

**HB**

**16**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 7, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/12/98

The FINANCE Committee considered:

HB 16

HOUSE BILL NO. 16

JUVENILE DELINQUENCY PROCEDURES

"An Act relating to delinquent minors, to the taking of action based on the alleged criminal misconduct of certain minors, to the services to be provided to the victims of criminal misconduct of minors, and to agency records involving minors alleged to be delinquent based on their criminal misconduct; and amending Rule 19 and repealing Rules 6, 7, 11(a), 12(a), and 21(f), Alaska Delinquency Rules."

recommends it be replaced with the following committee substitute CSHB 16 (FIN)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) (2) Admin, DOC, Delaw  fiscal note(s) \_\_\_\_\_  
AK Court Sys, HFC  
 zero fiscal note(s) DHSS  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Theriault</i>	Theriault	X			
<i>Mark Hanley</i>	Hanley	X			
<i>Edson Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Vic Kohring</i>	Kohring	X			
<i>John Davies</i>	J. Davies			X	
<i>Ben Grussendorf</i>	Grussendorf			X	
<i>Edward Moses</i>	Moses			X	
<i>John Davis</i>	J. Davis			X	
<i>Kelly</i>	Kelly				
<i>Bob Foster</i>	Foster	X			

CHAIR'S SIGNATURE *Gene Theriault* *Mark Hanley*  
 Theriault Hanley

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: 03/09/98  
 Title: relating to institutions for juveniles; efd  
 Sponsor: Kelly  
 Requestor: House Finance

Dept. Affected: Health and Social Services  
 BRU: Medical Assistance  
 Component: Medicaid Facilities  
 COMPONENT SERIAL NO. 230  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

POSITIONS	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

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

There does not appear to be a substantial Medicaid program impact associated with the provisions of CSHB 16 (FIN). This is because a Residential Psychiatric Treatment Center (RPTC) may already enroll as a Medicaid provider regardless of the provisions of the bill. A limited fiscal impact may result from the bill's provisions for "semi-secure" or "secure", but such impacts could arguably increase costs related to fire code requirements for secure facilities, or arguably decrease costs due to the availability of secure RPTC as an alternative to less appropriate placements in higher cost settings.

Medicaid enrolled RPTCs are already authorized to bill under Medicaid regulations. One in-state RPTC has been paid since 1993 and several out-of-state providers have been billing Medicaid for the past two years. A new in-state RPTC (30 beds) has submitted a request for Medicaid enrollment (a 2 to 3 week process), and enrollment of another new RPTC (10 beds) is actively being pursued. Enrollment of these facilities is not dependent upon the provisions of the bill and, thus, any increased expenditures required by their enrollment is also not dependent upon

Prepared by: Dave Williams *BT*  
 Division: Medical Assistance  
 Approved by Commissioner: Karen Peddie, Commissioner  
 Agency: Department of Health & Social Services

Phone: 465-3355  
 Date: 03/16/98  
 Date: 3/19/98

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## ANALYSIS (cont.):

any provision in the bill. Additional Medicaid funds may be necessary to cover the cost associated with an increased availability and use of in-state secure RPTC beds, but that increased need is not directly dependent upon the provisions of this bill.

Medicaid regulations (7 AAC 43.550 through 7 AAC 43.570) set out requirements for Medicaid recipient eligibility and admission, conditions for provider payment, establishment of a per diem rate for RPTC services, appeal of the Medicaid rate, and other provisions. Not all RPTCs that could be licensed under CSHB 16 (FIN) would necessarily qualify for Medicaid reimbursement since some Medicaid provider enrollment requirements are not requirements under the bill. (For example, Medicaid regulations require that an enrolled RPTC be accredited by the Joint Commission on Accreditation of Healthcare Organizations.)

Medicaid regulations (7 AAC 43.557) establish an initial f. TC rate that is the lesser of the

- (1) per diem rate of \$255 for a single recipient; or
- (2) per diem rate negotiated between a RPTC and the Division of Family and Youth Services; or
- (3) lowest per diem rate charged to any other payor.

Regulations also provide for an increase or decrease of the \$255 per diem (7 AAC 43.557(b)), however, no enrolled program has submitted documentation under that provision for an adjustment. Presently, some out-of-state programs are paid less than the \$255 per diem, but no enrolled provider is paid more.

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO.** CSHB 16 (FIN)

Revision Date (Note if correction) 3/16/98 Dept. Affected Corrections  
 Title An Act relating to delinquent minors, to the BRU Administration and Operations  
 taking of action based on the alleged criminal misconduct... Component ALL  
 Sponsor Representative Kelly  
 Requester House Finance Committee Component Serial No. #0694

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous		109.5	219.1	327.8	401.7	365.2
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>109.5</b>	<b>219.1</b>	<b>327.8</b>	<b>401.7</b>	<b>365.2</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		109.5	219.1	327.8	401.7	365.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>109.5</b>	<b>219.1</b>	<b>327.8</b>	<b>401.7</b>	<b>365.2</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attached analysis.

Prepared by Bruce Richards  
 Division Commissioner's Office  
 Approved by Commissioner Margaret M. Pugh Margaret M. Pugh  
 Agency Department of Corrections

Phone 465-3307  
 Date 3/16/98  
 Date 3/16/98

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**FISCAL NOTE**

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION  
DEPARTMENT OF CORRECTIONS**

**BILL NO.** CSHB 16 (FIN)  
**PAGE** 2 of 2  
**DATE** 3/16/98

The major impact of this bill upon the Dept. of Corrections (DOC) is Section 18 where AS 47.12 is amended by adding a new section whereby delinquent minors age 16 and 17 may have dual juvenile and adult sentencing provisions imposed on them if the crime they are charged with committing is sexual abuse of a minor in the second degree or a felony that is a crime against a person and the minor has previously been adjudicated a delinquent for another felony offense that was a crime against a person.

DOC does not anticipate an impact during the first year of this legislation. A juvenile would have to unsuccessfully go through juvenile proceedings and a number of other alternative diversions before the adult dual sentencing provision would be imposed. Based on the statewide average daily cost of \$100.07 per day, the first year financial impact on the DOC would be \$109,576 (\$109.5), with three (3) new juveniles and \$109.5 added every year thereafter until FY 03. In that year, it is anticipated that one of the three juveniles who began serving an adult sentence in FY 00 will have finished the two-year presumptive sentence for a class C felony and be released. Similarly, the next year it is anticipated that one of the three juveniles for FY 01 will complete his or her sentence and be released. (It is assumed that the other two juveniles each year are serving four-year presumptive sentences for class B felonies).

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: Delinquent Minors - Dual Sentencing BRU: Trial Courts  
 Component: \_\_\_\_\_  
 Sponsor: Rep. Kelly  
 Requestor: House Finance COMPONENT SERIAL NO. 768

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 98	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**Fund Source (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY 98) cost: \$ None

**Positions**

Full-Time						
Part-Time						
Temporary						

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

See attached analysis.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 264-8265  
 Agency: Alaska Court System Date: 03/17/98  
 Approved by: Stephanie J. Cole, Administrative Director Date: 03/17/98  
 Agency: Alaska Court System

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Alaska Court System  
Fiscal Analysis  
CSHB 16(FIN)

The court system does not anticipate a fiscal impact from the passage of CSHB 16(FIN). However, should the number of minors subject to the dual sentencing provisions of the bill increase, the court system may return to the legislature for additional funding.

Additionally, CSHB 16(FIN) allows the court to authorize the Department of Health and Social Services to place certain minors in a secure residential psychiatric treatment center. The court is to review that placement every 90 days. The court system does not currently foresee significant costs associated with the 90-day reviews because, according to the department, placements in secure facilities rarely exceed 90 days. Additionally, the department has historically only placed 5 or 6 minors a year into such facilities. However, should the number of such placements increase (due to the availability of in-state facilities), or should the length of placements increase to beyond 90 days, or should extra procedural steps be required prior to placement, the court system may return to the legislature for additional funding.

Finally, this note does not estimate the additional costs that will result from allowing municipalities to bring civil actions against minors for violations of municipal ordinances. It is not known how many municipalities will choose this option or how often they will utilize it. Should there be a significant impact, however, the court system may return to the legislature for additional funding.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>. . delinquent minors, to the taking of action based</u>	BRU: <u>Criminal Division/Civil Division</u>
<u>on the alleged criminal misconduct of certain minors . . .</u>	Component: <u>1st-4th Jud District/OSPA</u>
Sponsor: <u>Representative Kelly</u>	<u>Human Services</u> #2198/99/
Requester: <u>House Finance Committee</u>	COMPONENT SERIAL NO. <u>2261/79/01/03/08</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	21.0	21.0	21.0	21.0	21.0	21.0
TRAVEL	0.1	0.1	0.1	0.1	0.1	0.1
CONTRACTUAL	3.4	3.4	3.4	3.4	3.4	3.4
SUPPLIES	0.3	0.3	0.3	0.3	0.3	0.3
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.8	24.8	24.8	24.8	24.8	24.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>	<b>24.8</b>

Estimate of any current year (FY98) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill repeals and reenacts AS 47.12.010 (purposes of juvenile delinquency laws) to set out a new philosophy toward juvenile offenders, balancing the goal of reformation of a juvenile offender with protection of the public. Further, the bill authorizes local communities to handle minor juvenile offenses by allowing municipalities to assess civil penalties for juvenile offenses and by allowing the Department of Health and Social Services to delegate to community programs or review panels the authority to handle minor offenses. This bill also amends the delinquency adjudication statutes to authorize district attorneys to seek "dual sentencing" in certain serious juvenile criminal cases; i.e., the state asks the court to pronounce both a juvenile and an adult sentence for the offense, but the adult sentence would be imposed only if the minor commits a new offense or fails to abide by the ordered conditions of the juvenile sentence. Included in the bill is also a provision to enact the rendition amendment to the Interstate Compact on Juveniles that allows one state to take into custody and return to another state a juvenile who is alleged to have violated a criminal law in the second state but who has not been adjudicated a delinquent, and a provision to permit the Department of Health and Social Services to

Prepared by: Joan M. Kasson *Joan M. Kasson*  
 Division: Attorney General's Office  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-5370  
 Date: 3/18/98  
 Date: 3/18/98

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ANALYSIS CONTINUATION:

provide additional information to public officials, such as legislators, who are contacted by parents with concerns about children's proceedings. Without this amendment, the state is unable to explain to these officials why the action it has taken was necessary.

Passage of this legislation will have no fiscal impact on the Criminal Division. The House Finance Committee Substitute eliminates 13 -15 year olds from the dual sentencing provisions, and makes them optional for the remaining juveniles. The department estimates that approximately 10 cases per year, statewide, may require additional criminal proceedings under the proposed dual sentencing provisions. Although this represents an increase in the Criminal Division caseload, when this increase is spread between the division's several offices, fiscal note costs are not warranted.

This bill was also amended in House Finance to authorize courts to place certain children in need of aid, as well as delinquent children, in secure residential psychiatric treatment centers. It will be necessary for the Department of Law's Civil Division, Human Services attorneys to appear at these children's initial placement hearings, as well as at hearings every 90 days for the continuation of the placement. It is expected that the initial hearings will be contested and thus last three to four hours and that the continuation hearings will require one hour of an attorney's time. Finally, it is assumed that on average one continuation hearing will be necessary in each case.

The department anticipates there will be 60 children annually for whom secure treatment is sought through an initial hearing, requiring a total of 240 attorney hours (60 cases x 4 hours), and in 90 percent of the cases (54) a disposition for secure treatment will be granted. Of those 54 cases, the department assumes that half of these children will be moved to a less restrictive setting within 90 days, and half will require a hearing for placement continuation, requiring an additional 27 attorney hours (54 cases/2 x 1 hour). Using the Civil Division's FY98/99 standard attorney cost schedule of \$92.72/hour, the total cost of this provision will be \$24,756 (240 + 27 = 267 hours x \$92.72/hour).

Action by municipalities on minor juvenile offenses will have no fiscal impact on the department, either positive or negative. The types of cases that would be handled by municipal authorities under these amendments do not require the use of Department of Law staff under current law, so no savings would be achieved in the Civil Division from a reduced caseload.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to delinquent minors..."  
 Sponsor: Representative Kelly  
 Requestor: (H) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	36.5	36.5	36.5	36.5	36.5	36.5
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	8.5	8.5	8.5	8.5	8.5	8.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	6.5	.7	.7	.7	.7	.7
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.3	48.5	48.5	48.5	48.5	48.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

Estimate of any current year (FY 98) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

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

See attached.

Prepared by: Barbara K. Brink, Director  
 Division: Public Defender Agency

Phone: \_\_\_\_\_  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Department of Administration

Date: 3/20/98

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## FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 16(FIN)

### 1998 LEGISLATIVE SESSION

#### ANALYSIS: (continued)

Section 7 of this CS authorizes the court to place a child who is already in state's custody as a CINA or delinquent in a secure residential psychiatric treatment center if certain conditions are met. Those conditions are similar to the ones required to commit an adult: the child must be gravely disabled or suffering from mental illness and likely to cause serious harm to the child or another person. There has to be no less restrictive alternative available and reason to believe the child's mental condition could be improved by treatment or would deteriorate if untreated. The Department of Health and Social Services estimates 60 children a year would be petitioned into this involuntary commitment process. The amendment does not currently contain language explicitly guaranteeing the right to counsel but it is assumed it will be included as constitutionally required. It is further assumed that the Public Defender Agency would be appointed to represent these children in this process, at least in the instance where no legal conflict of interest existed. A part-time Attorney III with attendant support costs would be necessary to handle this influx of new proceedings with a FY 99 cost of \$54.3. This would be an addition to the already existing fiscal note.

Note: The Public Defender Agency supports the CONCEPTUAL amendment. That is, we agree with the wisdom of having a secure psychiatric facility available for children in the State of Alaska and agree with expanding the eligible facilities. However, the amendment as drafted is woefully inadequate in terms of a fair process. It fails to provide the minimal protections built in to the current civil commitment process: explicit right to counsel; mandatory screening investigation; probable cause hearing before a judicial officer within 48 hours; mandatory evaluation by a mental health professional and a physician within 24 hours after arrival at a facility; 30-day commitment hearing held within 72 hours; written notification of rights; the right to communicate with a guardian or other adult; the right to present evidence and cross-examine witnesses; the right to be free from the effects of medication unless certain procedures are followed; and written notification of the allegations, the lack of any less restrictive alternative, the witnesses anticipated to be called and the facts and specific behavior alleged. At the 30-day hearing there are additional safeguards: the right to be present; to view and copy all petitions and reports; to have the hearing open or closed to the public as desired; to have the rules of evidence and civil procedure followed; to have an interpreter; to present evidence; to cross-examine witnesses; to remain silent; and to call experts. The state's case has to be proven by clear and convincing evidence, there is a right to appeal and if commitment is sought to extend past the 30 days, the respondent has the right to a jury trial. (AS 47.30.700-805). These safeguards must be built into this process. Additionally, the CS allows continued involuntary commitment upon a much lower standard. It is doubtful if this prolonged restraint will be found to be constitutional.

Section 18 of the CS revises the proposed dual sentencing provisions to apply only to 16 and 17 years olds accused of felony crimes against persons with previous adjudication of a felony crime against a person, or sexual abuse of a minor in the second degree. According to estimates by the Department of Health and Social Services, this could involve approximately 11 cases a year. Were these predictions to hold true, the Public Defender would not anticipate additional fiscal impact.

**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16(JUD)

*\*needs new analysis*

Revision Date: \_\_\_\_\_  
Title: "An Act relating to delinquent minors, to the taking action based on the alleged criminal misconduct of certain..."  
Sponsor: Representative Kelly  
Requestor: (H) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	41.8	41.8	41.8	41.8	41.8	41.8
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	23.4	23.4	23.4	23.4	23.4	23.4
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>86.8</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	86.8	81.2	81.2	81.2	81.2	81.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>						

Estimate of any current year (FY 98) cost: \$ 0

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.) This bill fundamentally alters the manner in which serious cases involving thirteen, fourteen, and fifteen year old children will be processed by the justice system. This new dual sentencing scheme will impose adult sentences that are automatically triggered by several commonly violated probation conditions. The severity of the sanctions and the complexity of the procedures will require extensive attorney and expert witness resources.

Such cases will require significantly more resources than an adult felony case since they involve not only grand jury review, pre-trial motions, trial and post conviction work, but also representation at complex probation revocation hearings. The law provides no incentive whatsoever to plead guilty as charged and many strong reasons to try such cases. In short, most cases will go to trial and, because of the high incidence of recidivism among untreated juveniles, most cases will result in probation revocation proceedings.

OPA estimates that it would receive about one third of the appointments in such cases and would therefore require the services of an experienced half-time attorney. The position would require extensive travel to other Alaska communities where such cases arise, and would need the services of expert witnesses in the revocation proceedings that trigger adult prison sentences for children.

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 269-3500  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *Mark Boyer*  
Agency: Administration

Date: 2/25/98

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**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: \_\_\_\_\_  
 Title: Relating to delinquent minors; services to victims and agency records...  
 Sponsor: Kelly  
 Requester: \_\_\_\_\_

Dept. Affected Health & Social Services  
 BRU Purchased Services  
 Component Residential Child Care  
 Component Serial No. 253

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	56.3	56.3	56.3	56.3	56.3	56.3
Travel						
Contractual	50.0	50.0	50.0	50.0	50.0	50.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES [ ]</b>						
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**FUND SOURCE** (Thousands of Dollars)

	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts	15.8	15.8	15.8	15.8	15.8	15.8
1003 GF Match	15.8	15.8	15.8	15.8	15.8	15.8
1004 GF	74.7	74.7	74.7	74.7	74.7	74.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
1091 Designated Program Receipts						
<b>TOTAL</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>	<b>106.3</b>

Estimate of any current year (FY97) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Implementation of HB 16 would require a rewrite of the DFYS Residential, Payment and Licensing Regulations. A contract with a regulations attorney to complete this project, estimated at \$50.0, is anticipated.

The unique and complex nature of the semi-secure residential and secure residential psychiatric treatment centers require hiring a Community Care Licensng Specialist I. This individual would provide consultation to the regulation contractor and community services providers. In addillon, this individual would process license applications and monitor program compliance with governing regulations. The estimated costs for this position is \$56.3.

Im

Prepared by Mark Hanley  
 Rep. Mark Hanley, Co-Chair House Finance Committee

Gene Theriault  
 Rep. Gene Theriault, Co-Chair House Finance Committee

Phone 465-4939  
 Phone 465-4797  
 Date 3/23/98

**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (FIN)

Revision Date: 3/23/98 at 10:00 a.m.  
Title: "An Act relating to delinquent minors..."  
Sponsor: Representative Kelly  
Requestor: (H) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	36.5	36.5	36.5	36.5	36.5	36.5
TRAVEL	1.8	1.8	1.8	1.8	1.8	1.8
CONTRACTUAL	8.5	8.5	8.5	8.5	8.5	8.5
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	6.5	.7	.7	.7	.7	.7
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.3	48.5	48.5	48.5	48.5	48.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>54.3</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>	<b>48.5</b>

Estimate of any current year (FY 98) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

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

See attached.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 3/23/98

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FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 16(FIN)

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

Section 7 of this CS authorizes the court to place a child who is already in state's custody as a CINA or delinquent in a secure residential psychiatric treatment center if certain conditions are met. Those conditions are similar to the ones required to commit an adult: the child must be gravely disabled or suffering from mental illness and likely to cause serious harm to the child or another person. There has to be no less restrictive alternative available and reason to believe the child's mental condition could be improved by treatment or would deteriorate if untreated. The Department of Health and Social Services estimates 60 children a year would be petitioned into this involuntary commitment process. The amendment does not currently contain language explicitly guaranteeing the right to counsel; but it is assumed it will be included as constitutionally required. It is further assumed that the Public Defender Agency would be appointed to represent these children in this process, at least in the instance where no legal conflict of interest existed. A part-time Attorney III with attendant support costs would be necessary to handle this influx of new proceedings with a FY 99 cost of \$54.3.

Note: The Public Defender Agency supports the CONCEPTUAL amendment. That is, we agree with the wisdom of having a secure psychiatric facility available for children in the State of Alaska and agree with expanding the eligible facilities. However, the amendment as drafted is woefully inadequate in terms of a fair process. It fails to provide the minimal protections built in to the current civil commitment process: explicit right to counsel; mandatory screening investigation; probable cause hearing before a judicial officer within 48 hours; mandatory evaluation by a mental health professional and a physician within 24 hours after arrival at a facility; 30-day commitment hearing held within 72 hours; written notification of rights; the right to communicate with a guardian or other adult; the right to present evidence and cross-examine witnesses; the right to be free from the effects of medication unless certain procedures are followed; and written notification of the allegations, the lack of any less restrictive alternative, the witnesses anticipated to be called and the facts and specific behavior alleged. At the 30-day hearing there are additional safeguards: the right to be present; to view and copy all petitions and reports; to have the hearing open or closed to the public as desired; to have the rules of evidence and civil procedure followed; to have an interpreter; to present evidence; to cross-examine witnesses; to remain silent; and to call experts. The state's case has to be proven by clear and convincing evidence, there is a right to appeal and if commitment is sought to extend past the 30 days, the respondent has the right to a jury trial. (AS 47.30.700-805). These safeguards must be built into this process. Additionally, the CS allows continued involuntary commitment upon a much lower standard. It is doubtful if this prolonged restraint will be found to be constitutional.

Section 18 of the CS revises the proposed dual sentencing provisions to apply only to 16 and 17 years olds accused of felony crimes against persons with previous adjudication of a felony crime against a person, or sexual abuse of a minor in the second degree. According to estimates by the Department of Health and Social Services, this could involve approximately 11 cases a year. Were these predictions to hold true, the Public Defender would not anticipate additional fiscal impact.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to delinquent minors, to the taking action based on the alleged criminal misconduct of certain..."  
 Sponsor: Representative Kelly  
 Requestor: (H) FIN

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	36.9	36.9	36.9	36.9	36.9	36.9
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	11.0	11.0	11.0	11.0	11.0	11.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>54.5</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>	<b>48.9</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	54.5	48.9	48.9	48.9	48.9	48.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>						

Estimate of any current year (FY 98) cost: \$ 0

**POSITIONS:**

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

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

The new section seven of this committee substitute authorizes the court to place a child who is already in the state's custody as a child in need of aid or as a delinquent in a residential psychiatric treatment center under certain conditions. The Department of Health and Social Services estimates 60 children a year would be petitioned into this involuntary commitment process. The amendment contains no specific statutory guarantee of the right to counsel but there is little question that courts will require the state to provide counsel to these children. Further, the Public Defender Agency and the Office of Public Advocacy are the logical choices to provide such counsel.

The new section seven is curious in that it does not provide for the traditional, and seemingly essential, constitutional guarantees that are currently afforded to adult respondents in commitment proceedings. This fiscal note assumes that the current language will be amended to include those protections or that a court will, in order to hold the statute constitutional, enforce the guarantees afforded to adults.

(continued)

Prepared by: Brant McGee, Public Advocate  
 Division: Office of Public Advocacy

Phone: 269-3500  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
 Agency: Administration

Date: 3/23/98

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**FISCAL NOTE**

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (FIN)**

**ANALYSIS:** (continued)

The Office of Public Advocacy assumes that it will provide representation in at least half of the 60 complex proceedings now anticipated. Because of the location of current facilities, the agency further assumes that it will provide these services in Anchorage. Given the complexity of these proceedings, and the constitutional necessity of subsequent hearings, the agency anticipates it would require the part-time services of an Attorney III with attendant support costs for a total of \$81.9 in FY 99.

**FISCAL NOTE**

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16(JUD)

Revision Date: \_\_\_\_\_  
Title: "An Act relating to delinquent minors, to the taking action based on the alleged criminal misconduct of certain..."  
Sponsor: Representative Kelly  
Requestor: (H) FIN

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Office of Public Advocacy  
**COMPONENT SERIAL NO. 43**

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	41.8	41.8	41.8	41.8	41.8	41.8
TRAVEL	15.0	15.0	15.0	15.0	15.0	15.0
CONTRACTUAL	23.4	23.4	23.4	23.4	23.4	23.4
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	5.6					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>86.8</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>	<b>81.2</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	86.8	81.2	81.2	81.2	81.2	81.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>						

Estimate of any current year (FY 98) cost: \$ 0

**POSITIONS:**

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

**ANALYSIS:** (Attach a separate page if necessary.) This bill fundamentally alters the manner in which serious cases involving thirteen, fourteen, and fifteen year old children will be processed by the justice system. This new dual sentencing scheme will impose adult sentences that are automatically triggered by several commonly violated probation conditions. The severity of the sanctions and the complexity of the procedures will require extensive attorney and expert witness resources.

Such cases will require significantly more resources than an adult felony case since they involve not only grand jury review, pre-trial motions, trial and post conviction work, but also representation at complex probation revocation hearings. The law provides no incentive whatsoever to plead guilty as charged and many strong reasons to try such cases. In short, most cases will go to trial and, because of the high incidence of recidivism among untreated juveniles, most cases will result in probation revocation proceedings.

OPA estimates that it would receive about one third of the appointments in such cases and would therefore require the services of an experienced half-time attorney. The position would require extensive travel to other Alaska communities where such cases arise, and would need the services of expert witnesses in the revocation proceedings that trigger adult prison sentences for children.

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 269-3500  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *Alison M. Elger*  
Agency: Administration

Date: 2/25/98

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Adopted  
2/27/98

0-LS0121\Z.2  
Glover  
2/27/98

AMENDMENT

1 A

A

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLY

TO: CSHB 16( ), Draft Version "Z"

- 1 Page 14, line 31, to page 15, line 1:
- 2 Delete "under AS 47.12.160(e)."
  
- 3 Page 15, line 1, following "order":
- 4 Insert "under AS 47.12.160(e)"
  
- 5 Page 19, line 22:
- 6 Delete "information regarding a case involving a minor."

.0-LS0121VZ

Glover

2/25/98

Adopt  
2/27/98 P

**CS FOR HOUSE BILL NO. 16( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE KELLY**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to delinquent minors, to the taking of action based on the  
 2 alleged criminal misconduct of certain minors, to the services to be provided to  
 3 the victims of criminal misconduct of minors, and to agency records involving  
 4 minors alleged to be delinquent based on their criminal misconduct; providing for  
 5 the dual sentencing of minors who commit certain felony offenses; relating to  
 6 violations of municipal ordinances by minors and to civil penalties for violation  
 7 of municipal ordinances by minors; amending the Interstate Compact on Juveniles  
 8 to which the state is a party; allowing use of hearsay evidence at temporary  
 9 detention hearings in juvenile delinquency proceedings; and amending Rules 3,  
 10 10(c), 21, and 27 and repealing Rules 6 and 7, Alaska Delinquency Rules; and  
 11 providing for an effective date."

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

1 \* **Section 1.** AS 29.10.200 is amended by adding a new paragraph to read:

2 (54) AS 29.25.070(e) (notices of certain civil actions).

3 \* **Sec. 2.** AS 29.25.070(b) is amended to read:

4 (b) The municipality or an aggrieved person may institute a civil action against  
5 a person, including a minor as provided in AS 29.25.072, who violates an ordinance.  
6 In addition to injunctive and compensatory relief, a civil penalty not to exceed \$1,000  
7 may be imposed for each violation. An action to enjoin a violation may be brought  
8 notwithstanding the availability of any other remedy. On application for injunctive  
9 relief and a finding of a violation or a threatened violation, the superior court shall  
10 grant the injunction. Each day that a violation of an ordinance continues constitutes  
11 a separate violation.

12 \* **Sec. 3.** AS 29.25.070 is amended by adding new subsections to read:

13 (e) The municipality shall provide written notice to the commissioner of health  
14 and social services or to the commissioner's designee of the commencement of a civil  
15 enforcement action for the violation of an ordinance under (b) of this section against  
16 a minor. Unless the commissioner and the municipality have negotiated an agreement  
17 making other arrangements for the municipality to provide the notice required by this  
18 subsection, the municipality shall provide the notice by mailing a copy of the citation  
19 or other document setting out the notice of the commencement of the civil enforcement  
20 action. This subsection applies to home rule and general law municipalities.

21 (f) In this section, "minor" means a person under 18 years of age.

22 \* **Sec. 4.** AS 29.25 is amended by adding a new section to read:

23 **Sec. 29.25.072. Civil penalties for violation of municipal ordinances by**  
24 **minors.** (a) Except as otherwise provided in this section, the enforcement under  
25 AS 29.25.070(b) of a civil penalty against a minor for violation of a municipal  
26 ordinance shall be heard in the district court in the same manner as for similar  
27 allegations brought against an adult, except that the minor's parent, guardian, or legal  
28 custodian shall be present at all proceedings unless the court excuses the parent,  
29 guardian, or legal custodian from attendance for good cause.

30 (b) If provision is made by ordinance for use of a hearing officer to decide  
31 enforcement of a civil penalty under AS 29.25.070(b), allegations against a minor for

1 a civil penalty under a municipal ordinance may be assigned to a hearing officer for  
2 the municipality for decision.

3 (c) An action for a civil penalty filed against a minor under this section does  
4 not give rise to the right to a trial by jury or to counsel appointed at public expense.

5 \* Sec. 5. AS 33.30.901(12) is amended to read:

6 (12) "prisoner"

7 (A) means a person held under authority of state law in official  
8 detention as defined in AS 11.81.900(b);

9 (B) includes a minor [JUVENILE] committed to the custody  
10 of the commissioner when,

11 (i) under AS 47.12.030, 47.12.065, or 47.12.100, the  
12 minor [JUVENILE] has been charged, prosecuted, or convicted as an  
13 adult; or

14 (ii) under AS 47.12.160(e), the minor has been  
15 ordered transferred to the custody of the commissioner;

16 \* Sec. 6. AS 44.23 is amended by adding a new section to read:

17 **Sec. 44.23.070. Victim/witness assistance program.** If the Department of  
18 Law maintains a victim/witness assistance program, subject to sufficient appropriations  
19 for the purpose, the services of that program shall be extended to victims of criminal  
20 offenses committed by persons under 18 years of age so that victims of these offenses  
21 may exercise the rights provided to them by law.

22 \* Sec. 7. AS 47.12.010 is repealed and reenacted to read:

23 **Sec. 47.12.010. Goal and purposes of chapter.** (a) The goal of this chapter  
24 is to promote a balanced juvenile justice system in the state to protect the community,  
25 impose accountability for violations of law, and equip juvenile offenders with the skills  
26 needed to live responsibly and productively.

27 (b) The purposes of this chapter are to

28 (1) respond to a juvenile offender's needs in a manner that is consistent  
29 with

30 (A) prevention of repeated criminal behavior;

31 (B) restoration of the community and victim;

- 1 (C) protection of the public; and
- 2 (D) development of the juvenile into a productive citizen;
- 3 (2) protect citizens from juvenile crime;
- 4 (3) hold each juvenile offender directly accountable for the offender's
- 5 conduct;
- 6 (4) provide swift and consistent consequences for crimes committed by
- 7 juveniles;
- 8 (5) make the juvenile justice system more open, accessible, and
- 9 accountable to the public;
- 10 (6) require parental or guardian participation in the juvenile justice
- 11 process;
- 12 (7) create an expectation that parents will be held responsible for the
- 13 conduct and needs of their children;
- 14 (8) ensure that victims, witnesses, parents, guardians, juvenile offenders,
- 15 and all other interested parties are treated with dignity, respect, courtesy, and
- 16 sensitivity throughout all legal proceedings;
- 17 (9) provide due process through which juvenile offenders, victims,
- 18 parents, and guardians are assured fair legal proceedings during which constitutional
- 19 and other legal rights are recognized and enforced;
- 20 (10) divert juveniles from the formal juvenile justice process through
- 21 early intervention as warranted when consistent with the protection of the public;
- 22 (11) provide an early, individualized assessment and action plan for
- 23 each juvenile offender in order to prevent further criminal behavior through the
- 24 development of appropriate skills in the juvenile offender so that the juvenile is more
- 25 capable of living productively and responsibly in the community;
- 26 (12) ensure that victims and witnesses of crimes committed by juveniles
- 27 are afforded the same rights as victims and witnesses of crimes committed by adults;
- 28 (13) encourage and provide opportunities for local communities and
- 29 groups to play an active role in the juvenile justice process in ways that are culturally
- 30 relevant; and
- 31 (14) review and evaluate regularly and independently the effectiveness

1 of programs and services under this chapter.

2 \* Sec. 8. AS 47.12.040(a) is amended to read:

3 (a) Whenever circumstances subject a minor to the jurisdiction of this chapter,  
4 the court shall

5 (1) provide, under procedures adopted by court rule and in  
6 conformance with this section, that, for a minor who is alleged to be a delinquent  
7 minor under AS 47.12.020, the department or an entity selected by it [A STATE  
8 AGENCY] shall make a preliminary inquiry to determine if any action is appropriate  
9 and may take appropriate action to adjust the matter without a court hearing; the  
10 department or an entity selected by it may arrange to interview the minor, the  
11 minor's parents or guardian, and any other person having relevant information;  
12 at or before the interview, the minor and the minor's parents or guardian, if  
13 present, must be advised that any statement may be used against the minor and  
14 of the following rights of the minor: to have a parent or guardian present at the  
15 interview; to remain silent; to have retained or appointed counsel at all stages of  
16 the proceedings, including the initial interview; if a petition is filed, to have an  
17 adjudication hearing before a judge or jury with compulsory process to compel  
18 the attendance of witnesses; and the opportunity to confront and cross-examine  
19 witnesses; if, under this paragraph,

20 (A) the department or an entity selected by it [STATE  
21 AGENCY] makes a preliminary inquiry and takes appropriate action to adjust  
22 the matter without a court hearing, the minor may not be detained or taken into  
23 custody as a condition of the adjustment and, subject to AS 47.12.060, the  
24 matter shall be closed by the department or an entity selected by it  
25 [AGENCY] if the minor successfully completes all that is required of the minor  
26 by the department or an entity selected by it [AGENCY] in the adjustment;  
27 in a municipality or municipalities in which a youth court has been established  
28 under AS 47.12.400, adjustment of the matter under this paragraph may include  
29 referral to the youth court;

30 (B) the department or an entity selected by it [AGENCY]  
31 concludes that the matter may not be adjusted without a court hearing, the

1            department [AGENCY] may file a petition under (2) of this subsection setting  
2            out the facts; or

3            (2) appoint a competent person or agency to make a preliminary inquiry  
4            and report for the information of the court to determine whether the interests of the  
5            public or of the minor require that further action be taken; if, under this paragraph, the  
6            court appoints a person or agency to make a preliminary inquiry and to report to it,  
7            then upon the receipt of the report, the court may informally adjust the matter without  
8            a hearing, or it may authorize the person having knowledge of the facts of the case to  
9            file with the court a petition setting out the facts; if the court informally adjusts the  
10           matter, the minor may not be detained or taken into the custody of the court as a  
11           condition of the adjustment, and the matter shall be closed by the court upon  
12           adjustment.

13       \* Sec. 9. AS 47.12.060 is amended to read:

14            **Sec. 47.12.060. Informal action [BY DEPARTMENT] to adjust matter.**

15            (a) The provisions of this section apply to a minor who is alleged to be a delinquent  
16            minor under AS 47.12.020 and for whom the department or an entity selected by  
17            it [AN AGENCY] has, under applicable court rule, made a preliminary inquiry  
18            [BEFORE TAKING APPROPRIATE ACTION] as authorized by AS 47.12.040(a)(1)  
19            [AS 47.12.040(a)]. Following the preliminary inquiry,

20                        (1) [UNLESS] the department or the entity selected by it may  
21                        dismiss the matter with or without prejudice; or

22                        (2) [AGENCY DETERMINES THAT THE MATTER SHOULD BE  
23                        DISMISSED,] the department or the entity selected by it [AGENCY] may take  
24                        informal action to adjust the matter.

25            (b) When the department or the entity selected by it [AGENCY] decides to  
26            make [THAT] an informal adjustment of a matter under (a)(2) of this section  
27            [SHOULD BE MADE], that informal adjustment may not be made without the  
28            agreement or consent of the minor and the minor's parents or guardian  
29            [GUARDIANS] to the terms and conditions of the adjustment. An informal action to  
30            adjust a matter is not successfully completed unless, among other factors that the  
31            department or the entity selected by it [AGENCY] considers, as to the victim of the

1 act of the minor that is the basis of the delinquency allegation, the minor pays  
2 restitution in the amount set by the department or the entity selected by it  
3 [AGENCY] or agrees as a term or condition set by the department or the entity  
4 selected by it [AGENCY] to pay the restitution.

5 \* Sec. 10. AS 47.12 is amended by adding a new section to read:

6 **Sec. 47.12.065. Dual sentencing provisions.** (a) The department or the entity  
7 selected by it shall refer to the appropriate district attorney the circumstances involving  
8 a minor who is subject to the provisions of this section because the minor is alleged  
9 to have violated a criminal law of the state. The department or the entity selected by  
10 it shall make the referral if the minor was

11 (1) at least 13 years of age but had not reached 16 years of age at the  
12 time of the offense, and the offense is

13 (A) an unclassified felony or a class A felony for which  
14 AS 47.12.030(a) would have made this chapter and the Alaska Delinquency  
15 Rules inapplicable if the minor had been at least 16 years of age at the time of  
16 the offense; or

17 (B) sexual assault in the second degree under  
18 AS 11.41.420(a)(3); or

19 (2) 16 years of age or older at the time of the offense, and the offense  
20 is

21 (A) a felony that is a crime against a person and the minor has  
22 previously been adjudicated a delinquent under the laws of this state or  
23 substantially similar laws of another jurisdiction for a felony offense that is a  
24 crime against a person; or

25 (B) sexual abuse of a minor in the second degree.

26 (b) If a referral is made under (a) of this section, the district attorney may elect  
27 to seek imposition of a dual sentence in the case to further the goal and purposes of  
28 this chapter as set out in AS 47.12.010. If the district attorney seeks imposition of a  
29 dual sentence, the district attorney shall present the case to the grand jury for  
30 indictment. If the grand jury returns an indictment, the district attorney shall file with  
31 the court under AS 47.12.040(a) a petition seeking the minor's adjudication as a

1 delinquent.

2 (c) If the district attorney decides not to seek imposition of a dual sentence  
3 under (b) of this section or if the grand jury does not return an indictment, the case  
4 shall proceed under the remaining provisions of this chapter.

5 \* Sec. 11. AS 47.12.110(a) is amended to read:

6 (a) The court shall conduct a hearing on the petition. The court shall give  
7 notice of the hearing to the department, and the department shall send a representative  
8 to the hearing. The representative of the department may also be heard at the hearing.  
9 The public shall be excluded from the hearing, but the court, in its discretion, may  
10 permit individuals to attend a hearing [,] if their attendance is compatible with the best  
11 interests of the minor. Nothing in this section may be applied in such a way as to  
12 deny a minor's rights to confront adverse witnesses, to a public trial, and to a trial  
13 by jury.

14 \* Sec. 12. AS 47.12.110(b) is amended to read:

15 (b) Notwithstanding (a) of this section or an order prohibiting or limiting  
16 the public made under (e) of this section, the victim of an offense that a minor is  
17 alleged to have committed, or the designee of the victim, has a right to be present at  
18 all hearings or proceedings held under this section at which the minor has a right to  
19 be present. If the minor is found to have committed the offense, the victim may at the  
20 disposition hearing give sworn testimony or make an unsworn oral presentation  
21 concerning the offense and its effect on the victim. If there are numerous victims of  
22 a minor's offense, the court may limit the number of victims who may give sworn  
23 testimony or make an unsworn oral presentation, but the court may not limit the right  
24 of a victim to attend a hearing even if the victim is likely to be a witness in a hearing  
25 concerning the minor's alleged offense.

26 \* Sec. 13. AS 47.12.110 is amended by adding a new subsection to read:

27 (e) Notwithstanding (a) of this section, a court proceeding shall be open to the  
28 public, except as prohibited or limited by order of the court, when the district attorney  
29 has elected to seek imposition of a dual sentence and a petition has been filed under  
30 AS 47.12.065, or when a minor agrees as part of a plea agreement to be subject to  
31 dual sentencing.

1 \* **Sec. 14.** AS 47.12.120(b) is amended to read:

2 (b) If the minor is not subject to (i) of this section and the court finds that  
3 the minor is delinquent, it shall

4 (1) order the minor committed to the department for a period of time  
5 not to exceed two years or in any event extend past the day the minor becomes 19  
6 years of age, except that the department may petition for and the court may grant in  
7 a hearing (A) two-year extensions of commitment that do not extend beyond the  
8 minor's [CHILD'S] 19th birthday if the extension is in the best interests of the minor  
9 and the public; and (B) an additional one-year period of supervision past age 19 if  
10 continued supervision is in the best interests of the person and the person consents to  
11 it; the department shall place the minor in the juvenile facility that the department  
12 considers appropriate and that may include a juvenile correctional school, juvenile  
13 work camp, treatment facility, detention home, or detention facility; the minor may be  
14 released from placement or detention and placed on probation on order of the court  
15 and may also be released by the department, in its discretion, under AS 47.12.260;

16 (2) order the minor placed on probation, to be supervised by the  
17 department, and released to the minor's parents, guardian, or a suitable person; if the  
18 court orders the minor placed on probation, it may specify the terms and conditions  
19 of probation; the probation may be for a period of time, not to exceed two years and  
20 in no event extend past the day the minor becomes 19 years of age, except that the  
21 department may petition for and the court may grant in a hearing

22 (A) two-year extensions of supervision that do not extend  
23 beyond the minor's [CHILD'S] 19th birthday if the extension is in the best  
24 interests of the minor and the public; and

25 (B) an additional one-year period of supervision past age 19 if  
26 the continued supervision is in the best interests of the person and the person  
27 consents to it;

28 (3) order the minor committed to the department and placed on  
29 probation, to be supervised by the department [,] and released to the minor's parents,  
30 guardian, other suitable person, or suitable nondetention setting such as with a relative  
31 or in a foster home or residential [A FAMILY HOME, GROUP CARE FACILITY,

1 OR] child care facility, whichever the department considers appropriate to implement  
2 the treatment plan of the predisposition report; if the court orders the minor placed on  
3 probation, it may specify the terms and conditions of probation; the department may  
4 transfer the minor, in the minor's best interests, from one of the probationary  
5 placement settings listed in this paragraph to another, and the minor, the minor's  
6 parents or guardian, and the minor's attorney are entitled to reasonable notice of the  
7 transfer; the probation may be for a period of time [.] not to exceed two years and in  
8 no event extend past the day the minor becomes 19 years of age, except that the  
9 department may petition for and the court may grant in a hearing

10 (A) two-year extensions of commitment that do not extend  
11 beyond the minor's [CHILD'S] 19th birthday if the extension is in the best  
12 interests of the minor and the public; and

13 (B) an additional one-year period of supervision past age 19 if  
14 the continued supervision is in the best interests of the person and the person  
15 consents to it;

16 (4) order the minor and the minor's parent to make suitable restitution  
17 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;  
18 under this paragraph,

19 (A) except as provided in (B) of this paragraph, the court may  
20 not refuse to make an order of restitution to benefit the victim of the act of the  
21 minor that is the basis of the delinquency adjudication; and

22 (B) the court may not order payment of restitution by the parent  
23 of a minor who is a runaway or missing minor for an act of the minor that was  
24 committed by the minor after the parent has made a report to a law  
25 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run  
26 away or is missing; for purposes of this subparagraph, "runaway or missing  
27 minor" means a minor who a parent reasonably believes is absent from the  
28 minor's residence for the purpose of evading the parent or who is otherwise  
29 missing from the minor's usual place of abode without the consent of the  
30 parent;

31 (5) order the minor committed to the department for placement in an

1           adventure based education program established under AS 47.21.020 with conditions  
2           the court considers appropriate concerning release upon satisfactory completion of the  
3           program or commitment under (1) of this subsection if the program is not satisfactorily  
4           completed;

5                       (6) in addition to an order under (1) - (5) of this subsection, [IF THE  
6           DELINQUENCY FINDING IS BASED ON THE MINOR'S VIOLATION OF  
7           AS 11.71.030(a)(3) OR 11.71.040(a)(4),] order the minor to perform [50 HOURS OF]  
8           community service; for purposes of this paragraph, "community service" includes work

9                               (A) defined as community service under AS 33.30.901; or

10                              (B) that, on the recommendation of the city council or  
11           traditional village council, would benefit persons within the city or village who  
12           are elderly or disabled; or

13                       (7) in addition to an order under (1) - (6) of this subsection, order the  
14           minor's parent or guardian to comply with orders made under AS 47.12.155, including  
15           participation in treatment under AS 47.12.155(b)(1).

16   \* Sec. 15. AS 47.12.120(d) is amended to read:

17                       (d) A minor found to be delinquent is a ward of the state while committed to  
18           the department or while the department has the power to supervise the minor's actions.  
19           The court shall review an order made under (b) of this section annually, and may  
20           review the order more frequently to determine if continued placement, probation, or  
21           supervision, as it is being provided, is in the best interest of the minor and the public.  
22           [IF ANNUAL REVIEW UNDER THIS SUBSECTION WOULD ARISE WITHIN 90  
23           DAYS OF THE HEARING REQUIRED UNDER (g) OF THIS SECTION, THE  
24           COURT MAY POSTPONE REVIEW UNDER THIS SUBSECTION UNTIL THE  
25           TIME SET FOR THE HEARING.] The department, the minor, the minor's parents,  
26           guardian, or custodian are entitled, when good cause is shown, to a review on  
27           application. If the application is granted, the court shall afford these parties and their  
28           counsel reasonable notice in advance of the review and hold a hearing where these  
29           parties and their counsel shall be afforded an opportunity to be heard. The minor shall  
30           be afforded the opportunity to be present at the review.

31   \* Sec. 16. AS 47.12.120 is amended by adding new subsections to read:

1 (i) When, under (a) of this section, the court enters judgment finding that a  
2 minor is delinquent, the court may order the minor temporarily detained pending entry  
3 of its dispositional order if the court finds that detention is necessary

4 (1) to protect the minor or the community; or

5 (2) to ensure the minor's appearance at a subsequent court hearing.

6 (j) If, in a case in which a district attorney has elected to seek imposition of  
7 a dual sentence under AS 47.12.065, the court finds that the minor is delinquent for  
8 committing an offense in the circumstances set out in AS 47.12.065, or if the minor  
9 agrees as part of a plea agreement to be subject to dual sentencing, the court shall

10 (1) enter one or more orders under (b) of this section; and

11 (2) pronounce a sentence for the offense in accordance with the  
12 provisions of AS 12.55; however, the sentence pronounced under this paragraph must  
13 include some period of imprisonment that is not suspended by the court.

14 \* Sec. 17. AS 47.12.140 is amended to read:

15 **Sec. 47.12.140. Court dispositional order.** In making its dispositional order  
16 under AS 47.12.120(b)(1) - (3) and (5) and (j), the court shall

17 (1) consider both the best interests of the minor and the interests of the  
18 public, and, in doing so, the court shall take into account

19 (A) the seriousness of the minor's delinquent act [,] and the  
20 attitude of the minor and the minor's parents toward that act;

21 (B) the minor's culpability as indicated by the circumstances of  
22 the particular case;

23 (C) the age of the minor;

24 (D) the minor's prior criminal or juvenile record [,] and the  
25 success or failure of any previous orders, dispositions, or placements imposed  
26 on the minor;

27 (E) the effect of the dispositional order to be imposed in  
28 deterring the minor [CHILD] from committing other delinquent acts;

29 (F) the need to commit the minor to the department's custody  
30 or to detain the minor in an institution or other suitable place in order to  
31 prevent further harm to the public;

1 (G) the interest of the public in securing the minor's  
2 rehabilitation; and

3 (H) the ability of the state to take custody of and to care for the  
4 minor; and

5 (2) order the least restrictive alternative disposition for the minor; for  
6 purposes of this paragraph, the "least restrictive alternative disposition" means that  
7 disposition that is no more restrictive than is, in the judgment of the court, most  
8 conducive to the minor's rehabilitation taking into consideration the interests of the  
9 public.

10 \* Sec. 18. AS 47.12.160 is amended by adding new subsections to read:

11 (d) The department may petition the court for imposition of sentence  
12 pronounced under AS 47.12.120(j)(2) if the offender is still subject to the jurisdiction  
13 of the court and if the offender, after pronouncement of sentence under  
14 AS 47.12.120(j)(2),

15 (1) commits a subsequent felony offense;

16 (2) commits a subsequent offense against a person that is a  
17 misdemeanor and involves injury to a person or the use of a deadly weapon;

18 (3) fails to comply with the terms of a restitution order;

19 (4) fails to engage in or satisfactorily complete a rehabilitation program  
20 ordered by a court or required by a facility or juvenile probation officer; or

21 (5) escapes from a juvenile correctional facility.

22 (e) If a petition is filed under (d) of this section and if the court finds by a  
23 preponderance of the evidence that the minor has committed a subsequent felony  
24 offense that is a crime against a person or is the crime of arson, the court shall impose  
25 the adult sentence previously pronounced under AS 47.12.120(j) and transfer custody  
26 of the minor to the Department of Corrections. If the court finds by a preponderance  
27 of the evidence that any of the other circumstances set out in (d)(1) - (5) of this  
28 section exist, the court shall impose the adult sentence previously pronounced and  
29 transfer custody of the minor to the Department of Corrections unless the minor proves  
30 by preponderance of the evidence that mitigating circumstances exist that justify a  
31 continuance in the stay of the adult sentence and the minor is amenable to further

1 treatment under this chapter. The court shall make written findings to support its  
2 order.

3 \* Sec. 19. AS 47.12.180(a) is amended to read:

4 (a) Except as provided by AS 47.12.160(d) and (e) and AS 47.12.170, an  
5 adjudication under this chapter upon the status of a minor

6 (1) may not operate to impose any of the civil disabilities ordinarily  
7 imposed by conviction upon a criminal charge;

8 (2) does not operate to permit a minor afterward to be considered a  
9 criminal by the adjudication; and

10 (3) does not operate to permit the adjudication to be afterward  
11 considered [DEEMED] a conviction, nor may a minor be charged with or convicted  
12 of a crime in a court [,] except as provided in this chapter.

13 \* Sec. 20. AS 47.12.210(b) is amended to read:

14 (b) Except as provided by AS 47.12.310(b)(1). fingerprint [FINGERPRINT]  
15 records taken under this section are not subject to AS 47.12.310.

16 \* Sec. 21. AS 47.12.240(c) is amended to read:

17 (c) Notwithstanding (a) of this section, a minor may be incarcerated in a  
18 correctional facility

19 (1) if the minor is the subject of a petition filed with the court under  
20 this chapter seeking adjudication of the minor as a delinquent minor or if the minor  
21 is in official detention pending the filing of that petition; however, detention in a  
22 correctional facility under this paragraph may not exceed the lesser of

23 (A) six hours; or

24 (B) the time necessary to arrange the minor's transportation to  
25 a juvenile detention home or comparable facility for the detention of minors;

26 (2) if, in response to a petition of delinquency filed under this chapter,  
27 the court has entered an order closing the case under AS 47.12.100(a), allowing the  
28 minor to be prosecuted as an adult; [OR]

29 (3) if the incarceration constitutes a protective custody detention of the  
30 minor that is authorized by AS 47.37.170(b); or

31 (4) if the minor is at least 16 years of age and under

1           **AS 47.12.160(e), the court has entered an order imposing an adult sentence and**  
 2           **transferring custody of the minor to the Department of Corrections.**

3           \* **Sec. 22.** AS 47.12 is amended by adding a new section to read:

4                   **Sec. 47.12.245. Arrest.** (a) A peace officer may

5                               (1) arrest a minor

6                                       (A) for the commission of an act that subjects the minor to the  
 7                                       provisions of this chapter under the same circumstances and in the same  
 8                                       manner as would apply to the arrest of an adult for violation of a criminal law  
 9                                       of the state or a municipality of the state;

10                                      (B) if the peace officer reasonably believes the minor is a  
 11                                      fugitive from justice;

12                                      (C) if the peace officer has probable cause to believe that the  
 13                                      minor has violated a condition of the minor's release or probation; or

14                                      (D) if the peace officer reasonably believes that the minor has  
 15                                      been adjudicated a delinquent and has escaped from an institution or absconded  
 16                                      from probation, parole, or the jurisdiction of a court;

17                                      (2) continue the lawful arrest of a minor that is made by a citizen.

18                                      (b) A probation officer may arrest a minor if the probation officer has probable  
 19                                      cause to believe that the minor has violated conditions of the minor's release or  
 20                                      probation.

21           \* **Sec. 23.** AS 47.12.250(a) is amended to read:

22                                      (a) A peace officer or a probation officer who has arrested or a peace  
 23                                      officer who has continued the arrest of [MAY ARREST] a minor under  
 24                                      AS 47.12.245 [WHO VIOLATES A LAW OR ORDINANCE IN THE PEACE  
 25                                      OFFICER'S PRESENCE, OR WHOM THE PEACE OFFICER REASONABLY  
 26                                      BELIEVES IS A FUGITIVE FROM JUSTICE. A PEACE OFFICER MAY  
 27                                      CONTINUE A LAWFUL ARREST MADE BY A CITIZEN. THE PEACE  
 28                                      OFFICER] may

29                                      (1) have the minor detained in a juvenile detention facility if in the  
 30                                      opinion of the peace officer making or continuing the arrest it is necessary to do so  
 31                                      to protect the minor or the community; however, the department may direct that a

1 minor who was arrested or whose arrest was continued be released from detention  
2 before the hearing required by (c) of this section;

3 (2) before taking the minor to a juvenile detention facility, release  
4 the minor to the minor's parents or guardian if detention is not necessary to

5 (A) protect the minor or the community; or

6 (B) ensure the minor's attendance at subsequent court  
7 hearings.

8 \* Sec. 24. AS 47.12.250(c) is amended to read:

9 (c) The court shall immediately, and in no event more than 48 hours later, hold  
10 a hearing at which the minor and the minor's parents or guardian if they can be found  
11 shall be present. The court shall determine whether probable cause exists for believing  
12 the minor to be delinquent. The court shall inform the minor of the reasons alleged  
13 to constitute probable cause and the reasons alleged to authorize the minor's detention.  
14 The minor is entitled to counsel [AND TO CONFRONTATION OF ADVERSE  
15 WITNESSES].

16 \* Sec. 25. AS 47.12.300(c) is amended to read:

17 (c) Except when disclosure of the name of a minor is authorized or required  
18 by this chapter and except as provided in (g) of this section, the name or picture of  
19 a minor under the jurisdiction of the court may not be made public in connection with  
20 the minor's status as a delinquent unless authorized by order of the court.

21 \* Sec. 26. AS 47.12.300(d) is amended to read:

22 (d) Except as provided in (f) of this section, within [WITHIN] 30 days of  
23 the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past  
24 the minor's 18th birthday, within 30 days of the date on which the court releases  
25 jurisdiction over the minor, the court shall order all the court's official records  
26 pertaining to that minor in a proceeding under this chapter sealed, as well as records  
27 of all driver's license proceedings under AS 28.15.185, criminal proceedings against  
28 the minor, and punishments assessed against the minor. A person may not use these  
29 sealed records for any purpose except that the court may order their use for good cause  
30 shown or may order their use by an officer of the court in making a presentencing  
31 report for the court. The provisions of this subsection relating to the sealing of records

1 do not apply to records of traffic offenses.

2 \* Sec. 27. AS 47.12.300(e) is amended to read:

3 (e) The court's official records prepared under this chapter and not made  
4 public under this section are confidential and may be inspected only with the  
5 court's permission and only by persons having a legitimate interest in them. A person  
6 with a legitimate interest in the inspection of a confidential [AN OFFICIAL] record  
7 maintained by the court includes a victim who suffered physical injury or whose real  
8 or personal property was damaged as a result of an offense that was the basis of an  
9 adjudication or modification of disposition. If the victim knows the identity of the  
10 minor, identifies the minor or the offense to the court, and certifies that the  
11 information is being sought to consider or support a civil action against the minor or  
12 against the minor's parents or guardian [GUARDIANS] under AS 34.50.020, the court  
13 shall, subject to AS 12.61.110 and 12.61.140, allow the victim to inspect and use the  
14 following records and information in connection with the civil action:

15 (1) a petition filed under AS 47.12.040(a) seeking to have the court  
16 declare the minor a delinquent;

17 (2) a petition filed under AS 47.12.120 seeking to have the court  
18 modify or revoke the minor's probation;

19 (3) a petition filed under AS 47.12.100 requesting the court to find that  
20 a minor is not amenable to treatment under this chapter and that results in closure of  
21 a case under AS 47.12.100(~~g~~), and

22 (4) a court judgment or order entered under this chapter that disposes  
23 of a petition identified in (1) - (3) of this subsection.

24 \* Sec. 28. AS 47.12.300(f) is amended to read:

25 (f) A person who has been tried as an adult under AS 47.12.100(a) or a  
26 person whose records have been made public under (g) of this section, or the  
27 department on the person's behalf, may petition the superior court to seal the records  
28 of all criminal proceedings, except traffic offenses, initiated against the person, and all  
29 punishments assessed against the person, while the person was a minor. A petition  
30 under this subsection may not be filed until five years after the completion of the  
31 sentence imposed for the offense for which the person was tried as an adult or five

1 years after a disposition was entered for an offense for which the records were  
2 made public under (g) of this section. If the superior court finds that its order has  
3 had its intended rehabilitative effect and further finds that the person has fulfilled all  
4 orders of the court entered under AS 47.12.120, the superior court shall order the  
5 record of proceedings and the record of punishments sealed. Sealing the records  
6 restores civil rights removed because of a conviction. A person may not use these  
7 sealed records for any purpose except that the court may order their use for good cause  
8 shown or may order their use by an officer of the court in making a presentencing  
9 report for the court. The court may not, under this subsection, seal records of a  
10 criminal proceeding

11 (1) initiated against a person if the court finds that the person has not  
12 complied with a court order made under AS 47.12.120; or

13 (2) commenced under AS 47.12.030(a) unless the minor has been  
14 acquitted of all offenses with which the minor was charged or unless the most serious  
15 offense of which the minor was convicted was not an offense specified in  
16 AS 47.12.030(a).

17 \* Sec. 29. AS 47.12.300 is amended by adding new subsections to read:

18 (g) When a district attorney has elected to seek imposition of a dual sentence  
19 and a petition has been filed under AS 47.12.065, or when a minor agrees as part of  
20 a plea agreement to be subject to dual sentencing, all court records shall be open to  
21 the public except for predisposition reports, psychiatric and psychological reports, and  
22 other documents that the court orders to be kept confidential because the release of the  
23 documents could be harmful to the minor or could violate the constitutional rights of  
24 the victim or other persons.

25 (h) A person who discloses confidential information in violation of this section  
26 is guilty of a class B misdemeanor.

27 \* Sec. 30. AS 47.12.310(b) is amended to read:

28 (b) A state or municipal agency or employee

29 (1) shall disclose information regarding a case to a federal, state,  
30 or municipal law enforcement agency for a specific investigation being conducted  
31 by that agency; and

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1 (2) may disclose information regarding a case to

2 (A) [(1)] a guardian ad litem appointed by the court or to a  
3 citizen review board or local review panel for permanency planning authorized  
4 by AS 47.14.200 - 47.14.220;

5 (B) [(2)] a person or an agency requested to provide  
6 consultation or services for a minor who is subject to the jurisdiction of the  
7 court under this chapter;

8 (C) [(3)] school officials as may be necessary to protect the  
9 safety of the minor who is the subject of the case and the safety of school  
10 students and staff or to enable the school to provide appropriate counseling and  
11 supportive services to meet the needs of a minor about whom information is  
12 disclosed;

13 (D) [(4)] a governmental agency as may be necessary to obtain  
14 that agency's assistance for the department in its investigation or to obtain  
15 physical custody of a minor;

16 (E) [(5)] a federal, state, or municipal law enforcement agency  
17 as may be necessary [FOR A SPECIFIC INVESTIGATION BEING  
18 CONDUCTED BY THAT AGENCY OR] for disclosures by that agency to  
19 protect the public safety; and

20 (F) [(6)] a victim or to the victim's insurance company as  
21 may be necessary to inform the victim or the insurance company about the  
22 arrest of the minor. Information regarding a case involving the minor,  
23 including the minor's name and the names of the minor's parents, copies  
24 of reports, or the disposition or resolution of a case involving a minor.

25 \* Sec. 31. AS 47.12.310(g) is amended to read:

26 (g) The department and affected law enforcement agencies shall work with  
27 school districts and private schools to develop procedures for the disclosure of  
28 information to school officials under (b)(2)(C) [(b)(3)] and (c)(3) of this section. The  
29 procedures must provide a method for informing the principal or the principal's  
30 designee of the school the student attends as soon as it is reasonably practicable.

31 \* Sec. 32. AS 47.12.320(a) is amended to read:

1 (a) Notwithstanding AS 47.12.300 and 47.12.310,

2 (1) a parent or legal guardian of a minor subject to a proceeding under  
3 this chapter may disclose confidential or privileged information about the minor,  
4 including information that has been lawfully obtained from agency or court files, to  
5 the governor, the lieutenant governor, a legislator, the ombudsman appointed under  
6 AS 24.55, the attorney general, and the commissioners of health and social services,  
7 administration, or public safety, or an employee of these persons, for review or use in  
8 their official capacities;

9 (2) the department may disclose confidential or privileged  
10 information about the minor and make available for inspection documents about  
11 the minor to the state officials or employees identified in (1) of this subsection for  
12 review or use in their official capacities; and

13 (3) a [ A] person to whom disclosure is made under (1) or (2) of this  
14 subsection [SECTION] may not disclose confidential or privileged information about  
15 the minor to a person not authorized to receive it.

16 \* Sec. 33. AS 47.12.320(b) is amended to read:

17 (b) The disclosure right under (a)(1) [(a)] of this section is in addition to, and  
18 not in derogation of, the rights of a parent or legal guardian of a minor.

19 \* Sec. 34. AS 47.12 is amended by adding a new section to read:

20 **Sec. 47.12.988. Implementation of provisions by an entity selected by**  
21 **department.** In this chapter, when authority exercised by the department may also be  
22 exercised by an entity selected by the department, the entity that the department may  
23 select in order to exercise authority is limited to

24 (1) a municipality; or

25 (2) a corporation.

26 \* Sec. 35. AS 47.15.010 is amended by adding a new article to read:

27 ARTICLE XVII

28 RENDITION

29 (a) This article shall provide additional remedies and shall be binding only  
30 between those party states which specifically execute it.

31 (b) All provisions and procedures of articles V and VI of the Interstate

1 Compact on Juveniles shall be construed to apply to any juvenile charged with being  
2 a delinquent by reason of a violation of any criminal law. Any juvenile charged with  
3 being a delinquent by reason of violating any criminal law shall be returned to the  
4 requesting state upon a requisition to the state where the juvenile may be found. A  
5 petition in such a case shall be filed in a court of competent jurisdiction in the  
6 requesting state where the violation of criminal law is alleged to have been committed.  
7 The petition may be filed regardless of whether the juvenile has left the state before  
8 or after filing of the petition. The requisition described in article V of the compact  
9 shall be forwarded by the judge of the court in which the petition has been filed.

10 \* Sec. 36. Rule 10(c), Alaska Delinquency Rules, is amended to read:

11 (c) **Temporary Detention Hearing.** Hearsay that [WHICH] is not otherwise  
12 admissible under the Evidence Rules may be admitted under the standard stated in  
13 paragraph (b) of this rule [IS NOT ADMISSIBLE TO PROVE PROBABLE  
14 CAUSE] at a temporary detention hearing. [HOWEVER, OTHERWISE  
15 INADMISSIBLE HEARSAY MAY BE ADMITTED UNDER THE STANDARD  
16 STATED IN PARAGRAPH (b) OF THIS RULE ON THE ISSUE OF WHETHER  
17 THE MINOR SHOULD BE REMOVED FROM THE HOME OR DETAINED.]

18 \* Sec. 37. Rules 6 and 7, Alaska Delinquency Rules, are repealed.

19 \* Sec. 38. AS 47.12.110(c) and 47.12.120(g) are repealed.

20 \* Sec. 39. AS 47.12.110(e), added by sec. 13 of this Act, has the effect of changing  
21 Rules 3 and 21, Alaska Delinquency Rules, by reversing the presumption that the public shall  
22 be excluded from hearings involving minors.

23 \* Sec. 40. The provisions of AS 47.12.300(g), added by sec. 29 of this Act, have the effect  
24 of changing Rule 27, Alaska Delinquency Rules, by making court records for certain juvenile  
25 proceedings public documents in specified circumstances.

26 \* Sec. 41. **APPLICABILITY OF SECTIONS 1 - 34 and 36.** Sections 1 - 34 and 36 of this  
27 Act apply to all offenses committed on or after the effective date of this Act.

28 \* Sec. 42. **SCOPE AND APPLICABILITY OF SECTION 35.** The juvenile rendition  
29 amendment to the Interstate Compact on Juveniles is hereby enacted into law by sec. 35 of  
30 this Act and entered into by this state with all other states legally joining therein in the form  
31 substantially as set out in sec. 35 of this Act. Section 35 of this Act applies to offenses

- 1 committed before, on, or after the effective date of this Act.
- 2 \* Sec. 43. This Act takes effect July 1, 1998.

3-12-98

0-LS0121\Z.8  
Glover  
3/12/98

No (obj)  
adopted 3/12/98

AMENDMENT

New  
#1

OFFERED IN THE HOUSE

TO: CSHB 16( ), Draft Version "Z"

1 Page 1, line 7, following "minors;":

2 Insert "relating to semi-secure residential child care facilities and secure  
3 residential psychiatric treatment centers; relating to programs and shelters for  
4 runaways; relating to placement of children in need of aid and delinquent minors in  
5 secure residential psychiatric treatment centers;"

6 Page 3, following line 21:

7 Insert new bill sections to read:

8 "\* Sec. 7. AS 47.10 is amended by adding a new section to read:

9 **Sec. 47.10.087. Placement in secure residential psychiatric treatment**  
10 **centers.** (a) The court may authorize the department to place a child who is in the  
11 custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 in a secure  
12 residential psychiatric treatment center if the court finds, based on the testimony of  
13 a mental health professional, that

14 (1) the child is gravely disabled or is suffering from mental illness and,  
15 as a result, is likely to cause serious harm to the child or to another person;

16 (2) there is no reasonably available, appropriate, and less restrictive  
17 alternative for the child's treatment or that less restrictive alternatives have been tried  
18 and have failed; and

19 (3) there is reason to believe that the child's mental condition could  
20 be improved by the course of treatment or would deteriorate if untreated.

21 (b) A court shall review a placement made under this section at least once  
22 every 90 days. The court may authorize the department to continue the placement of  
23 the child in a secure residential psychiatric treatment center if the court finds, based  
24 on the testimony of a mental health professional, that the conditions or symptoms that

1           resulted in the initial order have not ameliorated to such an extent that the child's  
2           needs can be met in a less restrictive setting and that the child's mental condition  
3           could be improved by the course of treatment or would deteriorate if untreated.

4           (c) The department shall transfer a child from a secure residential psychiatric  
5           treatment center to another appropriate placement if the mental health professional  
6           responsible for the child's treatment determines that the child would no longer benefit  
7           from the course of treatment or that the child's treatment needs could be met in a less  
8           restrictive setting. The department shall notify the child, the child's parents or  
9           guardian, and the child's guardian ad litem of a determination and transfer made under  
10          this subsection.

11       \* **Sec. 8.** AS 47.10.300 is amended to read:

12               **Sec. 47.10.300. Powers and duties of the department.** The department shall

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

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

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

19                       (4) [REPEALED

20                       (5)] adopt regulations for the administration of AS 47.10.300 -  
21                       47.10.390, including regulations providing for the coordination of services to be  
22                       provided by licensed programs for runaway minors and by the department.

23       \* **Sec. 9.** AS 47.10.310(b) is amended to read:

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

26                               (1) is operated by a corporation [ORGANIZED UNDER AS 10.20] or  
27                               a municipality; and

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

29       \* **Sec. 10.** AS 47.10.392 is amended to read:

30               **Sec. 47.10.392. Certificate required.** A private residence may not be held  
31               out publicly as a shelter for runaway minors unless the residence

32                       (1) is designated a shelter for runaways by a [NONPROFIT]

1 corporation that is licensed to make the designation under AS 47.35.085; and

2 (2) has a valid permit from the department signifying that designation.

3 \* **Sec. 11.** AS 47.10.398(a) is amended to read:

4 (a) A person in a shelter for runaways, or in a home for which an application  
5 to be designated a shelter for runaways is being considered by a [NONPROFIT]  
6 corporation licensed for that purpose by the department, that is operated in a manner  
7 that is consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those  
8 sections is not criminally liable under AS 11.51.130(a)(4).

9 \* **Sec. 12.** AS 47.10.398(b) is amended to read:

10 (b) Except as provided in (c) of this section, the provider of a shelter for  
11 runaways, or of a home for which an application to be designated a shelter for  
12 runaways is being considered by a [NONPROFIT] corporation approved for that  
13 purpose by the department, that is operated in a manner that is consistent with  
14 AS 47.10.392 - 47.10.399 and regulations adopted under those sections [,] and the  
15 members of the provider's household, other than a runaway minor, are not liable for  
16 civil damages as a result of an act or omission

17 (1) in admitting or refusing to admit a runaway minor to the shelter  
18 or home; or

19 (2) by a runaway minor who is sheltered in the shelter or home.

20 \* **Sec. 13.** AS 47.10.399(2) is amended to read:

21 (2) "shelter for runaways" or "shelter for runaway minors" means a  
22 private residence whose legal occupant agrees to shelter, with or without  
23 compensation, a runaway minor accepted into the residence by the legal occupant and  
24 that

25 (A) is not simultaneously licensed under AS 47.10.310 as a  
26 program for runaway minors;

27 (B) has been designated a shelter for runaways by a  
28 [NONPROFIT] corporation licensed for that purpose under AS 47.35.085; and

29 (C) has a permit issued by the department under AS 47.35.085.

30 \* **Sec. 14.** AS 47.10.990 is amended by adding new paragraphs to read:

31 (8) "gravely disabled" has the meaning given in AS 47.30.915;

32 (9) "mental health professional" has the meaning given in

1 AS 47.30.915;

2 (10) "mental illness" has the meaning given in AS 47.30.915;

3 (11) "secure residential psychiatric treatment center" has the meaning  
4 given in AS 47.35.900."

5 Renumber the following bill sections accordingly.

6 Page 16, following line 15:

7 Insert a new bill section to read:

8 **"\* Sec. 33.** AS 47.12 is amended by adding a new section to read:

9 **Sec. 47.12.255. Placement in secure residential psychiatric treatment**  
10 **centers.** (a) The court may authorize the department to place a minor who is in the  
11 custody of the department under AS 47.12.120(b)(1) or (3) or 47.12.140 in a secure  
12 residential psychiatric treatment center if the court finds, based on the testimony of  
13 a mental health professional, that

14 (1) the minor is gravely disabled or is suffering from mental illness  
15 and, as a result, is likely to cause serious harm to the minor or to another person;

16 (2) there is no reasonably available, appropriate, and less restrictive  
17 alternative for the minor's treatment or that less restrictive alternatives have been tried  
18 and have failed; and

19 (3) there is reason to believe that the minor's mental condition could  
20 be improved by the course of treatment or would deteriorate if untreated.

21 (b) A court shall review a placement made under this section at least once  
22 every 90 days. The court may authorize the department to continue the placement of  
23 the minor in a secure residential psychiatric treatment center if the court finds, based  
24 on the testimony of a mental health professional, that the conditions or symptoms that  
25 resulted in the initial order have not ameliorated to such an extent that the minor's  
26 needs can be met in a less restrictive setting and that the minor's mental condition  
27 could be improved by the course of treatment or would deteriorate if untreated.

28 (c) The department shall transfer a minor from a secure residential psychiatric  
29 treatment center to another appropriate placement if the mental health professional  
30 responsible for the minor's treatment determines that the minor would no longer

1 benefit from the course of treatment or that the minor's treatment needs could be met  
 2 in a less restrictive setting. The department shall notify the minor, the minor's parents  
 3 or guardian, and the minor's guardian ad litem of a determination and transfer made  
 4 under this subsection."

5 Renumber the following bill sections accordingly;

6 Page 20, following line 25:

7 Insert a new bill section to read:

8 **\*\* Sec. 44.** AS 47.12.990 is amended by adding new paragraphs to read:

9 (13) "gravely disabled" has the meaning given in AS 47.30.915;

10 (14) "mental health professional" has the meaning given in  
 11 AS 47.30.915;

12 (15) "mental illness" has the meaning given in AS 47.30.915;

13 (16) "secure residential psychiatric treatment center" has the meaning  
 14 given in AS 47.35.900."

15 Renumber the following bill sections accordingly.

16 Page 21, following line 9:

17 Insert new bill sections to read:

18 **\*\* Sec. 46.** AS 47.35.010(a) is amended to read:

19 (a) The department may

20 (1) license and supervise foster homes, child care facilities, residential  
 21 child care facilities, **semi-secure residential child care facilities, secure residential**  
 22 **psychiatric treatment centers**, child placement agencies, and maternity homes;

23 (2) investigate applicants, licensees, and persons that the department  
 24 reasonably believes are operating a facility without a license in violation of this  
 25 chapter;

26 (3) adopt regulations to implement the provisions of this chapter,  
 27 including regulations establishing licensure and renewal procedures, standards, and  
 28 fees; establishing requirements for operation of facilities or agencies licensed under

1 this chapter; and distinguishing between types of child care facilities;

2 (4) enter into agreements with private entities, municipalities, or  
3 individuals to investigate and make recommendations to the department for the  
4 licensing and supervision of foster homes, child care facilities, residential child care  
5 facilities, semi-secure residential child care facilities, secure residential psychiatric  
6 treatment centers, child placement agencies, and maternity homes under procedures  
7 and standards of operation established by the department.

8 \* **Sec. 47.** AS 47.35.015(c) is amended to read:

9 (c) A person may not operate a residential child care facility, semi-secure  
10 residential child care facility, or secure residential psychiatric treatment center  
11 without a license issued under this chapter unless that facility is

12 (1) a juvenile facility operated by the state under AS 47.14.010;

13 (2) a medical facility licensed by the department under AS 18.20;

14 (3) a recreational camp providing recreational experiences of no more  
15 than one month's duration for a child; or

16 (4) exempt from licensure for a reason set out in (b)(6) or (7) of this  
17 section.

18 \* **Sec. 48.** AS 47.35.017(a) is amended to read:

19 (a) Application for a license to operate a foster home, child care facility,  
20 residential child care facility, semi-secure residential child care facility, secure  
21 residential psychiatric treatment center, child placement agency, or maternity home  
22 [,] shall be made to the department on a form provided by the department [,] and shall  
23 be accompanied by any applicable fees established by the department under  
24 AS 47.35.010(a)(3).

25 \* **Sec. 49.** AS 47.35.085 is amended to read:

26 **Sec. 47.35.085. Shelters for runaway minors.** (a) The department shall  
27 adopt regulations under which a [NONPROFIT] corporation may apply for a license  
28 to designate and supervise shelters for runaway minors.

29 (b) The department shall also adopt regulations setting health and safety  
30 standards for shelters for runaways. The regulations adopted under this subsection  
31 must

32 (1) involve less regulation than is required for programs for runaways

1 licensed under AS 47.10.310 and foster homes licensed under this chapter;

2 (2) provide that private agencies approved by the department may  
3 recruit, evaluate, and monitor the shelters for runaways under procedures established  
4 by the department; and

5 (3) require that a [NONPROFIT] corporation licensed under (a) of this  
6 section inspect the shelters for runaways, perform criminal background checks of its  
7 residents, keep records, and meet other requirements only to the extent that they are  
8 necessary to reduce the risk to the health and safety of a runaway minor in the shelter.

9 (c) If a [NONPROFIT] corporation licensed under (a) of this section certifies  
10 to the department that a home meets the standards set under (b) of this section, the  
11 department shall issue the home a permit authorizing it to be a shelter for runaway  
12 minors. The permit may not be transferred to a different home or owner.

13 (d) Upon notice from a [NONPROFIT] corporation licensed under (a) of this  
14 section that a shelter for runaways is not in compliance with AS 47.10.392 -  
15 47.10.399 or the regulations of the department adopted under (b) of this section, the  
16 department may revoke a permit issued under this subsection or modify it to  
17 provisional status. The department shall give written notice of revocation or  
18 modification under this subsection at least 30 days before the effective date of the  
19 action. However, if the health or well-being of a child is in jeopardy, the revocation  
20 or modification action is effective immediately upon the issuance of written notice by  
21 the department.

22 \* Sec. 50. AS 47.35.900 is amended by adding new paragraphs to read:

23 (20) "secure residential psychiatric treatment center" means a lockable,  
24 physician-directed residential child care facility;

25 (21) "semi-secure" has the meaning given in AS 47.10.141;

26 (22) "semi-secure residential child care facility" means a residential  
27 child care facility that is wholly or partially semi-secure."

28 Renumber the following bill sections accordingly.

29 Renumber internal references to bill sections in accordance with this amendment. Below are  
30 all internal bill section references in this bill:

- 1 Page 21, line 20
- 2 Page 21, line 23
- 3 Page 21, line 26
- 4 Page 21, line 28
- 5 Page 21, line 29
- 6 Page 21, line 31

adopted N/D

3/12/98

0-LS0121VZ.6

Glover

3/9/98

AMENDMENT

New # 3

DAVIES

OFFERED IN THE HOUSE

TO: CSMB 16( ), Draft Version "Z"

- 1 Page 7, line 7:
- 2 Delete "shall"
- 3 Insert "may"
  
- 4 Page 7, line 10:
- 5 Delete "shall"
- 6 Insert "may"
  
- 7 Page 7, lines 11 - 18:
- 8 Delete all material.
  
- 9 Page 7, line 19:
- 10 Delete "(2)"
  
- 11 Page 7, line 21:
- 12 Delete "(A)"
- 13 Insert "(1)"
  
- 14 Page 7, line 25:
- 15 Delete "(B)"
- 16 Insert "(2)"

3/6/98

0-LS0121VZ.4  
Glover  
2/27/98

adopted 3/12/98

Nb/obj

~~DP~~ (4)

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLY

TO: CSHB 16( ), Draft Version "Z"

- 1 Page 5, line 5:
- 2 Delete "provide, under procedure adopted by court rule and"
- 3 Insert "require"
  
- 4 Page 5, line 6, following "section":
- 5 Insert "[PROVIDE, UNDER PROCEDURE ADOPTED BY COURT RULE]"
  
- 6 Page 6, line 17:
- 7 Delete ", under applicable court rule,"
- 8 Insert "[, UNDER APPLICABLE COURT RULE,]"
  
- 9 Page 6, line 18:
- 10 Delete "authorized"
- 11 Insert "required [AUTHORIZED]"

AMENDMENT 2 E

OFFERED IN THE HOUSE

BY DAVIES

TO: CS HBCS 16 ( ) (Z version)

Conceptual amendment:

- 1) Delete "or the entity selected by it" wherever it appears in the bill.
- 2) Draft new section allowing the department to delegate its authority to another entity as set forth in AS 47.12.988.

3/6/98

0-LS0121 2.8  
Glover  
3/6/98

Replaced 3/11/98

AMENDMENT (1)

OFFERED IN THE HOUSE

TO: CSHB 16(JUD)

1 Page 1, line 7, following "minors;":

2 Insert "relating to semi-secure residential child care facilities and secure  
3 residential psychiatric treatment centers; relating to programs and shelters for  
4 runaways; relating to placement of children in need of aid and delinquent minors in  
5 secure residential psychiatric treatment centers;"

6 Page 3, following line 19:

7 Insert a new bill section to read:

8 "\* Sec. 7. AS 47.10 is amended by adding a new section to read:

9 **Sec. 47.10.087. Placement in secure residential psychiatric treatment**  
10 **centers.** (a) The court may authorize the department to place a child who is in the  
11 custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 in a secure  
12 residential psychiatric treatment center if the court finds, based on the testimony of  
13 a mental health professional, that

14 (1) the child is gravely disabled or is suffering from mental illness and,  
15 as a result, is likely to cause serious harm to the child or to another person;

16 (2) there is no reasonably available, appropriate, and less restrictive  
17 alternative for the child's treatment or that less restrictive alternatives have been tried  
18 and have failed; and

19 (3) there is reason to believe that the child's mental condition could  
20 be improved by the course of treatment or would deteriorate if untreated.

21 (b) A court shall review a placement made under this section at least once  
22 every 90 days. The court may authorize the department to continue the placement of  
23 the child in a secure residential psychiatric treatment center if the court finds, based  
24 on the testimony of a mental health professional, that the conditions or symptoms that

1           resulted in the initial order have not ameliorated to such an extent that the child's  
2           needs can be met in a less restrictive setting and that the child's mental condition  
3           could be improved by the course of treatment or would deteriorate if untreated.

4           (c) The department shall transfer a child from a secure residential psychiatric  
5           treatment center to another appropriate placement if the mental health professional  
6           responsible for the child's treatment determines that the child would no longer benefit  
7           from the course of treatment or that the child's treatment needs could be met in a less  
8           restrictive setting. The department shall notify the child, the child's parents or  
9           guardian, and the child's guardian ad litem of a determination and transfer made under  
10          this subsection."

11        Renumber the following bill sections accordingly.

12        Page 4, following line 7:

13           Insert new bill sections to read:

14        \*\* Sec. 10. AS 47.10.310(b) is amended to read:

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

17                   (1) is operated by a corporation [ORGANIZED UNDER AS 10.20] or  
18           a municipality; and

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

20        \* Sec. 11. AS 47.10.392 is amended to read:

21           **Sec. 47.10.392. Certificate required.** A private residence may not be held  
22           out publicly as a shelter for runaway minors unless the residence

23                   (1) is designated a shelter for runaways by a [NONPROFIT]  
24           corporation that is licensed to make the designation under AS 47.35.085; and

25                   (2) has a valid permit from the department signifying that designation.

26        \* Sec. 12. AS 47.10.398(a) is amended to read:

27           (a) A person in a shelter for runaways, or in a home for which an application  
28           to be designated a shelter for runaways is being considered by a [NONPROFIT]  
29           corporation licensed for that purpose by the department, that is operated in a manner  
30           that is consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those

1 sections is not criminally liable under AS 11.51.130(a)(4).

2 \* **Sec. 13.** AS 47.10.398(b) is amended to read:

3 (b) Except as provided in (c) of this section, the provider of a shelter for  
4 runaways, or of a home for which an application to be designated a shelter for  
5 runaways is being considered by a [NONPROFIT] corporation approved for that  
6 purpose by the department, that is operated in a manner that is consistent with  
7 AS 47.10.392 - 47.10.399 and regulations adopted under those sections [,] and the  
8 members of the provider's household, other than a runaway minor, are not liable for  
9 civil damages as a result of an act or omission

10 (1) in admitting or refusing to admit a runaway minor to the shelter  
11 or home; or

12 (2) by a runaway minor who is sheltered in the shelter or home.

13 \* **Sec. 14.** AS 47.10.399(2) is amended to read:

14 (2) "shelter for runaways" or "shelter for runaway minors" means a  
15 private residence whose legal occupant agrees to shelter, with or without  
16 compensation, a runaway minor accepted into the residence by the legal occupant and  
17 that

18 (A) is not simultaneously licensed under AS 47.10.310 as a  
19 program for runaway minors;

20 (B) has been designated a shelter for runaways by a  
21 [NONPROFIT] corporation licensed for that purpose under AS 47.35.085; and

22 (C) has a permit issued by the department under AS 47.35.085.

23 \* **Sec. 15.** AS 47.10.990 is amended by adding new paragraphs to read:

24 (8) "gravely disabled" has the meaning given in AS 47.30.915;

25 (9) "mental health professional" has the meaning given in  
26 AS 47.30.915;

27 (10) "mental illness" has the meaning given in AS 47.30.915;

28 (11) "secure residential psychiatric treatment center" has the meaning  
29 given in AS 47.35.900."

30 Renumber the following bill sections accordingly.

1 Page 16, following line 2:

2 Insert a new bill section to read:

3 **"\* Sec. 32.** AS 47.12 is amended by adding a new section to read:

4 **Sec. 47.12.255. Placement in secure residential psychiatric treatment**  
5 **centers.** (a) The court may authorize the department to place a minor who is in the  
6 custody of the department under AS 47.12.120(b)(1) or (3) or 47.12.140 in a secure  
7 residential psychiatric treatment center if the court finds, based on the testimony of  
8 a mental health professional, that

9 (1) the minor is gravely disabled or is suffering from mental illness  
10 and, as a result, is likely to cause serious harm to the minor or to another person;

11 (2) there is no reasonably available, appropriate, and less restrictive  
12 alternative for the minor's treatment or that less restrictive alternatives have been tried  
13 and have failed; and

14 (3) there is reason to believe that the minor's mental condition could  
15 be improved by the course of treatment or would deteriorate if untreated.

16 (b) A court shall review a placement made under this section at least once  
17 every 90 days. The court may authorize the department to continue the placement of  
18 the minor in a secure residential psychiatric treatment center if the court finds, based  
19 on the testimony of a mental health professional, that the conditions or symptoms that  
20 resulted in the initial order have not ameliorated to such an extent that the minor's  
21 needs can be met in a less restrictive setting and that the minor's mental condition  
22 could be improved by the course of treatment or would deteriorate if untreated.

23 (c) The department shall transfer a minor from a secure residential psychiatric  
24 treatment center to another appropriate placement if the mental health professional  
25 responsible for the minor's treatment determines that the minor would no longer  
26 benefit from the course of treatment or that the minor's treatment needs could be met  
27 in a less restrictive setting. The department shall notify the minor, the minor's parents  
28 or guardian, and the minor's guardian ad litem of a determination and transfer made  
29 under this subsection."

30 Renumber the following bill sections accordingly.

1 Page 20, following line 7:

2 Insert a new bill section to read:

3 **\*\* Sec. 43.** AS 47.12.990 is amended by adding new paragraphs to read:

4 (13) "gravely disabled" has the meaning given in AS 47.30.915;

5 (14) "mental health professional" has the meaning given in  
6 AS 47.30.915;

7 (15) "mental illness" has the meaning given in AS 47.30.915;

8 (16) "secure residential psychiatric treatment center" has the meaning  
9 given in AS 47.35.900."

10 Renumber the following bill sections accordingly.

11 Page 20, following line 22:

12 Insert new bill sections to read:

13 **\*\* Sec. 45.** AS 47.35.010(a) is amended to read:

14 (a) The department may

15 (1) license and supervise foster homes, child care facilities, residential  
16 child care facilities, **semi-secure residential child care facilities, secure residential**  
17 **psychiatric treatment centers**, child placement agencies, and maternity homes;

18 (2) investigate applicants, licensees, and persons that the department  
19 reasonably believes are operating a facility without a license in violation of this  
20 chapter;

21 (3) adopt regulations to implement the provisions of this chapter,  
22 including regulations establishing licensure and renewal procedures, standards, and  
23 fees; establishing requirements for operation of facilities or agencies licensed under  
24 this chapter; and distinguishing between types of child care facilities;

25 (4) enter into agreements with private entities, municipalities, or  
26 individuals to investigate and make recommendations to the department for the  
27 licensing and supervision of foster homes, child care facilities, residential child care  
28 facilities, **semi-secure residential child care facilities, secure residential psychiatric**  
29 **treatment centers**, child placement agencies, and maternity homes under procedures  
30 and standards of operation established by the department.

1 \* **Sec. 46.** AS 47.35.015(c) is amended to read:

2 (c) A person may not operate a residential child care facility, semi-secure  
3 residential child care facility, or secure residential psychiatric treatment center

4 without a license issued under this chapter unless that facility is

5 (1) a juvenile facility operated by the state under AS 47.14.010;

6 (2) a medical facility licensed by the department under AS 18.20;

7 (3) a recreational camp providing recreational experiences of no more  
8 than one month's duration for a child; or

9 (4) exempt from licensure for a reason set out in (b)(6) or (7) of this  
10 section.

11 \* **Sec. 47.** AS 47.35.017(a) is amended to read:

12 (a) Application for a license to operate a foster home, child care facility,  
13 residential child care facility, semi-secure residential child care facility, secure  
14 residential psychiatric treatment center, child placement agency, or maternity home  
15 [,] shall be made to the department on a form provided by the department [,] and shall  
16 be accompanied by any applicable fees established by the department under  
17 AS 47.35.010(a)(3).

18 \* **Sec. 48.** AS 47.35.085 is amended to read:

19 **Sec. 47.35.085. Shelters for runaway minors.** (a) The department shall  
20 adopt regulations under which a [NONPROFIT] corporation may apply for a license  
21 to designate and supervise shelters for runaway minors.

22 (b) The department shall also adopt regulations setting health and safety  
23 standards for shelters for runaways. The regulations adopted under this subsection  
24 must

25 (1) involve less regulation than is required for programs for runaways  
26 licensed under AS 47.10.310 and foster homes licensed under this chapter;

27 (2) provide that private agencies approved by the department may  
28 recruit, evaluate, and monitor the shelters for runaways under procedures established  
29 by the department; and

30 (3) require that a [NONPROFIT] corporation licensed under (a) of this  
31 section inspect the shelters for runaways, perform criminal background checks of its  
32 residents, keep records, and meet other requirements only to the extent that they are

1 necessary to reduce the risk to the health and safety of a runaway minor in the shelter.

2 (c) If a [NONPROFIT] corporation licensed under (a) of this section certifies  
3 to the department that a home meets the standards set under (b) of this section, the  
4 department shall issue the home a permit authorizing it to be a shelter for runaway  
5 minors. The permit may not be transferred to a different home or owner.

6 (d) Upon notice from a [NONPROFIT] corporation licensed under (a) of this  
7 section that a shelter for runaways is not in compliance with AS 47.10.392 -  
8 47.10.399 or the regulations of the department adopted under (b) of this section, the  
9 department may revoke a permit issued under this subsection or modify it to  
10 provisional status. The department shall give written notice of revocation or  
11 modification under this subsection at least 30 days before the effective date of the  
12 action. However, if the health or well-being of a child is in jeopardy, the revocation  
13 or modification action is effective immediately upon the issuance of written notice by  
14 the department.

15 \* **Sec. 49.** AS 47.35.900 is amended by adding new paragraphs to read:

16 (20) "secure residential psychiatric treatment center" means a lockable,  
17 physician-directed residential child care facility;

18 (21) "semi-secure" has the meaning given in AS 47.10.141;

19 (22) "semi-secure residential child care facility" means a residential  
20 child care facility that is wholly or partially semi-secure."

21 Renumber the following bill sections accordingly.

22 Page 21, line 7:

23 Delete "1997"

24 Insert "1998"

25 Renumber internal references to bill sections in accordance with this amendment. Below are  
26 all internal bill section references in this bill:

27 Page 20, line 23

28 Page 20, line 26

- 1 Page 20, line 31
- 2 Page 21, line 2
- 3 Page 21, line 3
- 4 Page 21, line 5

3/16/98

AMENDMENT (21)

NOT OFFERED 3/11/98

OFFERED IN THE HOUSE

BY DAVIES

TO: CS HBCS 16 ( ) (Z version)

Page 1, line 1:

Delete through line 5

Insert "An Act relating to"

Page 1, line 8, following "party;"

Delete through line 10

Insert "and"

Page 3, following line 4

Delete through page 20, line 25

Page 21, following line 9

Delete through line 27

3/6/98

AMENDMENT (3)

replaced 3/11/98

OFFERED IN THE HOUSE

BY DAVIES

TO: CS HBCS 16 ( ) (Z version)

Page 7, line 7:

Delete "shall"

Insert "may"

Page 7:

Delete lines 11 - 18

## ALASKA PUBLIC DEFENDER AGENCY

900 West Fifth Avenue, Suite 200 · Anchorage, AK 99501 · (907) 264-4400 · fax (907) 269-5476

March 10, 1998

Representative Gene Therriault  
Representative Mark Hanley  
Co-Chairs, House Finance Committee

RE: HB 16

Dear Representatives Therriault and Hanley:

The Public Defender Agency has been asked to provide fiscal information for proposed amendments to the current committee substitute. The following projections are necessarily rough given the lack of an actual CS, but where I have had to make assumptions or proceed without complete information it will be noted. I hope you find this information useful.

AMENDMENT 1: (0-LS0121/R.8) As I understand it, this amendment seeks to create a new civil commitment process for children who are currently in the system as either children in need of aid or delinquent minors. It also seeks to add to the types of institutions that could be considered "secure residential psychiatric treatment centers" and "runaway shelters" by changing the definitions and allowing for-profit corporations to be so designated.

From the testimony provided at the March 6 (H) Finance Committee meeting, it appears that over 30 children a year are currently referred to secure psychiatric treatment Outside. Given the significant costs it seems reasonable to assume that an even greater number would be referred if such facilities were available in-state, including children currently institutionalized at McLaughlin Youth Center. The amendment does not currently contain language explicitly guaranteeing the right to counsel but it is assumed it will be included as constitutionally required. It is further assumed that the Public Defender Agency would be appointed to represent these children in this process, at least in the instance where no legal conflict of interest existed. A part-time Attorney III with attendant support costs would be necessary to handle this influx of new proceedings with a FY 99 cost of \$54.2. This would be an addition to the already existing fiscal note.

Note: The Public Defender Agency supports the CONCEPTUAL amendment. That is, we agree with the wisdom of having a secure psychiatric facility available for children in the State of Alaska and agree with expanding the eligible facilities. However, the amendment as drafted is woefully inadequate in terms of a fair process. It fails to provide the minimal protections built in to the current civil commitment process: explicit right to counsel; mandatory screening investigation; probable cause hearing before a judicial officer within 48 hours; mandatory evaluation by a mental health professional and a physician within 24 hours after arrival at a

facility; 30-day commitment hearing held within 72 hours; written notification of rights; the right to communicate with a guardian or other adult; the right to present evidence and cross-examine witnesses; the right to be free from the effects of medication unless certain procedures are followed; and written notification of the allegations, the lack of any less restrictive alternative, the witnesses anticipated to be called and the facts and specific behavior alleged. At the 30-day hearing there are additional safeguards: the right to be present; to view and copy all petitions and reports; to have the hearing open or closed to the public as desired; to have the rules of evidence and civil procedure followed; to have an interpreter; to present evidence; to cross-examine witnesses; to remain silent; and to call experts. The state's case has to be proven by clear and convincing evidence, there is a right to appeal and if commitment is sought to extend past the 30 days, the respondent has the right to a jury trial. (AS 47.30.700-805). These safeguards must be built into the process. Perhaps a simpler route would be to amend the current AS 47.30 sections to include private psychiatric hospitals for the admission of minors. That way the existing process could be used to place these children without first requiring a CINA or delinquency disposition.

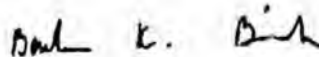
**AMENDMENT 2:** As I understand this amendment, it eliminates the dual sentencing scheme and leaves only the ability of a municipality or assigned person to file a civil action against a minor who violates an ordinance. Because civil penalties alone do not implicate the right to counsel, the Agency anticipates its fiscal note for this amendment if adopted to be zero.

**AMENDMENT 3:** As I understand this amendment, it allows the department to refer a child to the district attorney's office for implementation of the dual sentencing scheme rather than requiring such a referral. It also limits the scheme to 16 and 17 year olds for felony crimes against persons if there is a prior adjudication or conviction for a felony crime against a person or if the charge is sexual abuse of a minor in the second degree. As I understand it, the Division of Family and Youth Services believes this would apply to approximately 8 children a year. Because of this reduction in numbers the Agency anticipates its fiscal note for this amendment to be zero.

**AMENDMENT 4:** As I understand these technical amendments they would not change our current fiscal note.

Thank you for inviting my input. I look forward to further work with this committee on HB 16.

Sincerely,



Barbara K. Brink  
Public Defender

BKB:sh

# Alaska State Legislature

REPRESENTATIVE

PETER KELLY

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While in Juneau

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House District 31

## House Of Representatives

February 26, 1998

### Memorandum

To: Representative Gene Therriault, Co-chair  
House Finance Committee

From: Representative Pete Kelly

Re: Changes from HB 16(JUD)/R to HB 16\Z

House Bill 16 v. Z includes conforming adjustments as a result of the passage of HB 6. Old sections 7, 8, 13, and portions of Section 14 were deleted from version R.

Following considerable review over the interim, language has been added allowing "hearsay evidence" to be used in preliminary court hearings. This language allows police officers to testify to all of the facts they have gathered, not just those facts they personally observed. The practical result of this change will be to reduce the burden placed on victims. Victims will not have their efforts to participate derailed by endless requests for extensions. Victims will be able to focus their efforts at attending the actual trial. See: New sections 11, 24, & 36\Z.

HB 16 has been further modified with technical language changes requested by the administration. Over the interim:

- a) Procedures were added to define the initial investigation's interview process (Section 8\Z).
- b) The list of crimes for which a District Attorney may seek Dual sentencing was made more specific in sexual assault category, limiting it to penetrative assaults under AS 11.41.420(a)(3). (Section 12\Z)
- c) Several CINA only provisions were discovered following two years of experience with the new AS 47.12 Delinquency code created in HB 387 during the 19<sup>th</sup> Legislature. These were repealed (AS 47.12.120(g), see: Sect 38\Z) or deleted, see: section 15\Z.
- d) Clarified, in Section 21\Z, only minors 16 and older are transferred to adult jail (Department of Corrections).

# Alaska State Legislature

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House District 31

## House Of Representatives

### Sponsor Statement

#### House Bill 16

House Bill 16 is a product of the Governor's Conference on Juvenile Justice, offering several solutions to the problems facing Alaska's juvenile justice system.

The bill: 1) allows municipalities to seek civil court remedy for juveniles who violate municipal ordinances; 2) provides for dual sentencing of serious juvenile offenders; 3) allows the department of Health and Social Services to draw upon the available resources of local communities or other entities who desire to get involved in juvenile crime issues; and 4) provides for the extradition of minors between states.

HB 16 also provides additional insight into the workings of our juvenile justice system. I have added portions of the existing Alaska Court Delinquency Rules to the statutes in an effort to give police, DFYS and the Courts a single set of instructions to follow when dealing with juveniles.

# Alaska State Legislature

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House District 31

## House Of Representatives

### Sponsor Statement

#### House Bill 16

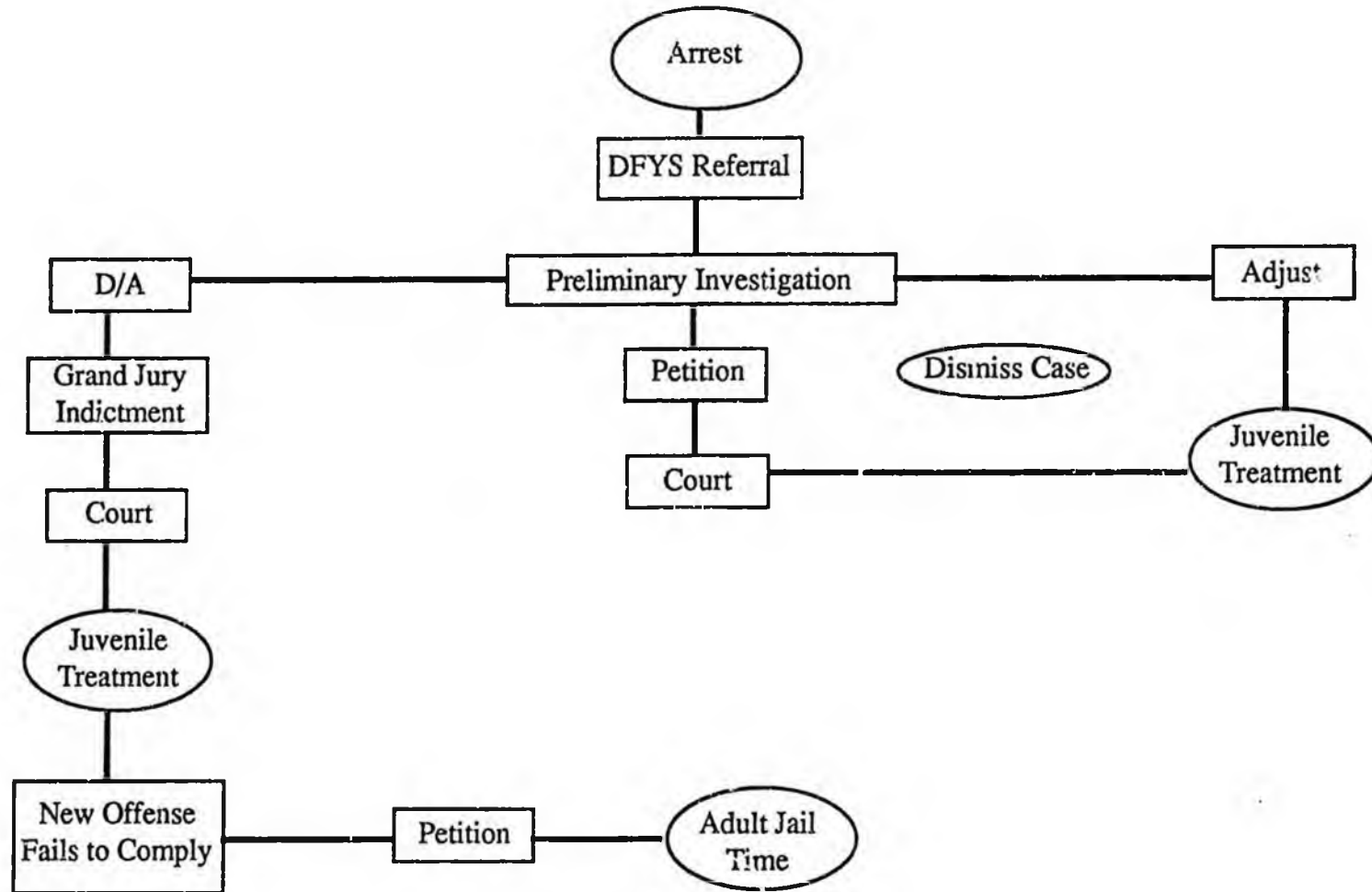
House Bill 16 is a product of the Governor's Conference on Juvenile Justice, offering several solutions to the problems facing Alaska's juvenile justice system.

The juvenile justice system operates on the presumption that minors make mistakes, sometimes serious ones, but that they deserve additional attention and care because they have a greater possibility of rehabilitation. Increasingly serious juvenile crime and increasingly frequent rates of crime have placed the juvenile justice system under great stress. HB 16 does not pretend to solve all of these problems, but it does provide the juvenile justice system with additional tools to address some of these needs:

- 1) Provides for dual sentencing of serious juvenile offenders;
- 2) Allows municipalities to seek civil court remedy for juveniles who violate municipal ordinances;
- 3) Allows the Department of Health and Social Services to draw upon the available resources of local communities or other entities who desire to get involved in juvenile crime issues; and
- 4) Reduces the burden on victims, by allowing police officers to report their input at preliminary hearings.

HB 16 also provides additional insight into the workings of our juvenile justice system. I have added portions of the existing Alaska Court Delinquency Rules to the statutes in an effort to give police, DFYS and the Courts a single set of instructions to follow when dealing with juveniles.

# Dual Sentencing



# Alaska State Legislature

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House District 31

## House Of Representatives Sectional

2/26/98, HB 16Z

### House Bill 16

Section 1 & 2. Technical reference.

Section 3. Requires a municipality to provide notification to the Department of Health and Social Services when the Municipality commences a civil action against a minor. This keeps the records of HSS intact.

Section 4. Authorizes Municipalities to take a **minor to civil court** for violations of municipal ordinances.

Section 5. Collateral references to the dual sentence provided in section 12.

Section 6. Encourages the Department of Law to extend its victim witness assistance program to the juvenile justice system. This is in response to Fairbanks constituents who discovered that, although their homes had been broken into, they were faced great difficulty gaining access to police reports and the court process.

Section 7. An expansion of the goals and purposes of the delinquency chapter. Incorporates elements of the "restorative justice model" into Alaska's goals for juveniles.

Section 8 & 9. Allow the department to bring communities and village "entities" into the juvenile justice system. "Entities" are defined as municipalities or corporations.

Section 10. Dual sentencing.

(a) The department shall refer a case to the District attorney if the minor was:

(1) at least 13, but not yet 16, and the offense is

(A) an unclassified or class A felony, and the minor would have been waived into adult court if 16 years of age; or

(B) sexual assault in the second degree; or

(2) 16 years of age or older, and the offense was

(A) a felony crime against a person and the minor has been previously adjudicated a delinquent for a felony offense.

(B) sexual abuse of a minor in the second degree.

(b) The **District Attorney** is authorized to take a case before a **grand jury for indictment**, and then may seek imposition of a dual sentence.

Section 11. Clarifies that the minor has the right to **confront adverse witnesses** at the full **petition hearing**. See also section 24.

Section 12. Technical reference.

Section 13. **Opens the court proceedings to the public**, when the District Attorney seeks the imposition of a **dual sentence**.

Section 14. Adds placement options for the court, including placement of a minor with a relative, foster care home or a residential child care facility.

**Expands the court's ability to assign community service.**

Section 15. Deletes the CINA 90 day review that is not required for Delinquency proceedings.

Section 16.

New part (i) from delinquency court rule 11(a).

New part (J), **dual sentencing**. If the district attorney seeks imposition of a dual sentence, and the court finds the minor to be delinquent, then the court shall (1) enter a juvenile sentence under AS 47.12.120(b); and (2) pronounce an adult sentence that must include some period of imprisonment that is not suspended by the court.

Section 17. Technical reference.

Section 18. The department may petition for imposition of the adult portion of the dual sentence if:

- (1) the minor commits a subsequent felony offense;
- (2) commits a subsequent offense against a person that is a misdemeanor and involves injury to a person or the use of a deadly weapon;
- (3) fails to comply with the terms of a restitution order;
- (4) fails to engage in or satisfactorily complete a rehabilitation program ordered by a court or required by a facility or juvenile probation officer; or
- (5) escapes from a juvenile correction facility.

(e) if the court finds, by the preponderance of the evidence that the minor has failed as listed above, then the minor is transferred to adult corrections.

Section 19, 20. Technical reference

Sectional HB 16\Z  
Page 3.

Section 21. **Allows a minor to be incarcerated in an adult correctional facility if 16 years of age or older**, and the court has imposed a dual sentence and transferred custody of the minor to the Department of Corrections.

Section 22. Arrest, from delinquency court rule 7(a) combined with existing code AS 47.12.250(a).

Section 23. Arrest instructions are removed and placed in the section above, language is added to the section to completely place Court Rule 7 into statute.

Section 24. Deletes the requirement that the accused have the right to "confront adverse witnesses" at the initial 48 hour probable cause court hearing. (The right to "confront adverse witnesses" is a constitutional right – however it applies to the court hearing under AS 47.12.110(a) – not to the initial hearing that serves like the bail hearing in adult court.)

Sections 25, 26, 27 & 28. Technical references & conforming edits.

Section 29. New part (g). **Dual sentencing court proceedings open to the public**. This section provides the minor with the protections afforded adults by open court hearings. It prevents "star chamber" like secret hearings.

Section 30. (b)(1) Provides for communication between law enforcement agencies and the department of Health and Social Services.

Section 31. Technical reference.

Section 32. Allows the Department of Health and Social Services to discuss otherwise confidential cases with legislators. This will allow the department to respond factually to constituent concerns made by legislators, but it does not allow legislators to communicate confidential information to anyone else.

Section 33. Technical reference.

Section 34. Defines "**entity**" as used in sections 10 & 11.

Section 35. Rendition. Alaska is a signatory to the Interstate Compact on Juveniles, providing for extradition or juvenile offenders, this just codifies these provisions.

Sections 36 & 37. Court rule changes and repealers.

Sectional, HB 16\Z  
Page 4.

Section 38. Repeal of AS 47.12.110(c), This is an old, unused portion of code. It requires school principles to give judges lists of students for selection for "young adult advisory panels." This concept has been supplanted with the youth court. Its repeal in no way impairs the youth court, which is entirely different.

Sections 39 & 40. Court rule changes and repealers.

Sections 41 & 42. Applicability sections.

Section 43. Effective date.

testimony3/16/98 pm

Testimony - 3-6-98

I want to thank the members of the committee for the opportunity to testify on the proposed amendments to HB 16. For the record, I am Kathy Cronen the CEO of Charter North Star Behavioral Health System.

The amendments to HB 16 are critical to providing comprehensive treatment for the youth of Alaska. Expanding the continuum of care by adding semi-secure and secure residential treatment centers will provide in state treatment for youth.

Currently many children and adolescents are traveling to the lower 48, far away from their homes and support systems to receive these services. At Charter North alone we are referring over 30 youth a year to treatment centers outside the state. This is not ideal treatment. These children and their families should be actively engaged in weekly family therapy. This is impossible if the child is thousands of miles away. Many families do travel to these centers for long weekends. However, this is not sufficient and puts additional stress and financial burdens on the family.

There is another large group of children in need that do not or cannot travel outside. These children's needs are being met through multiple admissions to acute care inpatient psychiatric facilities. This is not optimal clinical treatment and it is significantly more expensive.

These children do not belong in acute care hospitals. Their symptoms or behaviors cannot be adequately addressed in a 2 week period. They need long term treatment. Many of these children also need to be maintained in a more secure setting than currently available in Alaska. These kids are chronic runaways, gas sniffers and huffers, some are perpetrators and many have been abused. Because of their long term chronic conditions they need a long term secure environment to get better.

Most of these children can be safely maintained in a semi-secure environment. This is a facility equipped with door alarms. Alarms sound when a person attempts to open the door. After approximately 30 seconds delay the doors automatically open. Upon hearing the alarm the staff immediately initiate a clinical intervention and work with the child to continue their treatment. These children have very poor impulse control. However, the majority of time the staff intervention can successfully refocus the child back to the goals of treatment and prevent them from running.

A small group of children cannot safely be maintained in a semi-secure setting. These children may be sexual perpetrators, chronic runners, sniffers or huffers who have failed at or left a semi-secure program. These children have significant issues with authority, anger management and are very deliant. An open door or an alarmed door is simply an invitation for these children. They need a locked facility. These children's patterns of behavior are so destructive to make them gravely disabled or a danger to themselves or others. The secure residential psychiatric treatment center proposed in this amendment would be such a facility. It is important to note that this amendment includes language that mirrors the mental health commitment laws and protects the procedural rights of the child.

Both the semi-secure and the secure facilities are vitally important pieces of the treatment continuum. In many cases it is the last intervention before juvenile or adult corrections.

We applaud the committees willingness to improve services for the youth of Alaska and I would be happy to answer any questions.

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. CSHB 16 (JUD)**

Revision Date: \_\_\_\_\_  
 Title: Delinquent Minors - Dual Sentencing  
 Sponsor: Rep. Kelly  
 Requestor: House Finance

Dept. Affected: Alaska Court System  
 BRU: Trial Courts  
 Component: \_\_\_\_\_  
 COMPONENT SERIAL NO. 768

**Expenditures/Revenue (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	12.0	12.0	12.0	12.0	12.0	12.0
TRAVEL						
CONTRACTUAL	7.0	7.0	7.0	7.0	7.0	7.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**Fund Source (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	19.0	19.0	19.0	19.0	19.0	19.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>	<b>19.0</b>

Estimate of any current year (FY 98) cost: \$ None

**Positions**

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

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

See attached analysis.

Prepared by: Doug Wooliver, Administrative Attorney  
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director  
 Agency: Alaska Court System

Phone: 264-8265  
 Date: 02/23/98  
 Date: 02/23/98

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01:44 PM

**Alaska Court System  
Fiscal Analysis  
CSHB 16 (JUD)**

The Department of Law has estimated that it will seek dual sentencing in approximately 20 cases a year. This note is based on that estimate.

Although minors in juvenile court have the same right to a jury trial as adults, very few actually occur because the consequences of being adjudicated a delinquent are not as severe as a criminal conviction. If the Department of Law elects the dual sentencing approach, juveniles can be expected to more aggressively defend their cases and be more willing to go to trial. Because of this, this note assumes that 4 of the 20 cases will result in jury trials.

The petition to invoke the adult sentence for a juvenile who does not fulfill the terms of his or her juvenile disposition will require additional judicial time. A juvenile facing the imposition of the adult sentence can be expected to vigorously oppose the petition. However, because the number of such cases is speculative, this note does not reflect a cost. This note also does not include costs associated with 20 additional grand jury proceedings.

Finally, this note does not estimate the additional costs that will result from allowing municipalities to bring civil actions against minors for violations of municipal ordinances. It is not known how many municipalities will choose this option or how often they will utilize it. Should there be a significant impact, however, the court system may need to return to the legislature for additional funding.

**Alaska Court System**

**Fiscal Analysis**

**CSHB 16 (JUD)**

**Personal Services**

	<b>Salary</b>	<b>Benefits</b>	<b>Total</b>
Pro Tem Superior Court Judge, statewide, PPT, 1.25 months	\$ 6,094	\$ 2,970	\$ 9,064
In-Court Clerk, Anchorage, 12A, PPT, 1 month	2,411	523	<u>2,934</u>
<b>Total Personal Services</b>			<b>11,998</b>

**Contractual**

Jury fees - four 5-day trials with 14 jurors at \$25 a day each			<u>7,000</u>
---	--	--	--------------

**Total Estimated Cost** \$ 18,998

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

**DRAFT**

BILL NO. CSHB 16 (FIN)

Revision Date: 03/09/98  
Title: relating to institutions for juveniles; efd  
Sponsor: Kelly  
Requestor: House Finance

Dept. Affected: Health and Social Services  
BRU: Medical Assistance  
Component: Medicaid Facilities  
COMPONENT SERIAL NO. 230  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There does not appear to be a substantial Medicaid program impact associated with the provisions of CSHB 16 (FY98). This is because a Residential Psychiatric Treatment Center (RPTC) may already enroll as a Medicaid provider regardless of the provisions of the bill. A limited fiscal impact may result from the bill's provisions for "semi-secure" or "secure", but such impacts could arguably increase costs related to fire code requirements for secure facilities, or arguably decrease costs due to the availability of secure RPTC as an alternative to less appropriate placements in higher cost settings.

Medicaid enrolled RPTCs are already authorized to bill under Medicaid regulations. One in-state RPTC has been paid since 1993 and several out-of-state providers have been billing Medicaid for the past two years. A new in-state RPTC (30 beds) has submitted a request for Medicaid enrollment (a 2 to 3 week process), and enrollment of another new RPTC (10 beds) is actively being pursued. Enrollment of these facilities is not dependent upon the provisions of the bill and, thus, any increased expenditures required by their enrollment is also not dependent upon

Prepared by: Dave Williams  
Division: Medical Assistance

Phone: 465-3355  
Date: 03/09/98

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: \_\_\_\_\_

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## ANALYSIS (cont.):

any provision in the bill. Additional Medicaid funds may be necessary to cover the cost associated with an increased availability and use of in-state secure RPTC beds, but that increased need is not directly dependent upon the provisions of this bill.

Medicaid regulations (7 AAC 43.550 through 7 AAC 43.570) set out requirements for Medicaid recipient eligibility and admission, conditions for provider payment, establishment of a per diem rate for RPTC services, appeal of the Medicaid rate, and other provisions. Not all RPTCs that could be licensed under CSHB 16 (JUD) would necessarily qualify for Medicaid reimbursement since some Medicaid provider enrollment requirements are not requirements under the bill. (For example, Medicaid regulations require that an enrolled RPTC be accredited by the Joint Commission on Accreditation of Healthcare Organizations.)

Medicaid regulations (7 AAC 43.557) establish an initial RPTC rate that is the lesser of the

- (1) per diem rate of \$255 for a single recipient; or
- (2) per diem rate negotiated between a RPTC and the Division of Family and Youth Services; or
- (3) lowest per diem rate charged to any other payor.

Regulations also provide for an increase or decrease of the \$255 per diem (7 AAC 43.557(b)), however, no enrolled program has submitted documentation under that provision for an adjustment. Presently, some out-of-state programs are paid less than the \$255 per diem, but no enrolled provider is paid more.

**DRAFT**

FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

**DRAFT**

BILL NO. CS HB16 (FIN)

Revision Date: \_\_\_\_\_  
 Title: Relating to delinquent minors: services to victims and agency records  
 Sponsor: Kelly  
 Requestor: House (FIN)

Dept. Affected: Health and Social Services  
 BRU: Purchased Services  
 Component: Residential Child Care  
 COMPONENT SERIAL NO. 253  
 See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	56.3	56.3	56.3	56.3	56.3	56.3
TRAVEL						
CONTRACTUAL	50.0	50.0	50.0	50.0	50.0	50.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	210.0	210.0	210.0	210.0	210.0	210.0
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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FUND SOURCE

(Thousands of Dollars)

	FY99	FY00	FY01	FY02	FY03	FY04
1002 Federal Receipts	15.8	15.8	15.8	15.8	15.8	15.8
1003 GF Match	15.8	15.8	15.8	15.8	15.8	15.8
1004 GF	284.7	284.7	284.7	284.7	284.7	284.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>	<b>316.3</b>

POSITIONS:

	FY99	FY00	FY01	FY02	FY03	FY04
FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of any current year (FY98) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

The passage of HB 16 would have a fiscal impact to DFYS in several areas:

Implementation of HB 16 would require a rewrite of the DFYS Residential, Payment and Licensing Regulations. A contract with a regulations attorney to complete this project, estimated at \$50.0, is anticipated.

The unique and complex nature of the semi-secure residential and secure residential psychiatric treatment centers require hiring a Community Care Licensing Specialist I. This individual would provide consultation to the regulations contractor and community service providers. In addition, this individual would process license applications and monitor program compliance with governing regulations. The estimated costs for this position is \$56.3.

In order to provide for at least one semi-secure residential facility in each of the three regions DFYS estimates that Grantees will need to increase their current staff ration by at least one care provider, for an estimated cost of \$210.0 (\$70.0 per each region)

Prepared by: Theresa Tanoury, F.S. Prgm. Admin.  
 Division: Family & Youth Services

Phone: 465-3011  
 Date: 03/10/98

Approved by Commissioner: Karen Perdue, Commissioner  
 Agency: Department of Health & Social Services

Date: \_\_\_\_\_

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DRAFT

**ANALYSIS (cont.):**

It is anticipated there will be an increase of 30 Full Time Equivalent (FTE) placements in Alaska as a result of HB 16. The current Medicaid rate for Secure Residential Psychiatric Treatment Centers (SRPTC) is \$255.00 per day and would result in an annual expenditure of \$2,800.0 for these new RPTC beds. Of this, 95% would be an increase to Medicaid. The remaining 5% would be General Fund expenditures for DFYS. However, creating SRPTC placements would allow DFYS to shorten acute care placements in more expensive settings. It is expected the General Fund expenses for SRPTCs would be offset by the cost savings in the number of acute care FTE placements.

**DRAFT**

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 16 (JUD)

Revision Date: \_\_\_\_\_  
Title: "An Act relating to juvenile delinquency proceedings..."

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency

Sponsor: Representative Kelly  
Requestor: (H) FIN

COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	129.8	129.8	129.8	129.8	129.8	129.8
TRAVEL	5.3	5.3	5.3	5.3	5.3	5.3
CONTRACTUAL	25.4	25.4	25.4	25.4	25.4	25.4
SUPPLIES	2.9	2.9	2.9	2.9	2.9	2.9
EQUIPMENT	13.0	1.3	1.3	1.3	1.3	1.3
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>176.4</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	176.4	164.7	164.7	164.7	164.7	164.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>176.4</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>	<b>164.7</b>

Estimate of any current year (FY 98) cost: \$ -0-

**POSITIONS:**

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

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

See attached sheet.

Prepared by: Barbara K. Brink, Director  
Division: Public Defender Agency

Phone: (907) 264-4400  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 3/2/97

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## FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 16(JUD)

### 1998 LEGISLATIVE SESSION

#### ANALYSIS: (continued)

**Dual Sentencing.** This bill creates a "dual sentencing" scheme that invokes the jurisdiction of both the criminal and juvenile court. In the scheme the court would impose a juvenile disposition and an adult criminal sentence simultaneously. Execution of the adult criminal sentence would be stayed during imposition of the juvenile disposition. If the conditions of the juvenile disposition were satisfied, the adult criminal sentence is never imposed. If the conditions of the juvenile disposition were violated, the adult criminal sentence would be invoked.

This dual sentencing scheme is recommended for 13 to 15 year olds who are charged with Class A and unclassified offenses for which a 16 or 17 year old would be automatically waived to adult court and sexual assault in the second degree as well as 16 to 17 year olds who are convicted of sexual abuse of a minor in the second degree or a crime against a person with a previous felony adjudication against a person. Procedurally, the district attorney must either file a petition or the minor must agree to be subject to dual sentencing. The prosecutor must present the case to the grand jury and if there is a true bill filed, petition with the court. If the district attorney exercises his discretion not to invoke dual jurisdiction or the grand jury returns a no true bill, it stays in the juvenile system. The adult sentence must include some period of imprisonment that is not suspended. A child can be revoked and the adult sentence imposed if the child: 1) commits a new felony offense; 2) commits a misdemeanor offense against a person that involves injury to another person or the use of a deadly weapon; 3) fails to comply with restitution; 4) fails in a rehabilitation program ordered by the court or required by a facility or juvenile probation officer; or 5) escapes from a juvenile facility. Such violation must be proven by a preponderance of the evidence. If the new felony is a crime against a person or arson the court must impose the adult sentence and transfer custody of the child to the Department of Corrections. For other of the circumstances the court has to impose the adult sentence unless the child proves by preponderance of the evidence that mitigating circumstances exist that justify a continued stay of the adult sentence and that the child is amenable to further treatment under this chapter. Once an adult sentence is imposed the child is transferred to an adult correctional center.

This dual sentencing provision will impact the entire criminal justice system. The categories of children are quite broad, with the expectation that over 60 children will be eligible for such a referral per year, based upon FY 96 DHSS figures. (It is understood that the Department of Law and the Court System did not include numbers for 16 and 17 year olds in their calculations.) The Alaska Public Defender Agency would continue to be appointed to the majority of these cases which will now require the same attorney labor as an adult felony case (including grand jury review, virtual certainty of trial, and felony sentencing procedures). Based upon those numbers, and the serious nature of the allegations, an additional Attorney IV will be necessary in Anchorage and a part-time Attorney IV will be necessary in Fairbanks to provide attorney services in these serious felonies. It is anticipated that most of these cases will arise in these urban locales, with the attorneys travelling to more remote sites if assistance is needed. Additionally, the conditions for which a juvenile may be revoked for being in violation of his juvenile disposition are so overbroad and vague that it is anticipated that many of them will have petitions filed against them and engage in litigation to determine if a violation occurred or they have to prove that they have mitigating circumstances that justify a continued stay in the juvenile system. It will require clearly more prosecutor resources with mandatory grand jury and adult sentencing proceedings. It will clearly require more defense resources with challenges to the grand jury and Superior Court sentencings and duplication of efforts for two jurisdictions. It will result in many more felony level trials as the focus shifts from trying to find the best treatment alternative to avoiding the serious consequence of having an adult permanent record at such a young age. It will result in longer pre-trial stays and overcrowding and programming problems as more juvenile will be detained for longer periods of time in order to deal with the increase in the number of cases contested. Jails and juvenile detention pre-trial facilities are not programmed for lengthy pre-trial stays and cannot provide educational or other treatment services needed. Some critics within the juvenile justice system claim that had they received sufficient resources to begin with, they could have done a good job in improving their system at less cost. By shifting the population to adult Corrections Department if any programming will be developed which is doubtful, it is for a population that Corrections does not want and does not have the expertise to address.

The U.S. Department of Justice study recommends that the transfer alternative to adult court should only be considered for those juveniles whose criminal history, failure to respond to treatment, or serious or violent conduct clearly demonstrates

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 16(JUD)

1998 LEGISLATIVE SESSION

that they require criminal justice system sanctions. This bill is too broadly fashioned and includes many juveniles who are charged with offenses that would clearly indicate their amenability to treatment. In particular, sexual assault in the second degree and sexual abuse of a minor in the second degree include a broad range of conduct which are often amenable to education and treatment. While attempting to make the juvenile justice system more similar to the adult system, this portion of the bill stating the grounds for imposing the adult sentence actually makes the system more punitive than the adult system. As a basis for revocation, the failure to complete a rehabilitation program ordered by the court accurately reflects the adult system. However, including "any program required by a facility or juvenile probation officer" gives complete unsupervised discretion to a facility or individual who may or may not have the skill to determine the appropriateness of a program with no judicial oversight. To revoke for an offense "involving injury to another person" is completely overbroad in that a number of minor charges including disorderly conduct and assault in the fourth degree which may include a simple shoving match among children is enough to transfer a case to the adult system. Making transfer to the adult sentencing provisions automatic for certain crimes eliminates any individual discretion. In adult court the judge continues to have discretion to determine the disposition based upon a violation. It is even more problematic when one understands that 90% of the juvenile offenders have at one time or another a petition to revoke their probation filed. This is because it is a useful mechanism for probation and juvenile authorities to enforce compliance, to inspire good behavior, and to issue a wake up call. A broad population will have to go through the process of determining whether or not adult sentencing is appropriate. The mandatory imprisonment requirement places a child in a much worse position than an adult offender and completely disregards potential alternative community correction solutions available in adult court. The completely unbridled prosecutorial discretion is neither subject to judicial review nor based upon detailed criteria. The Utah Supreme Court in State v. Mohi, 901 P.2d 991 (Utah 1995) ruled that a similar Utah juvenile court Act giving such unbridled discretion to the prosecutor violated the state constitution.

# FISCAL NOTE

o. 2

Bill Version: CSHB 16(HES)

(H) Publish Date: 4/30/97

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>.delinquent minors, to the taking of action based</u>	BRU: <u>Criminal Division/Civil Division</u>
<u>on the alleged criminal misconduct of certain minors . . .</u>	Component: <u>Criminal Division/General Legal Services</u>
Sponsor: <u>Representative Kelly</u>	
Requester: <u>House HESS Committee</u>	COMPONENT SERIAL NO. <u>2085/2087</u>

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY97) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill repeals and reenacts AS 47.12.010 (purposes of juvenile delinquency laws) to set out a new philosophy toward juvenile offenders, balancing the goal of reformation of a juvenile offender with protection of the public. Further, the bill authorizes local communities to handle minor juvenile offenses by allowing municipalities to assess civil penalties for juvenile offenses and by allowing the Department of Health and Social Services to delegate to community programs or review panels the authority to handle minor offenses. This bill also amends the delinquency adjudication statutes to authorize district attorneys to seek "dual sentencing" in certain serious juvenile criminal cases; i.e., the state asks the court to pronounce both a juvenile and an adult sentence for the offense, but the adult sentence would be imposed only if the minor commits a new offense or fails to abide by the ordered conditions of the juvenile sentence. Included in the bill is also a provision to enact the rendition amendment to the Interstate Compact on Juveniles that allows one state to take into custody and return to another state a juvenile who is alleged to have violated a criminal law in the second state but who has not been adjudicated a delinquent, and a provision to permit the Department of Health and Social Services to

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone: <u>465-5370</u>
Division: <u>Administrative Services Division</u>	Date: <u>4/26/97</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u> <i>Bruce M. Botelho</i>	Date: <u>4/26/97</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

ANALYSIS CONTINUATION:

provide additional information to public officials, such as legislators, who are contacted by parents with concerns about children's proceedings. Without this amendment, the state is unable to explain to these officials why the action it has taken was necessary.

Passage of this legislation will have no fiscal impact on the Department of Law. The department estimates that approximately 20 cases per year, statewide, will require additional criminal proceedings under the proposed dual sentencing provisions. Although this represents an increase in the Criminal Division caseload, when this increase is spread between the division's several offices, fiscal note costs are not warranted.

Action by municipalities on minor juvenile offenses will also have no fiscal impact on the department, either positive or negative. The types of cases that would be handled by municipal authorities under these amendments do not require the use of Department of Law staff under current law, so no savings would be achieved in the Civil Division from a reduced caseload.

**STATE OF ALASKA**  
**1997 LEGISLATIVE SESSION**

**BILL NO:**

No. 3

Bill Version: CSHB 16(HES)

(H) Publish Date: 4/30/97

Revision Date: 04/28/97

Dept. Affected: Public Safety

Title: Juvenile Delinquency

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Rep. Kelly

Requestor: H. HESS

COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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>

<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
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CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 97) impact: \$ \_\_\_\_\_

**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.)

This bill would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman

Phone: 269-5650

Division: Alaska State Troopers

Date: 04/28/97

Approved by Commissioner: Ronald L. Otte

Date: 4/28/97

Agency: Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSHB16(HES)

Revision Date: \_\_\_\_\_  
 Title: Relating to delinquent minors: services to  
victims and agency records  
 Sponsor: Representative Kelly  
 Requestor: House (HES)

Dept. Affected: Health and Social Services  
 BRU: Family and Youth Services  
 Component: DFYS Central Office  
 COMPONENT SERIAL NO. 259  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGES IN REVENUES</b> ( )						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

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

There would be no fiscal impact to the Division if this bill were to become law.

Prepared by: L. Diane Worley  
 Division: Family & Youth Services  
 Approved by Commissioner: Karen Perdue  
 Agency: Department of Health & Social Services

L. Diane Worley  
 Director  
Karen Perdue  
 Commissioner  
 Department of Health & Social Services

Phone: 465-3191  
 Date: 04/29/97  
 Date: 4/29/97

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# FISCAL NOTE

**STATE OF ALASKA  
1997 LEGISLATIVE SESSION**

No. 7  
 Bill Version: CSHB 16(HES)  
 (H) Publish Date: 4/30/97

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: "An Act relating to delinquent minors, to the takin BRU: ALL  
of action based on the alleged criminal misconduct of certain minors... Component: ALL  
 Sponsor: Representative Kelly  
 Requester: House HESS Committee COMPONENT SERIAL NO. #0694

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS		115.3	230.6	345.9	461.2	576.5
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>115.3</b>	<b>230.6</b>	<b>345.9</b>	<b>461.2</b>	<b>576.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF		115.3	230.6	345.9	461.2	576.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>115.3</b>	<b>230.6</b>	<b>345.9</b>	<b>461.2</b>	<b>576.5</b>

Estimate of any current year (FY97) cost: \$ \_\_\_\_\_

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The major impact of this legislation upon the Department of Corrections (DOC) is Section 12 whereas AS 47.12 is amended by adding a new section where delinquent minors age 13 to 16 could have dual juvenile and adult sentencing provisions imposed on them for certain types of criminal offenses. It has been estimated the dual sentencing provisions of this legislation would result in approximately three (3) delinquent juvenile prisoners per year being incarcerated in adult correctional facilities.

The DOC does not anticipate an impact on the agency during the year of this legislation. A juvenile would have to unsuccessfully go through juvenile proceedings and a number of other alternative diversions before the adult dual sentencing provision would be imposed. Based on the statewide average daily cost of \$105.27 per day, the first year financial impact on the DOC would be \$115,270.65 (115.3); with three new juveniles and \$115.3 added every year thereafter.

Prepared by: Bruce Richards  
 Division: Commissioner's Office  
 Approved by: Commissioner Margaret M. Pugh  
 Agency: Department of Corrections

Phone: 465-3307  
 Date: 4/28/97  
 Date: 4/28/97

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSHB 16 (HES)

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to juvenile delinquency proceedings..."  
 Sponsor: Sen. Kelly  
 Requestor: (H) JUD

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	133.4	133.4	133.4	133.4	133.4	133.4
TRAVEL	4.5	4.5	4.5	4.5	4.5	4.5
CONTRACTUAL	22.5	22.5	22.5	22.5	22.5	22.5
SUPPLIES	2.3	2.3	2.3	2.3	2.3	2.3
EQUIPMENT	7.5	1.5	1.5	1.5	1.5	1.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>170.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	170.2	164.2	164.2	164.2	164.2	164.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>170.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>	<b>164.2</b>

Estimate of any current year (FY 97) cost: \$ -0-

**POSITIONS:**

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

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

See attached sheet.

Prepared by: Barbara K. Brink, Director  
 Division: Public Defender Agency

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 5/5/97

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## FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSHB 16

### ANALYSIS: (continued)

**Dual Sentencing.** This bill creates a "dual sentencing" scheme that invokes the jurisdiction of both the criminal and juvenile court. In the scheme the court would impose a juvenile disposition and an adult criminal sentence simultaneously. Execution of the adult criminal sentence would be stayed during imposition of the juvenile disposition. If the conditions of the juvenile disposition were satisfied, the adult criminal sentence is never imposed. If the conditions of the juvenile disposition were violated, the adult criminal sentence would be invoked.

This dual sentencing scheme is recommended for 13 to 15 year olds who are charged with Class A and unclassified offenses for which a 16 or 17 year old would be automatically waived to adult court and sexual assault in the second degree as well as 16 to 17 year olds who are convicted of sexual abuse of a minor in the second degree or a crime against a person with a previous felony adjudication against a person. Procedurally, the district attorney must either file a petition or the minor must agree to be subject to dual sentencing. The prosecutor must present the case to the grand jury and if there is a true bill filed, petition with the court. If the district attorney exercises his discretion not to invoke dual jurisdiction or the grand jury returns a no true bill, it stays in the juvenile system. The adult sentence must include some period of imprisonment that is not suspended. A child can be revoked and the adult sentence imposed if the child: 1) commits a new felony offense; 2) commits a misdemeanor offense against a person that involves injury to another person or the use of a deadly weapon; 3) fails to comply with restitution; 4) fails in a rehabilitation program ordered by the court or required by a facility or juvenile probation officer; or 5) escapes from a juvenile facility. Such violation must be proven by a preponderance of the evidence. If the new felony is a crime against a person or arson the court must impose the adult sentence and transfer custody of the child to the Department of Corrections. For other of the circumstances the court has to impose the adult sentence unless the child proves by preponderance of the evidence that mitigating circumstances exist that justify a continued stay of the adult sentence and that the child is amenable to further treatment under this chapter. Once an adult sentence is imposed the child is transferred to an adult correctional center.

This dual sentencing provision will impact the entire criminal justice system. The categories of children are quite broad, with the expectation that over 60 children will be eligible for such a referral per year, based upon FY 96 DHSS figures. (It is understood that the Department of Law and the Court System did not include numbers for 16 and 17 year olds in their calculations.) The Alaska Public Defender Agency would continue to be appointed to the majority of these cases which will now require the same attorney labor as an adult felony case (including grand jury review, virtual certainty of trial, and felony sentencing procedures). Based upon those numbers, and the serious nature of the allegations, an additional Attorney IV will be necessary in Anchorage and a part-time Attorney IV will be necessary in Fairbanks to provide attorney services in these serious felonies. It is anticipated that most of these cases will arise in these urban locales, with the attorneys travelling to more remote sites if assistance is needed. Additionally, the conditions for which a juvenile may be revoked for being in violation of his juvenile disposition are so overbroad and vague that it is anticipated that many of them will have petitions filed against them and engage in litigation to determine if a violation occurred or they have to prove that they have mitigating circumstances that justify a continued stay in the juvenile system. It will require clearly more prosecutor resources with mandatory grand jury and adult sentencing proceedings. It will clearly require more defense resources with challenges to the grand jury and Superior Court sentencings and duplication of efforts for two jurisdictions. It will result in many more felony level trials as the focus shifts from trying to find the best treatment alternative to avoiding the serious consequence of having an adult permanent record at such a young age. It will result in longer pre-trial stays and overcrowding and programming problems as more juvenile will be detained for longer periods of time in order to deal with the increase in the number of cases contested. Jails and juvenile detention pre-trial facilities are not programmed for lengthy pre-trial stays and cannot provide educational or other treatment services needed. Some critics within the juvenile justice system claim that had they received sufficient resources to begin with, they could have done a good job in improving their system at less cost. By shifting the population to adult Corrections Department if any programming will be developed which is doubtful, it is for a population that Corrections does not want and does not have the expertise to address.

The U.S. Department of Justice study recommends that the transfer alternative to adult court should only be considered for those juveniles whose criminal history, failure to respond to treatment, or serious or violent conduct clearly demonstrates that they require criminal justice system sanctions. This bill is too broadly fashioned and includes many juveniles who are charged

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with offenses that would clearly indicate their amenability to treatment. In particular, sexual assault in the second degree and sexual abuse of a minor in the second degree include a broad range of conduct which are often amenable to education and treatment. While attempting to make the juvenile justice system more similar to the adult system, this portion of the bill stating the grounds for imposing the adult sentence actually makes the system more punitive than the adult system. As a basis for revocation, the failure to complete a rehabilitation program ordered by the court accurately reflects the adult system. However, including "any program required by a facility or juvenile probation officer" gives complete unsupervised discretion to a facility or individual who may or may not have the skill to determine the appropriateness of a program with no judicial oversight. To revoke for an offense "involving injury to another person" is completely overbroad in that a number of minor charges including disorderly conduct and assault in the fourth degree which may include a simple shoving match among children is enough to transfer a case to the adult system. Making transfer to the adult sentencing provisions automatic for certain crimes eliminates any individual discretion. In adult court the judge continues to have discretion to determine the disposition based upon a violation. It is even more problematic when one understands that 90% of the juvenile offenders have at one time or another a petition to revoke their probation filed. This is because it is a useful mechanism for probation and juvenile authorities to enforce compliance, to inspire good behavior, and to issue a wake up call. A broad population will have to go through the process of determining whether or not adult sentencing is appropriate. The mandatory imprisonment requirement places a child in a much worse position than an adult offender and completely disregards potential alternative community correction solutions available in adult court. The completely unbridled prosecutorial discretion is neither subject to judicial review nor based upon detailed criteria. The Utah Supreme Court in State v. Mohi, 901 P.2d 991 (Utah, 1995) ruled that a similar Utah juvenile court Act giving such unbridled discretion to the prosecutor violated the state constitution.



# House Finance Committee

DATE: *March 12, 98*

PLACE: *Cap 519*

SUBJECT OF MEETING:  
*HJR 4*  
*SB 220*

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
<i>Theresa Taroney and</i>	<i>DFYS</i>			<i>465-3011</i> →		Y	<i>(N) Will answer questions HB16</i>
<i>Bob Britcham</i>	<i>DFYS</i>			<i>465-3221</i>		Y	<i>N or HB16 ANSWER QUEST. HB16</i>
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N
						Y	N