

HB

487

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 18, 2004

FURTHER REFERRALS:

Date of Committee Action: 4/26/04

The FINANCE Committee considered:

HB 487

HOUSE BILL NO. 487

DETENTION OF MINORS

"An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors and minors incapacitated by alcohol or drugs; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

- List of Abbrev for Depts.:
- ADM
 - CED
 - COR
 - CRT
 - EED
 - DEC
 - DFG
 - GOY
 - HSS
 - LEG
 - LAW
 - LWF
 - MVA
 - DNR
 - DPS
 - REV
 - DOT
 - UA

<u>NEW FISCAL NOTES</u>				
<small>*Assigned by Chief Clerk's Office</small>				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
HSS				✓
DPS				✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Storto			✓	
	CRAIG			✓	
	MOSES	X		-	
	Chenail H.			✓	
	Foster	✓			
	FOSTER	X			
	Meyer	X			
Chair:					
Chair:					

Visa:

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 487
 (H) Publish Date: 2/16/04
 Dept. Affected: Health & Social Services
 RDU Juvenile Justice
 Component Delinquency Prevention

Revision Date/Time (Note if correction):
 Title RELATING TO DETENTION OF JUVENILES

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester _____ Component No. 248

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The proposed changes to statute will have no fiscal impact on the Division of Juvenile Justice. The proposed changes will put the state in compliance with the federal Juvenile Justice and Delinquency Act (JJDP) formula grant program.

Prepared by: Karen Forrest Phone 465-2339
 Division Juvenile Justice Date/Time 02/11/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 02/12/2004
 Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 487
 (H) Publish Date: 2/16/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Juvenile Detention RDU Alaska State Troopers
 Component AST Detachments
 Sponsor Rules Committee
 Requester Governor Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend AS 47.12.240, AS 47.30.705 and AS 47.37.170. The stated purpose of this bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money. The bill, in essence, states that "emergency protective custody under these sections may not include placement of a minor in a jail or secure facility". The bill addresses minors who are taken into protective custody for mental health issues or those in protective custody due to intoxication because of drugs or alcohol.

The Department of Health and Social Service, Division of Juvenile Justice, has committed to supplying training and training materials to law enforcement officers to insure compliance with this statute.

There is no fiscal impact anticipated by the Department of Public Safety.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 2/12/04 3:19 PM
 Approved by: Commissioner William Tandeske Date 2/12/2004
 Agency Department of Public Safety

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 17, 2004

Honorable Lesil McGuire, Chair
House Judiciary Committee
Alaska State Capitol; Rm. 118
Juneau, AK 99801-1182

Dear Representative McGuire,

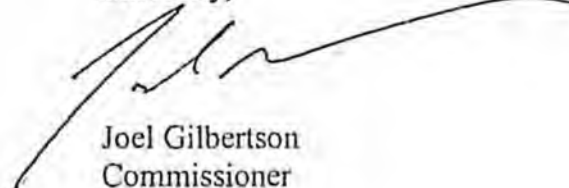
The Department of Health and Social Services respectfully requests a hearing in the House Judiciary Committee on House Bill 487 "An Act relating to the detention of delinquent minors in correctional facilities; relating to emergency detention of minors for evaluation for involuntary admission for mental health treatment; relating to detention of intoxicated minors incapacitated by alcohol or drugs; and providing for an effective date."

The purpose of this bill is to bring Alaska into compliance with recent revisions to the federal Juvenile Justice and Delinquency Act. Under the Act, emergency protective custody of juveniles may not include placement in a locked jail or youth facility. Failure to comply with this federal requirement jeopardizes receipt of approximately \$700,000 in federal funds that are a cornerstone of the department's juvenile justice program.

The Governor's transmittal letter and zero fiscal note relating to HB 487 are on file with the committee.

Your favorable consideration of this request will be appreciated.

Sincerely,



Joel Gilbertson
Commissioner

cc: Mike Tibbles, Director
Legislative Office, Office of the Governor
Patty Ware, Director, DJJ

SB 340 /HB 487 Relating to the Detention of Juveniles
Department of Health and Social Services
Division of Juvenile Justice- 2/20/04

Highlights related to the Proposed Legislation:

- ❖ Modifies AS 47.12.240, AS 47.30.705 and AS 47.37.170 to prohibit the placement of minors in a jail or secure facility who are in protective custody due to mental illness, grave disability, intoxication or incapacitation by alcohol or drugs.
- ❖ Required for DHSS/DJJ to be in compliance with the 2002 reauthorization of the federal Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA) that went into effect on October 1, 2003.
- ❖ Does not affect existing statutory provisions for the detention of minors for delinquent or "criminal-type" offenses described in AS 47.12.240. The emphasis is on ensuring that state statute comports with the federal requirements for not holding non-offenders in a locked facility when they have not committed a crime.

Background:

DHSS, DJJ receives approximately \$700,00 annually through the federal Juvenile Justice and Delinquency Prevention Act (JJDPA) formula grant program. Funds are used to pay for a variety of services, including nonsecure shelters and prevention/intervention services for juveniles. States receiving JJDP funds must meet four core juvenile justice mandates. The mandates along with the actual numerical standards for "violations" are:

- a. Deinstitutionalization of status offenders and non-offenders: 5.7 per 100,000;
- b. Separation of juveniles from adult offenders in institutions: Zero (0);
- c. Removal of juveniles from adult jails and lockup facilities: 9.0 per 100,000;
- d. Reduction of disproportionate minority contact: no statistical de minimis.

Alaska is currently out of compliance with these standards at a fairly significant rate. Violation rates for the first three core mandates in FY02 and FY03 are as follows:

- a. Deinstitutionalization: FY02 at 47.70 and FY03 at 37.82;
- b. Separation from Adult offenders: FY02 at 21.35 and FY03 at 4.1; and,
- c. Jail Removal: FY02 at 68.08 and FY03 at 47.05.

Without passage of this legislation, the Department will lose 40% of the FFY2004 grant award, or \$280,000 in the first year and an additional 40% of the FFY2005 award, for a total anticipated loss of \$560.0 in federal grant funds.

If violations of the JJDP Act are incurred once the statute is changed, the argument can be made to OJJDP that all violations were in violation of existing state law, which is an allowable "exception" to the de minimum numerical standards for monitoring compliance with the JJDP Act.

The change in state statute is consistent with best practice, i.e. juveniles should not be held in a locked facility when they have not committed a crime.

The Division will continue to work with local and state law enforcement, as well as within this Department with the Division of Behavioral Health, to further develop the alternatives that will provide the appropriate response for these juveniles.

HB487



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 13, 2004

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the detention of delinquent and other juveniles.

The 2002 reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJJPA) went into effect on October 1, 2003. The JJJPA has traditionally prohibited incarceration of non-offenders and status offenders in adult jails and "lock-ups." New language in the 2002 reauthorization prohibits the use of juvenile detention facilities for these non-offenders and status offenders as of October 1, 2003.

This bill would modify AS 47.12.240, AS 47.30.705, and AS 47.37.170 to come into compliance with the federal requirements set out in the Guidance Manual for Monitoring Facilities Under the Juvenile Justice and Delinquency Prevention Act of 2003. Under these amendments, emergency protective custody of minors may not include placement in a jail or other secure facility. This language is also found in current law relating to placement of children in need of aid in AS 47.10.141(c), and has been interpreted by both state and federal officials to provide sufficient flexibility for holding minors until a more appropriate facility can be found or until transportation to such a facility is feasible. The purpose of this draft bill is to preserve Alaska's federal formula grant receipts of approximately \$700,000 and to meet certain requirements to apply for other federal grant money through the federal office of juvenile justice and delinquency prevention.

I urge your prompt and favorable action on this measure.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in black ink.
Frank H. Murkowski
Governor

Enclosure