

HB

98



STEVE COWPER  
GOVERNOR



cc  
AB 98

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 19, 1989

The Honorable Sam Cotten  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

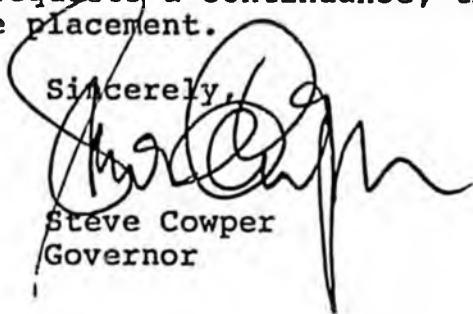
Dear Representative Cotten:

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 the Alaska Supreme Court's Delinquency Rule 10(c), to allow the use of certain hearsay evidence at the hearing held within 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 current 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(b)(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 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 dismissed. In Anchorage, minors usually admit the charges at the initial hearing and the witnesses summoned to the hearing are not needed. In those 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 or, after an offer of proof, waives the need for testimony. Whether or not the minor admits or requests a continuance, the court may order a less restrictive placement.

Sincerely,



Steve Cowper  
Governor

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: "An Act modifying procedures for juvenile delinquency detention hearings..."  
Sponsor: Rules Committee  
Requestor: Governor

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

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

Prepared by: John B. Salemi, Acting Public Defender Phone: 279-7541  
Division: Public Defender Agency Date: 12/7/88

Approved by Commissioner: John Andrews Date: 12/9/88  
Agency: Department of Administration

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Administration  
 Title: "An Act modifying procedures for juvenile delinquency detention hearing..." B: Office of Public Advocacy  
 Sponsor: Rules Committee Components: \_\_\_\_\_  
 Requestor: Governor

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
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: Philip S. McEntyre & Grant McGee, Public Advocate  
 Division: Office of Public Advocacy

Phone: 274-1684  
 Date: 12/8/88

Approved by Commissioner: John Andrews  
 Agency: Department of Administration

Date: 12/12/88

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

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: DHSS  
 Title: Juvenile Delinquency Detention  
Hearings BRU: Youth Services  
 Sponsor: Rules Committee Components: Probation Services  
 Requestor: Governor

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

Prepared by: Yvonne M. Chase, Director *HMC* Phone: 465-3170  
 Division: Family and Youth Services Date: \_\_\_\_\_  
 Approved by Commissioner: [Signature] Date: 12/15/88  
 Agency: Health and Social Services

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

STATE OF ALASKA 1989 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST:

Bill Version: HB 98  
Publish Date: 1/20/89

Revision Date:  
Title: An act modifying procedures  
for juvenile delinquency detention...  
Sponsor: Rules Committee  
Requestor: House HESS

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

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Travel	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Contractual	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL . . . . .

REVENUE . . . . .

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*  
Jan Strandberg, General Counsel  
Division: Alaska Court System

Phone: 264-8228  
Date: 03/06/89

Approved by: *Stephanie Cole, fax*  
Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 03/06/89

- Distribution (by preparer):
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  - Impacted Agency(ies)



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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. NESS

3-14-89