

SB

429



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 16, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

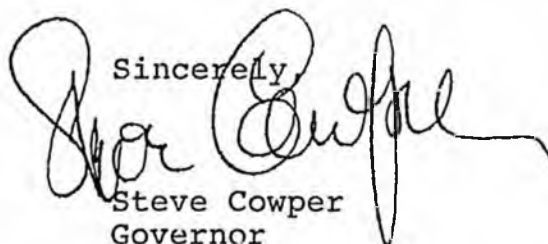
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to juvenile detention proceedings. This bill amends AS 47.10.140(c) and Delinquency Rule 10(c), to allow the use of certain hearsay evidence at the hearing held within the statutorily specified 48 hours after a minor is detained on a delinquency matter. It does not alter the detention criteria or extend the length of time that a minor may be detained before a hearing is held. In this bill, the entire AS 47.10.140 and Delinquency Rule 10 are set out, for clarity, even though only one subsection of each is being amended.

A temporary detention hearing is conducted on two issues: 1) whether there is probable cause to believe that the minor has committed a delinquent act or violated terms of release or probation; and 2) whether detention is necessary to protect the minor or others, or to ensure the minor's appearance at subsequent court hearings. Under the current terms of AS 47.10.140, and Delinquency Rules 10(c) and 12, the Department of Health and Social Services must be prepared at the 48-hour hearing to conduct a "mini-trial" on the first issue, with witnesses called to prove each element of the offense. This bill would allow certain hearsay to be offered in support of probable cause. The standards would be the same as those applying to adult felony probable cause hearings, under Criminal Rule 5(e)(1)(i). The minor would have the opportunity to require that the witnesses be called, upon request, at a subsequent hearing to be held within five court days after the arrest. A probable cause finding is necessary in order either to detain a minor or to place conditions on the minor's conduct on release until the next hearing. Delinquency Rule 10 was adopted to be effective August 15, 1987, and is based on AS 47.10.140.

The present procedure, requiring witnesses to be available at every 48-hour temporary detention hearing, is an impracticable, costly, and inefficient use of resources. If

necessary witnesses cannot be located to establish probable cause at the 48-hour hearing, the minor is released and the case is closed. In Anchorage, minors usually admit the charges at the initial hearing and the witnesses summoned to the hearing are not needed. In those rare cases in which the minor does not admit the charges, the minor's attorney often requests a continuance to allow the attorney time to review the police reports before the hearing is conducted. Whether or not the minor admits the charges or requests a continuance, the court may order a less restrictive placement.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Cowper", written in black ink.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Juvenile Delinquency Temporary
Detention Hearings
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. Health & Social Svs.
BRU: Youth Services
Components: Probation Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Russ Webb Phone: 465-3203
Division: Family & Youth Services Date: 12/9/87
Approved by Commissioner: [Signature] Date: 12/9/87
Agency: Health & Social Services

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