there, namely an unwillingness to remain at home or a home substitute and heed parental or a custodian's regulations. Based upon the evidence, it appears that L.A.M. and other chronic runaways would not be distinguishable in sophistication, exposure to criminal activity, etc., from the average child in the population at McLaughlin and that therefore the reasoning of the cases cited by L.A.M. should not apply to Alaska.

[12-14] Whether we characterize L.A.M. as a delinquent child, a child in need of supervision, a dependent child, or merely a child whose custody is disputed in a domestic relations proceeding, the court has authority, upon extending all procedural safeguards, to make orders affecting her custody. It is argued, however, that this is a situation where the court has no power to enforce its order, and thus the court must release L.A.M. This view is contrary to the inherent power of the court to enforce its orders or decrees.[26] While the court

25. *In re Presley*, 47 Ill.2d 50, 264 N.E.2d 177 (1970); *Matter of Tomasita N.*, 30 N.Y.2d 927, 335 N.Y.S.2d 683, 287 N.E.2d 377 (1972); *C. v. Redlich*, 32 N.Y.2d 588, 300 N.E.2d 424 (1973); Cal.Welf. and Inst. Code, §§ 601, 730, 777 (West 1972).

26. Alaska Const. Art. IV, § 1, provides in part:

> The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature.

See also *Ex Parte Robinson*, 86 U.S. (19

may have limitations on its power to act, there are only due process limitations on its authority to compel enforcement of its orders. Hence, we reject the argument that the superior court lacked the authority to enforce specific orders against L.A.M. in this case.

[15] The lower court determined that L.A.M. would not abide by any orders it entered regarding her supervision under AS 47.10.080(j). This behavior constitutes willful criminal contempt of the court's authority: were she an adult, her actions would be characterized as a "crime" under Alaska statutes. She was, therefore, properly declared a delinquent and subject to those sanctions available for the correction of a delinquent minor's behavior. Certainly, conciliation should precede coercion; and if coercion is necessary, mild sanctions should first be tried before more severe sanctions are imposed. However, where mild sanctions fail, the court's orders must be enforced and severe sanctions should be imposed if necessary. In the instant case, all available sanctions, save institutionalization, were tried and found unsuccessful. Thus, the lower court determined that it had no choice but to order L.A.M. institutionalized.

In affirming this decision, we note that the trial judge was most innovative in fashioning a necessary remedy for a situation not covered by statute.[27] The very nature of the problem, however, calls for legislative overhaul of the statutes in this area, for the trial court's remedy is not easily modified to cover other situations where there is no statutory guidance.

BOOCHEVER, Justice, with whom RABINOWITZ, Chief Justice, joins, concurring.

I concur in the court's opinion based on the last three paragraphs thereof. I would not reach the other issues discussed in the opinion. Protection of parental rights to care, custody and supervision do not seem to me to be an appropriate rationale for placing a child in an institution. In my opinion, the court's efforts were devoted primarily to furthering the welfare of the child, a subject in which the state does have an interest.[1] There was ample testimony to indicate that L.A.M.'s conduct was harmful to her.[2]

Wall) 505, 510, 22 L.Ed. 205, 207 (1874); *In re Shortridge*, 99 Cal. 526, 528, 34 P. 227, 229 (1893); Frankfurter and Landis, Power of Congress over Procedure in Criminal Contempts in "Inferior" Federal Courts —A Study in Separation of Powers, 37 Harv. L.Rev. 1010, 1017–1022 (1924); Goldfarb, *The Contempt Power*, 37–40 (Columbia University Press 1963).

27. The trial judge was a model of patience and fairness in this extremely difficult case. Further, we are indebted to him for his scholarly memorandum opinion which aided in the preparation of this opinion.

1. The state's power to act in support of the welfare of children is exemplified by such statutory enactments as compulsory education (AS 14.30.010 et seq.); financial assistance for dependent children (AS 47.25.-310 et seq.); protective laws as to the employment of children (AS 23.10.325 et seq.); minimum age of consent for marriage (AS 25.05.171); prohibition of the use of alcohol and tobacco by minors and of the sale of either substance to minors (AS 04.15.-050 et seq. and AS 11.60.080); punishment for statutory rape (AS 11.15.120); contributing to the delinquency of a minor (AS 11.40.130); and for lewd or lascivious acts toward children (AS 11.15.134).
In *Anderson v. State*, 384 P.2d 669, 671 (Alaska 1963), this court stated that the purpose of the statute punishing acts which contribute to the delinquency of a minor is "to protect all children under the age of 18". In *Hanby v. State*, 479 P.2d 480, 498 (Alaska 1970), the court held that the state can enact statutes to protect the juveniles—to prevent as well as punish delinquency. In *Hanby*, the court found that material which was not so obscene as to be proscribed for the general population could be forbidden to minors. Children who were judged to be in a harmful environment were removed from their home in *In re P. N.*, 533 P.2d 13 (Alaska 1975). The court determines child custody in divorce proceedings according to the welfare and best interest of the child. *Horton v. Horton*, 519 P.2d 1131, 1132 (Alaska 1974); *Nichols v. Nichols*, 516 P.2d 732, 734 (Alaska 1973); *Carle v. Carle*, 503 P.2d 1050, 1052 (Alaska 1972).

2. While a runaway, L.A.M. was truant from school; was allegedly the victim of a

On the basis of the record, I do not believe that we can conclude that police spend countless hours protecting the community from anti-social conduct of runaway children. Recent studies indicate that status offenders (such as runaways) are not a source of general harm to others as contrasted with children who have committed offenses which, if perpetrated by adults, would be crimes.[3] I concur in the opinion since I believe that the state has an interest in the welfare of children justifying the entry of appropriate orders. In cases involving status offenders, only after all else fails, should placement in a closed setting be justified. But under the facts of this case, the trial judge had no alternative.

RABINOWITZ, Justice (concurring).

Although I am in agreement with the court's disposition of this appeal, I think it appropriate to answer appellant's contention that our prior decisions precluded the superior court from institutionalizing L.A.M. This contention is grounded upon *In re E.M.D.*, 490 P.2d 658 (Alaska 1971), where we rejected the argument that under Alaska's statutes a minor who has been adjudicated a child in need of supervision may be institutionalized by the state. Upon analysis of the relevant statutes, we concluded that ". . . the legislature has authorized institutionalization only when the child is found to be a delinquent minor." [1] Thus, if the superior court in the case at bar had institutionalized L.A.M. because she had been adjudicated a child in need of supervision, such action would have been erroneous under *E.M.D.*

But here L.A.M.'s status was not merely that of a child in need of supervision; the scope of her future conduct had been limited by the superior court's order. By virtue of this order L.A.M. was, as the state argues, essentially on probation.[2] The majority notes that the superior court found that L.A.M. had violated the conditions of her probation by running away. The majority then observes that

> Were L.A.M. an adult, her failure to abide by court orders would be characterized as a 'crime' under AS 09.50.010(5). Hence, L.A.M. could properly be declared a delinquent under AS 47.10.010(1) after a proceeding in the Children's Court.

I thus conclude that what essentially transpired below was that the trial court found a violation of the conditions of probation which it imposed pursuant to its determination that L.A.M. was a child in need of supervision, and ordered L.A.M. incarcerated.[3] In my view, *E.M.D.* did not prohibit the superior court from ordering the institutionalization of L.A.M. in the circumstances of this case.

rape as reported in a call to the police; contracted gonorrhea; suffered an injured jaw and broken teeth from a fall, which injuries had not received medical attention.

3. Clarke, Stevens H., "Some Implications for North Carolina of Recent Research in Juvenile Delinquency," Journal of Research in Crime and Delinquency, January 1975.

1. *In re E.M.D.*, 490 P.2d 658, 659 (Alaska 1971). In E.M.D., after finding the minor to be a child in need of supervision, the trial court committed E.M.D. to the custody of the Department of Health and Welfare and directed the Department to place her in a correctional or detention facility.

2. AS 47.10.080(j) provides in part:
> If the court finds the minor is a child in need of supervision it shall make any of the following orders of disposition for his supervision, care and rehabilitation:
>
> . . . . .
>
> (2) order the minor placed on probation under those conditions and limitations that the court may prescribe.

3. See AS 47.10.080(b)(1).

April 27, 1988

TO: Members of the House Finance Committee
and, Members of the House Rules Comm.

FROM: DADS AGAINST DISCRIMINATION
POLITICAL ACTION COMMITTEE
DADS PAC

Armstrong

SUBJECT: DADS Supports SB 117

DADS PAC supports SB 117 wholeheartedly.
SB 117 was amended in House Judiciary and includes four (4) of DADS AGAINST DISCRIMINATION'S ten (10) 1988 legislative goals.

A Governor's Bill, SB 117 is also supported by the Child Support Enforcement Division and represents the best of compromise between the interests of obligees, obligors, their children and the State of Alaska. There is no opposition to this bill. There is NO FISCAL NOTE.

Representatives John Sund, Fran Ulmer and Max Gruenberg worked very hard through two full committee hearings and three subcommittee hearings to work through every section of this bill.

The following justice issues for obligors are contained in this bill:

1. The dependent allowance granted by the state to the children of unemployed workers on their unemployment checks is exempt from garnishment for child support for other children. Basic poverty-level needs of the children living in the child support-paying unemployed father's home are protected.

2. Interest charges are stopped when an employer pays garnished child support payments late to the state when the obligor has timely given-up the child support out of his pay check.

3. The mailing of the Notice of Liability by the Division must be done by certified mail. This is a protection to the state, as well as providing due process notice to the obligor.

4. An administrative process is provided to obligors to terminate wage withholding when 12 months of payments have been made, which avoids the cost of an attorney for the obligor and relieves the Division of processing wage withholding on accounts that have been current for a year.

PLEASE vote yes on SB 117! Much hard work and a good compromise have gone into this bill. THANK YOU FOR YOUR SPEEDY ASSISTANCE.

Rep. Adams

AICC urgently Requests consideration & support & passage of SB 79 - Runaway Bill

Current studies on runaways show that Runaways are predicted to be the third wave of AIDS carriers. It is imperative that we keep youth off the streets.

Please pass this legislation

Ak. Juvenile Crime Commission

Marge Hall &
Pamela Thiel

(2)

Child sexual abuse and exploitation, juvenile delinquency, violence and criminal activity were identified nationally as some of the most serious problems confronting society. The runaway is a national and progressive epidemic that contributes to a kaleidoscope of serious societal problems. The runaway/street juvenile further impacts society by exhibiting those factors intrisic to much of the prison population. Society is behind the power curve in identifying the scope of the problem, and the projected result, as well as implementing workable preventive measures. Alaska is impacted more heavily than comparative communities outside.

A significant conclusion was drawn by John Walsh, the father of Adam, when he spoke to the Joint Judiciary and Health and Social Services Committees of the Alaska Legislature in Juneau

> "Those of you that are parents who love children have a vested interest. Those of you that don't have children and really aren't concerned with children but won't admit it publicly, consider this: 80% of the convicted felons that are in federal prisons by an FBI survey were physically or sexually abused as children. 75% of the violently mental ill in state institutions were physically or sexually assaulted as children. If you want to deal with the problem now you won't have to pay later. Because the 12 year old on the streets of Anchorage tonight, or the sexually or physically abused child in your schools today may become the rapist or murderer in Alaska's future and you'll have to deal that with a larger, much larger appropriation and much bigger cells. So, there is a way to break the chain and that's by protecting children now and stopping and helping the victim. We must stop them from becoming future criminals."

"The profiling of serial murders and rapists reveals psychological abnormalities stemming from negative life factors rooted in child and teen years as one of the predictors of serial murderers, arsonists, and rapists.

"Profile work done by the Bureau has convinced me that if communities do not act to address problems of juveniles we can expect to see a sharp rise in violent crimes as well as those crimes committed by serial murderers and rapists."

(3)

AIDS AND THE RUNAWAY

A GENERATION AT RISK

Alaska Juvenile Crime Commission

Marroyce Hall **March 9, 1988**

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Alaska Juvenile Crime Commission

P.O. Box 92850 Anchorage, Alaska 99509 Ph. (907) 279-7401

Feb 12, 1988

Senator Tim Kelly
P.O. Box 21-0001
Anchorage, Alaska 99521
Chairman Senate AIDs Committee

Dear Senator Kelly,

I have reviewed the state epidemiology report presented to the Senate AIDs committee by Dr. Middaugh, as we discussed.

While very solid work is being done within the general population of Alaskans, it appears that additional and very direct effort must be expended in the next and largest potential population of AIDs carriers, the chronic runaway and youth-at-risk.

Recent research indicates that many of the traits inherent to chronic youth at risk; drug abuse, homosexual and heterosexual prostitution, and poor health habits create conditions in which the AIDs virus will flourish.

Most youth within this population also evidence mal-adaptive or anti-social coping behaviors, immaturity, illiteracy, and suicidal tendencies. These tendencies preclude typical methods of AIDs prevention through educational awareness or personal protection. For the most part, at risk youth will reject AID's issues or act inconsistantly in protecting themselves and others.

As I indicated in our conversation, we have spent a great deal of time researching the problem. Our perspective is the result of daily hands-on experience with our chronic street youth and research and information about the AIDs epidemic nationally.

In fact, concerns that the runaway population could become "the third wave of AIDs carriers" is now expressed by organizations like Covenant House and The National Center for Missing and Exploited Children FBI special agent Lanning, Behavioral Sciences, the U.S. Surgeon General.

(5)

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William J. Sharme

Alaska Juvenile Crime Commission

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The enclosed report profiles the current problem within the New York runaway population from Psycology Today and a comparative of statistics on youth in Alaska who are, by their lifestyles, also at risk of contracting AIDs. In addition, we have also utilized information from the Alaska State Epidemiology report.

We are preparing recommendations appropriate to this population and will be providing your committee with a copy in the near future.

Sincerely,

Marroyce Hail
Executive director

(6)

LAST YEAR I MET ANGIE....

SHE WAS SMALL, BLOND AND BARELY OUT OF HER TEENS. ANGIE* GREW UP LIKE ANY REGULAR KID FROM A NICE FAMILY. SHE WENT TO AN ANCHORAGE HIGH SCHOOL AND DID THE THINGS OUR KIDS DO.

WHEN I MET ANGIE, THE MOST SPECIAL PART OF HER LIFE WAS HER LITTLE DAUGHTER CHRISSY. THEN, FOR A LONG TIME I DIDN'T SEE CHRISSY OR HER MOM.

IT WAS THE HOLIDAY SEASON. COLORED LIGHTS, FESTIVE DECORATIONS AND A HEAVY WINTER SNOW TURNED ANCHORAGE INTO A WINTER WONDERLAND.

ANGIE CAREFULLY WRAPPED EACH SPECIAL PRESENT AND STORED UP A RAINBOW OF MEMORIES TO LAST A LITTLE GIRL A LIFETIME. WHEN ALL WAS DONE, SHE TURNED TO FACE THE FINAL SUMMONS OF THE DEADLY ADVERSARY.

TO MOST ALASKANS, ANGIE IS NOW A STATISTIC.....ONE OF ONLY 6% OF ALASKA'S FEMALE AIDS VICTIMS.

TO HER FRIENDS, HER FAMILY, AND HER LITTLE GIRL, SHE IS A TRAGIC LOSS.

* NAME CHANGED

(7)

EXCERPTS: PSYCOLOGY TODAY:

THE RUNAWAY EPIDEMIC
By: Patty Hersch

JANUARY 1988 EDITION

COMING OF AGE ON CITY STREETS

RUNAWAY AND HOMELESS TEENS THOUGHT CRACK, PROSTITUTION AND VIOLENT PIMPS WERE THE WORST STREET LIFE COULD DO TO THEM. THAT WAS BEFORE AIDS.

At all times, their habits and associates place them in extraordinary danger contracting AIDS. Reaching them has always been a challenge. Now, it's an emergency.

Donahue cannot understand why the men, the "johns" who purchase sex, are not scared of contracting AIDS. "They've got to know that they are sleeping with kids who have been all over the place. I talked to a guy, 25 years old, who'd been hustling since he was 14. He has AIDS, but he's going through denial and still doesn't use condoms. I asked him about the johns. Don't they want condoms? He answered, 'If they wanted safe sex, do you think they would be out on 42nd Street? They want fantasies. ...Condoms aren't of fantasies. AIDS isn't part of fantasies. AIDS has no impact on whats going on in the streets'"

Many of these runaway and homeless adolescents, between 20,000 and 40,000 in New York City, up to 1.2 million nationwide, are caught at the juncture of risks.

Sex more than anything puts runaway kids at risk for AIDS. Homeless kids survive any way they can. Their bodies usually become the currency of exchange.

ALASKA CHRONIC STREET
YOUTH: A Generation at Risk

John Rabun, Deputy Director of the National Center for Missing and Exploited Children and the national consultant for the Alaska Juvenile Crime Commission views the runaway problem as one of the severest in the nation for cities the size of Anchorage.

"One major indicator of the problem developing in Alaska is the numbers of the runaway reported in Anchorage (nearly four times the national average). With so many youth outside of legal custody, the predictors of their involvment in activities typical of street life indicate that Alaska will continue to suffer escalating and compelling problems."

According to Municipality figures, there are approximately 600 youth annually in Anchorage who are chronic runaways. A chronic runaway is one who has left home three or more times.

There are about 300 castaway youth in Anchorage each year. These are youth on the streets who have been forced out of their homes.

*85% of first time runaways return home after a short time on the street

COMPARED TO THE GENERAL TEEN POPULATION RUNAWAYS EVIDENCE:

Increased levels of prostitution

Increased exposure to sexually exploitive individuals.

Increased likelihood of drug dealing IV drug involvement.

Increased incidence of teenage pregnancy and sexually transmitted disease.

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The educators are innovative, honest, open and desperate. Not one person I interviewed believes they are making a substantial change in the behavior of this population. Why? The teens won't remember; they will reason it is OK to have sex with friends; some girls want to get pregnant; their johns give them more money if they don't use a condom. Mostly, though, there are so many ways to die every day on the street they cannot focus on something that may kill them years from now.

But signs of infection are already evident. A young man who had asked to be tested for AIDS learned that the results were positive. Although a sensitive staff was geared to support him, he fled, crying hysterically, and disappeared into the streets. He did not return the next day, and the entire staff of Covenant House was distracted, unable to help him and wondering whether he might commit suicide or infect others out of anger.

Jim Kennedy, a physician and medical director of Covenant House, finds that young girls are being infected with Human Immunodeficiency Virus (HIV) just by having sex with new boy friends, the guys who take them in when their families throw them out. "Even if these girls never end up working as prostitutes, they are at risk when they have sex with the drug-abusing guys who control street life of local neighborhoods," he says. Last summer, he tested four girls who fit this description. Three tested HIV-positive. One of the three is pregnant.

Over the summer, Kennedy tested a small number of the street kids for AIDS: Twenty-seven percent were HIV- positive, and there was one definite case of AIDS - related. "It's as simple as arithmetic," Kennedy estimates that 15 percent of the 11,000 adolescents in and out of Covenant House in a year would test positive for Human Immunodeficiency Virus. Among those hustling every night, he imagines a rate of exposure exceeding 50 percent.

People are put at risk by their behaviors. Those at greatest risk are homosexual and bisexual men having unprotected intercourse of multiple partners and those individuals sharing needles to inject IV drugs. ASER/AIDS

Nationally, the greatest number of AIDS cases have occured in IV drug abusers and their sexual partners, and in prostitutes who are IV drug users. ASER/AIDS

CDC reports that 48,139 people nationwide had developed AIDS by December 7, 1987, at least 57% of whom had already died. CDC estimates that between 1 and 1.5 million people are infected with the virus, many of whom are unaware that they are infected. ASER/AIDS

In Alaska, 48 AIDS cases were reported between November 1982 and December 1987, and 31 (65%) of these people are known to have died. ASER/AIDS

In Alaska, 79% of AIDS cases have occurred in the urban areas were most of the states population is centered. Six percent of all cases in the state have occured in women. ASER/AIDS

Alaska has a young population and a higher proportion of males than the nation as a whole, which indicates an increased potential for Aids transmission here. The states experience with gonorrhea, another sexually transmitted disease, offers an additional indicator that the population may be at increased risk for AIDS: Alaska ranks seventh among the 50 states and District of Columbia in the number of diagnosed gonorrhea cases (2,712 cases in 1986). ASER/AIDS

Alaska State Department Epidemiology Report on AIDs

An estimated 125,000 to 200,000 teenagers become involved in prostitution each year;

Many people believe these adolescents will become part of the third wave of carriers in the AIDS epidemic.

There may never be an actual epidemic among adolescents because the latency period between infection and appearance of symptoms may be 10 years or longer. There is, however, an epidemic of exposure, and many runaway kids, years hence, may pay horribly for the events of their troubled youth.

They don't know enough about AIDS and you tell them and they forget. And you tell them again and you give them a handful of condoms. And you know they share everything from tooth brushes and IV needles to razors and chewing gum.

Jean Garrison is director of the High-Risk Program: "We've hardly begun to face the fact that they are at great risk for contracting the AIDS virus."

Often, their immune systems are already compromised by repeated exposure to infections. All of these conditions may increase the risk for developing AIDs.

Or the young man, hospitalized with AIDS, who went on a trip to Canada after he was discharged. He had a "great time," including several saxual encounters. He did not engage in sex maliciously, but irresponsibly, his physician told the group. The patient, an adolescent felt good, so he ignored his illness and did what was fun for the moment.

Mc LAUGHLIN YOUTH CENTER SURVEY

68% MYC inmates reported heterosexual and/or homosexual involvment with adults.

Almost 30% MYC males indicated they were forced into sexual acts.

27% of the males respondents indicated they had sex for money.

MYC

School aged children and young adults are vulnerable to exposure AIDS because experimentation with sex and drugs often occurs in this age group. Many individuals in this population are sexually active, as evidenced by the fact that in 1986 alone, 16% of the state's gonorrhea cases were in individuals 19 years of age or younger, and 9% of cases in this age group were children fourteen years or younger. He further notes that some children with AIDS or ARC will develop brain disease which will change their mental behavior. ASER-AIDS

*Alaska State Department Epidemiology Report on AIDs-January 1988

Today, one out of five people with AIDS are between the ages of 20 and 29. Many of them may have been infected as teenages, because the virus may not cause symptoms for up to 10 years.

"Teenagers are absolutely at risk, because as a group, they engage in risky behavior" says David Brumbach, director of the Maryland AIDS Foundation. "If they are having sex with multiple partners or experimenting with needle drugs, they are in a free-fire zone, and the enemy is a virus. It's deadly." SU

Scholastic Update
Oct 16, 1987

Youth-In-Trouble National Statistics

SEXUALLY TRANSMITTED DISEASES

Youth age 10 to 24-year-old accounted for 62.5% of all gonorrhea cases and 40% of syphilis cases in 1985.

Nearly half of the estimated 20 million sexually transmitted disease patients are under age 25.

DRUG USE

In a 1986 study, 1.1% of U.S. high school seniors reported that they had used heroin.

Nearly 30% of all students will drop out before high school graduation, and youths who have dropped out of high school have higher rates of intravenous drug use than those in school.

*Few disagree that drug abuse is a deadly evil. But the growing AIDs juggernaut, New York health officials argue, is deadlier. As many of 60% of New York, 200,000 addicts now carry the AIDs virus. The IV drug user is the gateway to the heterosexual population.

SEXUAL ACTIVITY

In the United States, 11.5 million teenagers have had sexual intercourse.

RUNAWAYS

About one million teenagers run away each year in the United States, more that half of them have run away at least three times.

An estimated 187,500 runaways are involved in illegal activities, such as drug use; prostitution and solicitation, and drug trafficking.

*Time Magazine: Feb 15, 1988

WASHINGTON (AP) - SURGEON GENERAL C. EVERETT KOOP told a White House panel today he is concerned about the spread of the AIDS virus among teen-agers and expressed outrage at suggestions the disease cannot be spread through heterosexual intercouse.

Although only a relative handful of the more than 50,000 AIDS cases reported so far involve teen-agers, Koop said little information is available on the extent to which the virus may be lying dormant among that group.

Because of the long incubation period of the disease - five years or more - Koop said he is reluctant to rule out an outbreak of AIDS cases in young heterosexual adults who contracted the virus as teen-agers.

Fairbanks News Miner
March 1, 1988

Covenant House staff asked this question -

As these children get sick, who will comfort them?

"Who will visit them in the hospital, bring them cards and candy, answer the questions about death and God their desperate eyes will ask? Where will they sleep between hospital visits? On a train? In Penn Station? Who will attend the funerals and weep beside their graves? Who will bury our children?"

Alaskans must decide now. We will fight the spread of AIDS in our youth, or will we, like New York, ask who will bury our children? - - -

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Patrick M. Rodey
Senator

Alaska State Legislature

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Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

Senate

MEMORANDUM

TO: All Members
House Finance Committee

FROM: Senator Pat Rodey Pat

DATE: April 28, 1988

RE: SB 79, "An Act relating to runaway and missing minors."

We have all heard the story many times: runaway and homeless youth present enormous problems for themselves, their families, and our communities as a whole. Runaway youths are much more likely to be exposed to exploitive situations, to abuse or deal drugs and alcohol, or to get in trouble with the law for committing illegal acts. The community must deal with an increased incidence of child prostitution and higher levels of drug involvement and crime.

Senate Bill 79 is one attempt to encourage a positive response to the plight of children on the streets.

- We have attempted to provide greater flexibility for law enforcement officers, parents and children by allowing the child and the parent to choose a temporary "neutral" location, such as a neighbor or relative's home, when a runaway child has been picked up by a police officer. Police approve of this provision because it more clearly defines their options. Families approve because it allows them greater opportunity to solve family problems outside of the state legal system. Under no circumstance, however, is a child forced to return home if they do not wish; the minor's preference is honored.

- We have attempted to encourage Covenant House and other existing runaway programs, and have developed program licensing language to promote the innovative development of new runaway programs in smaller communities throughout the state.

- We have attempted to meet the crisis needs of those few chronic runaways who are in severe danger without intervention by the state. By exempting from protective custody those minors who are residing in licensed runaway programs, we hope to encourage runaway youth to seek out these programs and look for assistance on their own. We believe this bill represents a reasonable, balanced, effort to allow secure detention.

There are those who strongly oppose any detention of runaways, regardless of the surrounding circumstances. However, as Covenant House's Greg Loken has stated, "Purity of concern for the rights of children and adolescents should not obscure the fact that a few, a very few, are simply so out of control that some coercion is necessary if they are to have any real hope of survival, let alone happiness."

Commission Myra Munson has agreed that, "...this bill avoids the damaging and ineffective use of detention as a means of addressing the problems of most runaways by limiting the use of detention to those few chronic runaways whose behavior places them in clear danger. It also avoids the danger of over use of detention by requiring that detention occur only if no other alternative exists."

Many others have expressed support for Senate Bill 79, including:

Department of Public Safety
Office of Public Advocacy
Public Defender
Bill Hitchcock, Children's Court Master, Anchorage
Alaska Foster Parents Association
Alaska Chapter, National Association of Social Workers
Alaska Juvenile Crime Commission
Child Advocacy Network (representing 60 children's service agencies)
Victims for Justice
Mothers Against Drunk Drivers
Tough Love

Senate Bill 79 is not a perfect solution to Alaska's runawy problems; it is however, an important step in the right direction. I urge your support of this legislation and stand ready to answer any questions you may have.

Offered: 4/22/88
Referred: Finance

5-0310T

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 79 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 47.10.050(b) is amended to read:

(b) In a contempt hearing under AS 47.10.141(c) and in all proceedings initiated under a petition for delinquency, a minor shall have the right to be represented by counsel and if indigent have counsel appointed by the court. The court shall appoint counsel in such cases unless it makes a finding on the record that the minor has made a voluntary, knowing, and intelligent waiver of the right to counsel and a parent or guardian with whom the child resides or resided before the filing of the petition concurs with the waiver. In cases in which it has been alleged that the minor has committed an act which would be a felony if committed by an adult, waiver of counsel shall not be accepted unless the court is satisfied that the minor has consulted with an attorney before the waiver of counsel.

* Sec. 2. AS 47.10.141 is amended to read:

Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving a written, telephonic, or other request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public

Safety Information Network and the National Crime Information Center computer system. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors licensed by the department under AS 47.10.310, or a facility or contract agency of the department. If an office specified by the department, a licensed program for runaway minors, or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or, except as provided in (c) of this section, in a [OTHER] detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 3. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention home if there has been an order issued by a court upon a finding of

probable cause that (1) the minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's health or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court within 24 hours after the detention for a hearing to determine whether the minor is in contempt of court under AS 09.50.010(5). Protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors, as defined in AS 47.10.390.

* Sec. 4. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

* Sec. 5. AS 47.10 is amended by adding new sections to read:

ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The department shall

(1) review, inspect, and approve or disapprove for licensing proposed or established programs for runaway minors to ensure the health and safety of minors in the program;

(2) maintain a register of licensed programs for runaway minors;

(3) award grants for the establishment or operation of licensed programs for runaway minors;

(4) submit to the legislature and governor each January a report on programs for runaway minors in the state;

(5) adopt regulations for the administration of AS 47.10.-300 - 47.10.390, including regulations providing for the coordination of services to be provided by licensed programs for runaway minors and by the department.

Sec. 47.10.310. LICENSING OF PROGRAMS FOR RUNAWAY MINORS. (a) A person may not operate a program for runaway minors in the state without a license issued under this section. A person who violates this subsection is guilty of a violation.

(b) The department may license a program for runaway minors under AS 47.10.300 - 47.10.390 only if the program

(1) is operated by a corporation organized under AS 10.20 or a municipality; and

(2) meets the requirements of (c) of this section.

(c) A program for runaway minors shall

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

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

(3) provide or help arrange for the provision of services necessary to promote the health and welfare of a minor in the program and, if appropriate, members of the minor's family; services may

include, but are not limited to, the provision of food, shelter, clothing, medical care, and individual or family counseling;

(4) promptly inform the department of a minor in the program who claims to be the victim of child abuse or neglect, as defined in AS 47.17.070, or whom an employee of the program has cause to believe has been a victim of child abuse or neglect;

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

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

(d) A program for runaway minors may provide services for the protection of the health and welfare of a person under 21 years of age who is in need of the services and who is without a place of shelter in which supervision and care of the person are available.

Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES. A runaway minor may maintain residency for a period not exceeding 45 days at a facility operated as part of a licensed program for runaway minors. The minor may maintain residency without the consent of the person or agency having custody of the minor, except that if the court has ordered the minor committed to the custody of the department, written consent of the department is required. The residency may be extended for an additional period of 45 days with the written consent of the person or agency having custody of the minor. A minor may not maintain residency beyond the 90th day following admission to a licensed program for runaway minors without the written consent of the person or agency having custody of the minor and the written consent

of the department.

Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The director of a program for runaway minors shall make a good faith effort to notify a minor's legal custodian as soon as possible, but in no event more than 48 hours after the minor is admitted to the program, unless there are compelling circumstances that justify withholding notice. The notice must describe the minor's physical and emotional condition and the circumstances surrounding the minor's admission to the program.

(b) The director of a program for runaway minors shall promptly notify a minor's legal custodian if the minor is released from the program into the custody of a person other than the legal custodian or a person representing the legal custodian.

Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of a licensed program for runaway minors that identify a minor who has been admitted to or has sought assistance from the program are confidential and are not subject to inspection or copying under AS 09.25.110 - 09.25.120, unless

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

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

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

Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers, directors, and employees of a licensed program for runaway minors are not liable for civil damages as a result of an act or omission in admitting a minor to the program.

(b) This section does not preclude liability for civil damages as a result of recklessness or intentional misconduct.

Sec. 47.10.360. MUNICIPAL POWERS. Authority to establish and operate a licensed program for runaway minors is granted to municipalities that do not otherwise have that authority.

Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

(1) "licensed program for runaway minors" means a residential or nonresidential program licensed by the department under AS 47.10.310;

(2) "runaway minor" means a person under 18 years of age who

(A) is habitually absent from home;

(B) refuses to accept available care;

(C) has no parent, guardian, custodian, or relative able or willing to provide care; or

(D) has been physically abandoned 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 25.23.180(c) or AS 47.10.080 or voluntarily relinquished.

Offered: 2/19/88
Referred: Judiciary

5-0310N

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE

BY THE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 79 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 47.10.141 is amended to read:

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(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors approved by

the department under AS 47.10.310, or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or, except as provided in (c) of this section, in a [OTHER] detention facility. Immediately upon taking a minor int protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention home if there has been an order issued by a court upon a finding of probable cause that (1) the minor is a runaway in violation of a valid court order issued under AS 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's health or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court within 48 hours after the detention for a hearing to determine whether the minor is in civil contempt of court under AS 09.50.010(5). Protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in an

approved program for runaway minors, as defined in AS 47.10.390.

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(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

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(2) maintain a register of approved programs for runaway minors;

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(4) submit to the legislature and governor each January a report on programs for runaway minors in the state;

(5) adopt regulations for the administration of AS 47.10.-300 - 47.10.390, including regulations providing for the coordination of services to be provided by approved programs for runaway minors and by the department.

Sec. 47.10.310. APPROVAL OF PROGRAMS FOR RUNAWAY MINORS. (a) The department may approve a program for runaway minors under AS 47.-10.300 - 47.10.390 only if the program

(1) is operated by a corporation organized under AS 10.20 or a municipality; and

(2) meets the requirements of (b) of this section.

(b) A program for runaway minors shall

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

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

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

(4) promptly inform the department of a minor in the program who claims to be the victim of child abuse or neglect, as defined in AS 47.17.070, or whom an employee of the program has cause to believe has been a victim of child abuse or neglect;

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

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

(c) A program for runaway minors may provide services for the protection of the health and welfare of a person under 21 years of age who is in need of the services and who is without a place of shelter in which supervision and care of the person are available.

Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES.

A runaway minor may maintain residency for a period not exceeding 45 days at a facility operated as part of an approved program for runaway minors. The minor may maintain residency without the consent of the person or agency having custody of the minor, except that if the court has ordered the minor committed to the custody of the department, written consent of the department is required. The residency may be extended for an additional period of 45 days with the written consent of the person or agency having custody of the minor. A minor may not maintain residency beyond the 90th day following admission to an approved program for runaway minors without the written consent of the person or agency having custody of the minor and the written consent of the department.

Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The director of an approved program for runaway minors shall make a good faith effort to notify a minor's legal custodian within 72 hours after the minor is admitted to the program, unless there are compelling circumstances that justify withholding notice. The notice must describe the minor's physical and emotional condition and the circumstances surrounding the minor's admission to the program.

(b) The director of an approved program for runaway minors shall promptly notify a minor's legal custodian if the minor is released from the program into the custody of a person other than the legal custodian or a person representing the legal custodian.

Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of an approved program for runaway minors that identify a minor who has been admitted to or has sought assistance from the program are confidential and are not subject to inspection or copying under AS 09.25.110 - 09.25.120, unless

(1) the minor consents in writing to the disclosure of the

records;

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

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

Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers, directors, and employees of an approved program for runaway minors are not liable for civil damages as a result of an act or omission in admitting a minor to the program or releasing a minor from the program into the custody of a person other than the minor's legal custodian.

(b) This section does not preclude liability for civil damages as a result of recklessness or intentional misconduct.

Sec. 47.10.360. PROGRAMS EXEMPT FROM LICENSING. An approved program for runaway minors is not subject to licensing or regulation under AS 47.35.

Sec. 47.10.370. MUNICIPAL POWERS. Authority to establish and operate an approved program for runaway minors is granted to municipalities that do not otherwise have that authority.

Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

(1) "approved program for runaway minors" means a residential or nonresidential program approved by the department under AS 47.10.310;

(2) "runaway minor" means a person under 18 years of age who

(A) is habitually absent from home;

(B) refuses to accept available care;

(C) has no parent, guardian, custodian, or relative able or willing to provide care; or

(D) has been physically abandoned 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 25.23.180(c) or AS 47.10.080 or voluntarily relinquished.

Offered: 5/7/87
Referred: Finance

5-0310L

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 79 (Judiciary) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 47.10.141 is amended to read:

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

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location designated by the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department.

If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention home if there has been an order issued by a court upon a finding of probable cause that the minor is a runaway in violation of a valid court order issued under AS 47.10.142(f) and is posing a clear and present danger to the minor's own welfare. A minor detained under this subsection shall be brought before a court within 48 hours after the detention for a hearing to determine whether the minor is in civil contempt of court under AS 09.50.010(5). This subsection does not apply to a minor taken into protective custody in a community that does not have a juvenile detention home.

* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

Offered: 5/7/87
Referred: Finance

5-0310L

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 79 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a nearby location designated by the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department.

If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. Except as provided in (c) of this section, a [A] minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention home if there has been an order issued by a court upon a finding of probable cause that the minor is a runaway in violation of a valid court order issued under AS 47.10.142(f) and is posing a clear and present danger to the minor's own welfare. A minor detained under this subsection shall be brought before a court within 48 hours after the detention for a hearing to determine whether the minor is in civil contempt of court under AS 09.50.010(5). This subsection does not apply to a minor taken into protective custody in a community that does not have a juvenile detention home.

* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

Offered: 4/16/87 5-0310B
Referred: Judiciary and Finance

Original sponsors: Rodey, Faiks,
Fischer, et al.

IN THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 79 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 47.10.141 is amended to read:

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

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a location designated by the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an

office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. Except as provided in (c) of this section, a [A] minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

(c) A minor may be taken into protective custody by a peace officer and placed into temporary detention in a juvenile detention facility if there has been an order issued by a court upon a finding of probable cause that the minor is a runaway in violation of a valid court order issued under AS 47.10.142(f) and is posing a clear and present danger to the minor's own welfare. A minor detained under this subsection shall be brought before a court within 48 hours after the detention for a hearing to determine whether the minor is in civil contempt of court under AS 09.50.010(5). This subsection does not apply to a minor taken into protective custody in a community that does not have a juvenile detention facility.

* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

(f) When a minor is committed to the department for temporary placement under (e) of this section, the court order shall specify the terms, conditions, and duration of placement. The court shall require the minor to remain in the placement provided by the department and shall clearly state in the order the consequences of violating the order, including the possibility of detention under AS 47.10.141(c).

Introduced: 1/22/87
Referred: Health, Education and Social Services and Judiciary

5-0310A

BY RODEY, FAIKS, FISCHER, KELLY, SZYMANSKI, ABOOD, UEHLING, ELIASON, JOSEPHSON, STURUGLEWSKI AND HALFORD

IN THE SENATE

SENATE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 47.10.141 is amended to read:

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

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. If the minor has not previously been taken into protective custody under this section while evading the minor's legal custodian, then the [THE] peace officer, after complying with the requirements of (d) of this section, shall honor the minor's preference to [EITHER] (1) return the minor to the legal custodian if the legal custodian consents to the return; (2) take the minor to a

location designated by the legal custodian; or (3) [(2)] take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. Except as provided in (c) of this section, a [A] minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody.

* Sec. 2. AS 47.10.141 is amended by adding new subsections to read:

(c) A minor who is taken into protective custody by a peace officer while the minor was evading the minor's legal custodian shall be placed in a juvenile detention facility approved by the department for a period of 30 days after being taken into custody if the minor was previously taken into protective custody by a peace officer in the state while the minor was evading the minor's legal custodian. Before the minor is placed in detention, the peace officer who took the minor into protective custody shall comply with the requirements of (d) of this section.

(d) As soon as practicable after taking into custody a minor who is evading the minor's legal custodian, a peace officer shall accompany the minor to a location specified by the department for an examination of the minor. The department shall adopt regulations that specify the appropriate tests and analyses to be administered to the minor to detect evidence of alcohol, drug, physical, or sexual abuse.

(e) A peace officer shall take a minor into protective custody if the peace officer has probable cause to believe that the minor is evading the minor's legal custodian and

(1) is in danger of harm or poses a threat of harm to others; or

(2) is living with a person who is not a legal custodian of the minor.