

LEG. FINANCE - BILLS 1981 - 1982 1614
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1 likelihood of serious harm to himself or others. The court shall pro-
2 vide findings on which the conclusion is based, appoint an attorney to
3 represent the respondent, and may direct that a peace officer take the
4 person into custody and deliver him to the nearest appropriate facility
5 for emergency examination or treatment. The ex parte order shall be
6 provided to the respondent and made a part of the respondent's clinical
7 record.

8 (b) The petition required in (a) of this section shall allege
9 that the respondent is reasonably believed to present a likelihood of
10 serious harm to himself or others or is gravely disabled as a result of
11 mental illness and shall specify the factual information on which that
12 belief is based including the names and addresses of all persons known
13 to the petitioner who have knowledge of those facts through personal
14 observation.

15 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
16 officer who has probable cause to believe that a person is gravely
17 disabled or is suffering from mental illness and is likely to cause
18 serious harm to himself or others of such an immediate nature that con-
19 siderations of safety do not allow initiation of involuntary commitment
20 procedures set out in AS 47.30.700, may cause the person to be taken
21 into custody and delivered to the nearest evaluation facility. A
22 correctional facility may be used as an emergency evaluation facility
23 if an evaluation facility is not available. Upon arrival at the evalua-
24 tion facility, the peace officer shall complete an application for
25 examination of the person in custody and be interviewed by a mental
26 health professional at the facility.

27 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
28 under AS 47.30.700 or 47.30.705 for emergency examination and treatment
29 to an evaluation facility shall be examined and evaluated as to his

1 mental and physical condition by a mental health professional and by a
2 physician within 24 hours after arrival at the facility.

3 (b) If the mental health professional who performs the emergency
4 examination has reason to believe that the respondent is (1) mentally
5 ill and that condition causes the person to be gravely disabled or to
6 present a likelihood of serious harm to himself or others, and (2) is
7 in need of care or treatment, the mental health professional may hospi-
8 talize him, or arrange for hospitalization, on an emergency basis. If
9 a judicial order has not been obtained under AS 47.30.700, the mental
10 health professional shall apply for an ex parte order authorizing
11 hospitalization for evaluation.

12 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
13 proper order for evaluation, it must accept the order and the respondent
14 for an evaluation period not to exceed 72 hours. The facility shall
15 promptly notify the court of the date and time of the respondent's
16 arrival. The court shall set a date, time and place for a 30-day com-
17 mitment hearing, to be held if needed within 72 hours after the respon-
18 dent's arrival, and the court shall notify the facility, the respondent,
19 his attorney, and the prosecuting attorney of the hearing arrangements.
20 Evaluation personnel, where used, shall similarly notify the court of
21 the date and time when they first met with the respondent.

22 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
23 at any time in the course of the 72-hour period the mental health pro-
24 fessionals conducting the evaluation determine that the respondent does
25 not meet the standards for commitment specified in AS 47.30.700, the
26 respondent shall be discharged from the facility or the place of evalu-
27 ation by evaluation personnel and the petitioner and the court so noti-
28 fied.

29 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)

1 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
2 30.915, he shall be immediately notified orally and in writing of his
3 rights under this section. Notification shall be in a language under-
4 stood by the respondent. His guardian, if any, and if the respondent
5 requests, an adult designated by the respondent, shall also be notified
6 of the respondent's rights under this section.

7 (b) Unless a respondent is released or voluntarily admits himself
8 for treatment within 72 hours of his arrival at the facility or, if he
9 is evaluated by evaluation personnel, within 72 hours from the beginning
10 of his meeting with evaluation personnel, he is entitled to a court
11 hearing to be set for not later than the end of that 72-hour period to
12 determine whether there is cause to detain him after the 72 hours have
13 expired for up to an additional 30 days on the grounds that he is
14 gravely disabled or mentally ill and as a result presents a likelihood
15 of serious harm to himself or others. The facility or evaluation
16 personnel shall give notice to the court of the releases and voluntary
17 admissions under AS 47.30.700 - 47.30.820.

18 (c) The respondent has a right to communicate immediately, at the
19 department's expense, with his guardian, if any, or an adult designated
20 by the respondent and the attorney designated in the ex parte order, or
21 any attorney of the respondent's choice.

22 (d) The respondent has the right to be represented by an attorney,
23 to present evidence and to cross-examine witnesses who testify against
24 him at the hearing.

25 (e) The respondent has the right to be free of the effects of
26 medication and other forms of treatment to the maximum extent possible
27 before the 30-day commitment hearing; however, the facility or evalua-
28 tion personnel may treat him with medication under prescription by a
29 licensed physician or by a less restrictive alternative of his pre-

1 ference if, in the opinion of a licensed physician in the case of
2 medication, or of a mental health professional in the case of alterna-
3 tive treatment, the treatment is necessary to

4 (1) prevent bodily harm to the respondent or others;

5 (2) prevent such deterioration of the respondent's mental
6 condition that subsequent treatment might not enable him to recover; or

7 (3) allow the respondent to prepare for and participate in
8 the proceedings.

9 (f) A respondent, if he is represented by counsel, may waive,
10 orally or in writing, the 72-hour time limit on the 30-day commitment
11 hearing and have the hearing set for a date no more than seven calendar
12 days after his arrival at the facility. The respondent's counsel shall
13 immediately notify the court of the waiver.

14 Sec. 47.30.730. PROCEDURE FOR 30-DAY COMMITMENT; PETITION FOR
15 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
16 petition for commitment to a treatment facility may be filed in court.
17 The petition must be signed by two mental health professionals who have
18 examined the respondent, one of whom is a physician. The petition must

19 (1) allege that the respondent is mentally ill and as a
20 result is likely to cause harm to himself or others or is gravely dis-
21 abled;

22 (2) allege that the evaluation staff has considered but has
23 not found that there are any less restrictive alternatives available
24 that would adequately protect the respondent or others; or, if a less
25 restrictive involuntary form of treatment is sought, specify the treat-
26 ment and the basis for supporting it;

27 (3) allege with respect to a gravely disabled respondent
28 that there is reason to believe that the respondent's mental condition
29 could be improved by the course of treatment sought;

1 (4) allege that a specified treatment facility or less re-
2 strictive alternative at is appropriate to the respondent's condition
3 has agreed to accept the respondent;

4 (5) allege that the respondent has been advised of the need
5 for, but has not accepted, voluntary treatment, and request that the
6 court commit the respondent to the specified treatment facility or less
7 restrictive alternative for a period not to exceed 30 days;

8 (6) list the prospective witnesses who will testify in sup-
9 port of commitment or involuntary treatment;

10 (7) list the facts and specific behavior of the respondent
11 supporting the allegation in (1) of this subsection.

12 (b) A copy of the petition shall be served on the respondent, his
13 attorney, and his guardian, if any, before the 30-day commitment hear-
14 ing.

15 Sec. 47.30.735. 30-DAY COMMITMENT. (a) Upon receipt of a proper
16 petition for commitment, the court shall hold a hearing at the date and
17 time previously specified according to procedures set out in AS 47.30.-
18 715.

19 (b) The hearing shall be conducted in a physical setting least
20 likely to have a harmful effect on the mental or physical health of the
21 respondent, within practical limits. At the hearing, in addition to
22 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
23 the right

24 (1) to be present at the hearing; this right may be waived
25 only with the respondent's informed consent; if the respondent is in-
26 capable of giving informed consent, the respondent may be excluded from
27 the hearing only if the court, after hearing, finds that the incapacity
28 exists and that there is a substantial likelihood that the respondent's
29 presence at the hearing would be severely injurious to his mental or

1 physical health;

2 (2) to view and copy all petitions and reports in the court
3 file of his case;

4 (3) to have the hearing open or closed to the public as he
5 elects;

6 (4) to be proceeded against according to the rules of evi-
7 dence applicable to civil proceedings;

8 (5) to have an interpreter if he does not understand English;

9 (6) to present evidence on his behalf;

10 (7) to cross-examine witnesses who testify against him;

11 (8) to remain silent.

12 (c) At the conclusion of the hearing the court may commit the re-
13 spondent to a treatment facility for not more than 30 days if it finds,
14 by clear and convincing evidence, that the respondent is mentally ill
15 and as a result is likely to cause harm to himself or others or is
16 gravely disabled.

17 (d) If the court finds that there is a viable less restrictive
18 alternative available and that the respondent has been advised of and
19 refused voluntary treatment through the alternative, the court may
20 order the less restrictive alternative treatment for not more than 30
21 days if the program accepts the respondent.

22 (e) The court shall specifically state to the respondent, and
23 give him written notice, that if commitment or other involuntary treat-
24 ment beyond the 30 days is to be sought, the respondent shall have the
25 right to a full hearing or jury trial.

26 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY
27 COMMITMENT. (a) At any time during the respondent's 30-day commitment,
28 the professional person in charge, or his professional designee, may
29 file with the court a petition for 90-day commitment of that respondent.

1 The petition must include all material required under AS 47.30.730(a)
2 except that references to "30 days" shall be read as "90 days"; and

3 (1) allege that the respondent has attempted to inflict or
4 has inflicted serious bodily harm upon himself or another since his
5 acceptance for evaluation, or that he was committed initially as a
6 result of conduct in which he attempted or inflicted serious bodily
7 harm upon himself or another, or that he continues to be gravely dis-
8 abled, or that he demonstrates a current intent to carry out plans of
9 serious harm to himself or another;

10 (2) allege that the respondent has received appropriate and
11 adequate care and treatment during his 30-day commitment;

12 (3) be verified by the professional person in charge, or his
13 professional designee, during the 30-day commitment.

14 (b) The court shall have copies of the petition for 90-day commit-
15 ment served upon the respondent, his attorney, and his guardian, if
16 any. The petition for 90-day commitment and proofs of service shall be
17 filed with the clerk of the court, and a date for hearing shall be set,
18 by the end of the next judicial day, for not later than five judicial
19 days from the date of filing of the petition. The clerk shall notify
20 the respondent, his attorney, and the petitioner of the hearing date at
21 least three judicial days in advance of the hearing.

22 (c) Findings of fact relating to the respondent's behavior made
23 at a 30-day commitment hearing under AS 47.30.735 shall be admitted as
24 evidence and may not be rebutted except that newly discovered evidence
25 may be used for the purpose of rebutting the findings.

26 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
27 dent subject to a petition for 90-day commitment has, in addition to
28 the rights specified elsewhere in this chapter, or otherwise applicable,
29 the rights enumerated in this section. Written notice of these rights

1 shall be served on the respondent, his attorney, his guardian, if any,
2 and may be served on an adult designated by the respondent at the time
3 the petition for 90-day commitment is served. An attempt shall be made
4 by oral explanation to insure that the respondent understands the
5 rights enumerated in the notice. If the respondent does not understand
6 English, the explanation shall be given in a language he understands.

7 (b) Unless the respondent is released or voluntarily admits him-
8 self following the filing of a petition and before the hearing, he is
9 entitled to a judicial hearing within five judicial days of the filing
10 of the petition as set out in AS 47.30.740(b) to determine if he is
11 mentally ill and as a result is likely to cause harm to himself or
12 others, or if he is gravely disabled. If the respondent voluntarily
13 admits himself following the filing of the petition, the voluntary
14 admission constitutes a waiver of any hearing rights under AS 47.30.740
15 or under AS 47.30.685. If at any time during the respondent's voluntary
16 admission under this subsection, the respondent submits to the facility
17 a written notice of intent to leave, the professional person in charge
18 may file with the court a petition for 120-day commitment of the respon-
19 dent under AS 47.30.770. The 120-day commitment hearing shall be
20 scheduled for a date not earlier than 90 days after the respondent's
21 voluntary admission.

22 (c) The respondent is entitled to a jury trial upon request filed
23 with the court if the request is made at least two judicial days before
24 the hearing. If the respondent requests a jury trial, the hearing may
25 be continued for no more than 10 calendar days. The jury shall consist
26 of six persons.

27 (d) If a jury trial is not requested, the court may still con-
28 tinue the hearing at the respondent's request for no more than 10
29 calendar days.

1 (e) The respondent has a right to retain an independent licensed
2 physician or other mental health professional to examine him and to
3 testify on his behalf. Upon request by an indigent respondent, the
4 court shall appoint an independent licensed physician or other mental
5 health professional to examine him and testify on his behalf. The
6 court shall consider an indigent respondent's request for a specific
7 physician or mental health professional. A motion for the appointment
8 may be filed in court at any reasonable time before the hearing and
9 shall be acted upon promptly. Reasonable fees and expenses for expert
10 examiners shall be determined by the rules of court.

11 (f) The proceeding shall in all respects be in accord with con-
12 stitutional guarantees of due process and, except as otherwise specifi-
13 cally provided in AS 47.30.700 - 47.30.915, the rules of evidence and
14 procedure in civil proceedings.

15 (g) Until the court issues a final decision, the respondent shall
16 continue to be treated at the treatment facility unless the petition
17 for 90-day commitment is withdrawn. If no decision has been made
18 within 20 days of filing of the petition, not including extensions of
19 time due to jury trial or other requests by the respondent, he shall be
20 released.

21 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-
22 ducted in the same manner, and with the same rights for the respondent,
23 as set out in AS 47.30.735(b).

24 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within
25 the time limit specified in AS 47.30.745, the court may commit the
26 respondent to a treatment facility for no more than 90 days if the
27 court or jury finds by clear and convincing evidence that the respondent
28 is mentally ill and as a result is likely to cause harm to himself or
29 others, or is gravely disabled.

1 (b) If the court finds that there is a less restrictive alterna-
2 tive available and that the respondent has been advised of and refused
3 voluntary treatment through the alternative, the court may order the
4 less restrictive alternative treatment after acceptance by the program
5 of the respondent for a period not to exceed 90 days.

6 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall
7 always be available at a state-operated hospital; however, if space is
8 available and upon acceptance by another treatment facility, a respon-
9 dent who is committed by the court shall be placed by the department at
10 the designated treatment facility closest to his home unless the court
11 finds that

12 (1) another treatment facility in the state has a program
13 more suited to the respondent's condition, and this interest outweighs
14 the desirability of the respondent being closer to home;

15 (2) another treatment facility in the state is closer to the
16 respondent's friends or relatives who could benefit him through their
17 visits and communications; or

18 (3) the respondent wants to be further removed from his
19 home, and the mental health professionals who sought his commitment
20 concur in the desirability of removed placement.

21 Sec. 47.30.765. APPEAL. The respondent has the right to an
22 appeal from any order of involuntary commitment. The court shall
23 inform the respondent of this right.

24 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent
25 shall be released from involuntary treatment at the expiration of 90
26 days unless the professional person in charge files a petition for a
27 120-day commitment conforming to the requirements of AS 47.30.740(a)
28 except that all references to "30-day commitment" shall be read as "the
29 previous 90-day commitment" and all references to "90-day commitment"

1 shall be read as "120-day commitment".

2 (b) The procedures for service of the petition, notification of
3 rights and judicial hearing shall be as set out in AS 47.30.740 -
4 47.30.750. If the court or jury finds by clear and convincing evidence
5 that the grounds for 90-day commitment as set out in AS 47.30.755 are
6 present, the court may order the respondent committed for an additional
7 treatment period not to exceed 120 days from the date on which the
8 first 90-day treatment period would have expired.

9 (c) Successive 120-day commitments are permissible on the same
10 ground and under the same procedures as the original 120-day commitment.
11 No order of commitment may exceed 120 days.

12 (d) Findings of fact relating to the respondent's behavior made
13 at a 30-day commitment hearing under AS 47.30.735, a 90-day commitment
14 hearing under AS 47.30.750, or a previous 120-day commitment hearing
15 under this section shall be admitted as evidence and may not be rebutted
16 except that newly discovered evidence may be used for the purpose of
17 rebutting the findings.

18 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-
19 30.700 - 47.30.815 apply to minors. However, all notices required to
20 be served on the respondent in AS 47.30.700 - 47.30.815 shall also be
21 served on the parent or guardian of a respondent who is a minor, and
22 parents or guardians of a minor respondent shall be notified that they
23 may appear as parties in any commitment proceeding concerning the minor
24 and that as parties they are entitled to retain their own attorney or
25 have one appointed for them by the court. A minor respondent has the
26 same rights to waiver and informed consent as an adult respondent under
27 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel
28 in waiver and consent proceedings.

29 Sec. 47.30.780. EARLY DISCHARGE. The professional person in

1 charge shall at any time discharge a respondent on the ground that the
2 respondent is no longer gravely disabled or likely to cause serious
3 harm as a result of mental illness. A certificate to this effect shall
4 be sent to the court which shall enter an order officially terminating
5 the involuntary commitment.

6 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing
7 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-
8 815 may be authorized to be absent from the treatment facility during
9 times specified by the professional person in charge, or his profes-
10 sional designee, when an authorization to be absent is in the best
11 interests of the respondent and he is not likely to cause harm to
12 himself or others.

13 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
14 spondent undergoing involuntary treatment on an inpatient basis is
15 absent from the treatment facility without, or in excess of, authoriza-
16 tion under AS 47.30.785, the professional person in charge, or his
17 professional designee, may cause the respondent to be taken into custody
18 and returned to the treatment facility.

19 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.
20 (a) A respondent who was originally committed to involuntary inpatient
21 care under AS 47.30.700 - 47.30.915 may be released before the expira-
22 tion of his commitment period if a provider of outpatient care accepts
23 him for specified outpatient treatment for a period of time not to
24 exceed the duration of his commitment, and if the professional person
25 in charge, or his professional designee, finds that

26 (1) it is not necessary to treat the respondent as an in-
27 patient to prevent him from harming himself or others; and

28 (2) there is reason to believe that the respondent's mental
29 condition would improve as a result of the outpatient treatment.

1 (b) A copy of the conditions for early release shall be given to
2 the respondent, his attorney, his guardian, if any, the provider of
3 outpatient care, and the court.

4 (c) If during the commitment period the provider of outpatient
5 care determines that the respondent can no longer be treated on an
6 outpatient basis because he is likely to cause harm to himself or
7 others or is gravely disabled, the provider shall give the respondent
8 oral and written notice that he must return to the treatment facility
9 within 24 hours, with copies to the respondent's attorney, his guardian,
10 if any, the court and inpatient treatment facility. If the respondent
11 fails to arrive at the treatment facility within 24 hours after receiv-
12 ing the notice, the professional person in charge shall cause him to be
13 taken into custody and transported to the facility. If requested, a
14 peace officer shall assist the provider of outpatient care or the
15 facility.

16 (d) If the provider of outpatient care determines that the respon-
17 dent will require continued outpatient care after the expiration of his
18 commitment period, the provider may initiate further commitment proceed-
19 ings as if he were the professional person in charge, and the provisions
20 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to
21 inpatient treatment shall be read as applicable to outpatient treatment.

22 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO
23 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
24 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient
25 treatment may be required to undergo inpatient treatment when the pro-
26 vider of outpatient care finds that (1) the respondent is mentally ill
27 and is likely to cause serious harm to himself or others or is still
28 gravely disabled; (2) the respondent's behavior since the hearing re-
29 sulting in court-ordered treatment indicates that he now needs inpatient

1 treatment to protect himself or others; (3) there is reason to believe
2 that the respondent's mental condition will improve as a result of
3 inpatient treatment; and (4) there is an inpatient facility appropriate
4 to the respondent's need which will accept him as a patient. Treatment
5 for these respondents shall be available at state-operated hospitals at
6 all times.

7 (b) Upon making the findings specified in (a) of this section,
8 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745
9 relating to hearing apply.

10 Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-
11 vided in (b) of this section,

12 (1) computations of a 72-hour evaluation period do not in-
13 clude Saturdays, Sundays, legal holidays, or any period of time neces-
14 sary to transport the respondent to the treatment facility;

15 (2) a 30-day commitment period expires at the end of the
16 30th day after the 72 hours following initial acceptance;

17 (3) a 90-day commitment period expires at the end of the
18 90th day after the expiration of a 30-day period of treatment;

19 (4) a 120-day commitment period expires at the end of the
20 120th day, after the expiration of a 90-day period of treatment or
21 previous 120-day period, whichever is applicable.

22 (b) When a respondent has failed to appear or absented himself
23 contrary to any order properly made or entered under AS 47.30.655 -
24 47.30.915, the relevant commitment period shall be extended for a
25 period of time equal to the respondent's absence if written notice of
26 absence is promptly provided to the respondent's attorney and his
27 guardian, if there is one, and if, within 24 hours after the respondent
28 has returned to the evaluation or treatment facility, written notice of
29 the corresponding extension and the reason for it is given to the

1 respondent, his attorney, his guardian, if any, and to the court.

2 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-
3 915 may be construed as limiting a person's right to a writ of habeas
4 corpus.

5 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
6 CATION. (a) A person acting in good faith upon either actual knowledge
7 or reliable information who makes application for evaluation or treat-
8 ment of another person under AS 47.30.700 - 47.30.915 is not subject to
9 civil or criminal liability.

10 (b) The following persons may not be held civilly or criminally
11 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
12 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
13 of the period for which the person was admitted or committed for evalua-
14 tion or treatment if the persons have performed their duties in good
15 faith and without gross negligence:

16 (1) an officer of a public or private agency;

17 (2) the superintendent, the professional person in charge,
18 the professional designee of the professional person in charge, and the
19 attending staff of a public or private agency;

20 (3) a public official performing functions necessary to the
21 administration of AS 47.30.700 - 47.30.915;

22 (4) a peace officer responsible for detaining a person under
23 AS 47.30.700 - 47.30.915.

24 (c) A person who wilfully initiates an involuntary commitment
25 procedure under AS 47.30.700 without having good cause to believe that
26 the other person is suffering from a mental illness and as a result is
27 gravely disabled or likely to cause serious harm to himself or others,
28 is guilty of a felony.

29 ARTICLE 9. PATIENT RIGHTS.

1 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are
2 receiving services under AS 47.30.655 - 47.30.915 have the following
3 rights:

4 (1) The patient, or his counsel, guardian, or the adult
5 designated in accordance with AS 47.30.725 if the patient is mentally
6 incapable of participation, shall be entitled to participate in form-
7 ulating his individualized treatment plan and in the evaluation process
8 as much as possible, at minimum to the extent of requesting specific
9 forms of therapy, inquiring why specific therapies are or are not in-
10 cluded in his treatment program, and being informed as to his present
11 medical and psychological condition and prognosis. The treating phy-
12 sician may not withhold any of this information from the patient.

13 (2) Every patient has the right to know the name of medica-
14 tion that he is asked to take, what its purpose is, and what side
15 effects may occur with this medication. If the patient is incapable of
16 understanding the purpose and side effects of the medication, the
17 treating physician or mental health professional shall explain it to
18 the patient's counsel or guardian, or if there is no guardian the adult
19 designated in accordance with AS 47.30.725.

20 (3) A locked quiet room, or other form of physical restraint,
21 may not be used, except as provided in this paragraph unless a patient
22 is likely to physically harm himself or others unless restrained. The
23 form of restraint used shall be that which is in the patient's best
24 interest and which constitutes the least restrictive alternative avail-
25 able. When practicable, the patient shall be consulted as to his pre-
26 ference among forms of adequate, medically advisable restraints in-
27 cluding medication, and his preference shall be considered. Nothing in
28 this section is intended to limit the right of staff to use a quiet
29 room at the patient's request or with his knowing concurrence when

1 considered in the best interests of the patient. Patients placed in a
2 quiet room or other physical restraint shall be checked at least
3 every 15 minutes or more often if good medical practice so indicates.
4 Patients in a quiet room must be visited by a staff member at least
5 once every hour and must be given adequate food and drink and access to
6 bathroom facilities. At no time may a patient be kept in a quiet room
7 or other form of physical restraint against his will longer than neces-
8 sary to accomplish the purposes set out in this paragraph. All uses of
9 a quiet room or other restraint shall be recorded in the patient's
10 medical record, the information including but not limited to the reasons
11 for its use, the duration of use, and the name of the authorizing staff
12 member.

13 (5) All persons have the right to be free from unnecessary
14 or excessive medication. Psychotropic medication shall be administered
15 only on the order of a licensed physician when the physician determines
16 that such medication is in the best interest of the patient or will
17 prevent serious harm to others.

18 (6) A patient capable of giving informed consent has the
19 absolute right to accept or refuse electro-convulsive therapy or aver-
20 sive conditioning. Patients who lack substantial capacity to make this
21 decision may not be given such therapy or conditioning without a court
22 order.

23 (7) In no event may treatment include psychosurgery, lobotomy
24 or other comparable form of treatment without specific informed consent
25 of the patient, including a minor unless he is clearly too young or
26 disabled to give an informed consent in which case the consent of his
27 legal guardian shall be required. In addition, no such treatment may
28 be given without a court order after hearing compatible with full due
29 process.

1 (8) When, in the written opinion of a patient's attending
2 physician, a true medical emergency exists and a surgical operation is
3 necessary to save the life, physical health, eyesight, hearing or
4 member of the patient, the professional person in charge, or his profes-
5 sional designee, may give consent to the surgical operation if time
6 will not permit obtaining the consent of the proper relatives or
7 guardian or appropriate judicial authority. However, no operation may
8 be authorized if the patient is not a minor and knowingly withholds
9 consent on religious grounds.

10 (9) Each patient upon discharge shall be given a discharge
11 plan specifying the kinds and amount of care and treatment he should
12 have after discharge and such other steps as he might take to benefit
13 his mental health after leaving the facility. The patient shall have
14 the right to participate, as far as practicable, in formulating his
15 discharge plan. A copy of the plan shall be given to the patient, his
16 guardian, the court, if appropriate, and any follow-up agencies.

17 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)
18 Experimental treatments involving any significant risk of physical or
19 psychological harm may not be administered to a patient.

20 (b) If the personnel of an evaluation or treatment facility are
21 uncertain as to whether a proposed treatment is experimental or is
22 experimental as applied to a particular patient or would involve a
23 significant risk of mental or physical harm to the patient, the matter
24 may be referred to the commissioner of health and social services for a
25 determination. The patient, his attorney, his guardian, if any, and an
26 adult designated by the patient, shall, simultaneously with the referral
27 to the commissioner, be provided with copies of all the documents by
28 which the referral is made and shall have the opportunity to provide
29 evidence to the commissioner on the question.

1 (c) A determination by the commissioner that a treatment is
2 experimental and entails significant risks of mental or physical harm
3 is binding upon all persons involved in the administration of treatment
4 to a patient.

5 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. (a) A person may not
6 deny to a person who is undergoing evaluation or treatment under AS 47.-
7 30.655 - 47.30.915 a civil right, including but not limited to, the
8 right to free exercise of religion and the right to dispose of property,
9 sue and be sued, enter into contractual relationships and vote. A
10 person who violates this subsection commits the crime of interference
11 with constitutional rights under AS 11.76.110.

12 (b) Court-ordered evaluation or treatment under AS 47.30.655 -
13 47.30.915 is not a determination of legal incapacity under AS 13.26.

14 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
15 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915
16 shall

17 (1) not be photographed without his consent and that of his
18 guardian if a minor, except that he may be photographed upon admission
19 to a facility for identification and for administrative purposes of the
20 facility; all photographs shall be confidential and may not be released
21 by the facility except under court order;

22 (2) at the time of admission to an evaluation or treatment
23 facility, have reasonable precautions taken by the staff to inventory
24 and safeguard his personal property; a copy of the inventory signed by
25 the staff member making it shall be given to the patient and made
26 available to his attorney and any other person authorized by the patient
27 to inspect the document;

28 (3) have access to an individual storage space for his
29 private use while undergoing evaluation or treatment;

1 (4) be permitted to wear his own clothing, to keep and use
2 his own personal possessions including his toilet articles if they are
3 not considered unsafe for him or other patients who might have access
4 to them, and to keep and be allowed to spend a reasonable sum of his
5 own money for his own needs and comfort;

6 (5) be allowed to have visitors at reasonable times;

7 (6) have ready access to letter writing materials, including
8 stamps, and have the right to send and receive unopened mail;

9 (7) have reasonable access to a telephone, both to make and
10 receive confidential calls.

11 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
12 obtained in the course of evaluation, examination or treatment are
13 confidential and are not public records, except as the requirements of
14 a hearing under AS 47.30.655 - 47.30.915 may necessitate a different
15 procedure. Information and records may be copied and disclosed under
16 regulations established by the department only to

17 (1) physicians and providers of health, mental health or
18 social and welfare services involved in caring for, treating or rehabil-
19 itating the patient;

20 (2) individuals to whom the patient has given written consent
21 to have information disclosed;

22 (3) persons authorized by a court order;

23 (4) persons doing research or maintaining health statistics,
24 if the anonymity of the patient is assured, and the facility recognizes
25 the project as a bona fide research or statistical undertaking;

26 (5) the division of corrections in a case in which a prisoner
27 confined to the state prison is a patient in the state hospital on
28 authorized transfer either by voluntary admission or by court order;

29 (6) governmental or law enforcement agencies when necessary

1 to secure the return of a patient who is on unauthorized absence from a
2 facility where the patient was undergoing evaluation or treatment.

3 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
4 of a respondent from a treatment facility or the issuance of a court
5 order denying a petition for commitment, the respondent may at any time
6 move to have all court records pertaining to the proceedings expunged
7 on condition that he file a full release of all claims of whatever
8 nature arising out of the proceedings and the statements and actions of
9 persons and facilities in connection with the proceedings.

10 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-
11 30.825 - 47.30.855 shall be prominently posted in all treatment facili-
12 ties in places accessible to all patients. A patient who does not
13 understand English shall have his rights explained to him in a language
14 he understands.

15 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where
16 practicable all documents and notices required by AS 47.30.655 - 47.30.-
17 915 to be served on a respondent, or on his parents, guardian or adult
18 designee, shall be explained in a language the person understands if he
19 is not competent in English.

20 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a
21 person is or has been evaluated or treated for mental illness may not
22 be a basis for discrimination in

- 23 (1) seeking employment;
- 24 (2) resuming or continuing professional practice or previous
25 occupation;
- 26 (3) obtaining or retaining housing;
- 27 (4) obtaining or retaining licenses or permits, including
28 but not limited to motor vehicle licenses, motor vehicle operator's and
29 chauffeur's licenses, and professional or occupational licenses.

1 (b) Applications for positions, licenses, and housing may not
2 contain requests for information concerning evaluation or treatment
3 experiences.

4 (c) It is unlawful for a person to aid, abet, incite, compel or
5 coerce the doing of an act forbidden under this section or to attempt
6 to do so.

7 ARTICLE 10. MISCELLANEOUS PROVISIONS.

8 Sec. 47.30.870. TRANSPORTATION. When a person is to be involun-
9 tarily committed to a facility, the department shall arrange, and is
10 authorized to pay for, the person's necessary transportation to the
11 designated facility accompanied by appropriate persons and if necessary
12 by a peace officer. The department shall pay return transportation of
13 a person, his escorts, and if necessary a peace officer, after a deter-
14 mination that the person is not committable, at the end of a commitment
15 period, or at the end of a voluntary stay at a treatment facility
16 following an evaluation conducted in accordance with AS 47.30.715.
17 When advisable, one or more relatives or friends shall be permitted to
18 accompany the person. The department may pay necessary travel, housing
19 and meal expenses incurred by one relative or friend in accompanying
20 the person if the department determines that the person's best interests
21 require that he be accompanied by the relative or friend and the rela-
22 tive or friend is indigent.

23 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers
24 of a person who is admitted to a treatment facility under AS 47.30.655 -
25 47.30.915 shall include a statement as to his residence. The department
26 may return a patient who is not a resident of the state to the state of
27 his residence with court approval if the person has been committed. If
28 the state in which he has residence does not accept him as a patient,
29 the person shall be treated as a resident of this state under the pro-

1 visions of AS 47.30.655 - 47.30.915.

2 (b) To facilitate the return of nonresident patients the depart-
3 ment may enter a reciprocal agreement or compact with another state
4 providing for the prompt return under appropriate supervision of resi-
5 dents of that state who are mentally ill. Mentally ill residents of
6 this state who have been placed in a facility outside this state may be
7 admitted with the approval of the department to a treatment facility in
8 the state designated by the department. The department may enter into
9 reciprocal agreements or contracts with another state providing for
10 custody, care or treatment, or return of mentally ill residents of this
11 state by the other state and for the custody and care or treatment of
12 mentally ill residents of that state by this state on a reimbursable
13 basis. A resident of this state who has been committed in another
14 state and is returned in accordance with this section shall, within 72
15 hours of his admission to the designated facility, be examined. After
16 examination the mental health professional in charge shall release him
17 or shall petition for involuntary commitment as prescribed in AS 47.30.-
18 740.

19 (c) In taking action under (a) and (b) of this section, consider-
20 ation shall be given to the best interests of the patient particularly
21 to the relationship of the patient to his family, legal guardian, or
22 friends to maintain relationships and encourage visits beneficial to
23 the patient.

24 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -
25 47.30.915 alters or impairs the application or availability to a pa-
26 tient, while hospitalized in another state under contractual arrange-
27 ments entered in accordance with AS 47.30.655 - 47.30.915, of the
28 rights, remedies or safeguards provided by the laws of this state.

29 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The

1 department shall insure that

2 (1) no patient is discharged from a treatment facility with-
3 out suitable clothing; and

4 (2) a discharged indigent patient is furnished

5 (A) suitable transportation to his permanent residence
6 in this state or to another suitable place at the discretion of
7 the department; and

8 (B) a reasonable amount of money to meet his immediate
9 needs.

10 Sec. 47.30.895. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
11 FUNDS. (a) Assets in the custody of a treatment facility which belong
12 to a patient who dies before discharge, or to a patient who leaves the
13 hospital without authority, if unclaimed by the patient or his legal
14 heirs or representatives within one year after the death or departure
15 of the patient, shall be disposed of in the manner prescribed by the
16 department and the proceeds shall be deposited in the state treasury.

17 (b) If a mentally ill individual has died in a foreign facility
18 and the department desires to recover the patient's personal property
19 under this section, the commissioner of health and social services or
20 his designated representative may secure the property and for that pur-
21 pose only is designated the decedent's administrator. Property so
22 recovered shall be disposed of as provided by law.

23 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-
24 partment shall make diligent inquiry in every instance after departure
25 without authority or death of a patient, to ascertain the whereabouts
26 of the patient or that of his legal heirs or representatives, and shall
27 turn over to the proper person the money or articles of personal prop-
28 erty in the custody of the facility to the credit of the patient.
29 Claims to the money or articles of personal property, including claims

1 by this state, may be presented to the department at any time. If a
2 claim other than by this state is established by clear and convincing
3 evidence more than one year after the death or departure without
4 authority of a patient, it shall be certified to the legislature for
5 consideration and the legislature may pay the claim.

6 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
7 The witnesses, expert witnesses, and the jury in commitment proceedings
8 under AS 47.30.655 - 47.30.915 are entitled to the fees, compensation,
9 and mileage established by the administrative rules of court for other
10 jurors and witnesses. Compensation, mileage, fees, transportation
11 expenses for a respondent, and other expenses arising from evaluation
12 and commitment proceedings shall be audited and allowed by the superior
13 court of the judicial district in which the proceedings are held. To
14 the extent that services of a peace officer are used to carry out the
15 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and
16 actual expenses from the same source and in the same manner as for his
17 other official duties.

18 (b) An attorney appointed for a person under AS 47.30.655 - 47.-
19 30.915 shall be compensated for his services as follows:

20 (1) the person for whom an attorney is appointed shall, if
21 he is financially able under standards as to financial capability and
22 indigency set by the court, pay the costs of the legal services;

23 (2) if the person is indigent under those standards, the
24 costs of the services shall be paid by the state.

25 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
26 FACILITY. (a) A patient, or his legal representative acting in a
27 representative capacity, or his spouse, or his parents if the patient
28 is under the age of 18, shall pay or contribute to the payment of the
29 charges for the care, transportation, and treatment of the patient when

1 hospitalized under AS 47.30.655 - 47.30.915. Charges assessed after an
2 order for commitment for treatment is issued and charges assessed when
3 a patient is hospitalized at a facility operated by the department, or
4 under a contract for services with the department, may not exceed the
5 actual cost of the care and treatment. The department may order payment
6 by the patient or by the person responsible for payment for the
7 patient's care and treatment under this subsection, according to ability
8 to provide for payment. The department may make necessary investiga-
9 tions to determine the ability to pay and may require sworn statements
10 of income by the patient, or his legal representative acting in a
11 representative capacity, or his spouse or parent. In the exercise of
12 his discretion, the commissioner may impose full liability for the
13 patient's actual cost of care and treatment on the patient, his legal
14 representative, his spouse or parent for refusal to supply a sworn
15 statement of income. An order for payment shall be issued by the de-
16 partment within six months after the date on which the charge was in-
17 curred. The order shall remain in full force and effect unless modified
18 by subsequent court or department order. Liability under this subsec-
19 tion shall be determined as follows: a patient hospitalized under
20 AS 47.30.655 - 47.30.915, or the person responsible for payment of
21 charges for the patient, may be required to pay according to his ability
22 to provide for payment, and in the manner and proportion which the
23 department finds is not detrimental to the patient's rehabilitation.
24 The department shall, at any time that it determines the action will
25 serve the best interests of the state and the patient or the person
26 responsible for payment, relieve the patient or the person responsible
27 for payment from liability for charges for the care, transportation,
28 and treatment of the patient.

29 (b) As used in (a) of this section, the term "actual cost of the

1 care and treatment" means either the rate provided for by a contract
2 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a
3 contract, a daily rate approved by the department.

4 (c) The department may charge, or accept from a person money or
5 property, for the care or treatment of an inpatient or outpatient or
6 for other purposes, even if the payment is not required by an order of
7 the department, so long as the total payments received do not exceed
8 the actual cost of care or treatment.

9 (d) All money paid by the patient or on his behalf, to the depart-
10 ment under this section, shall be deposited in the state treasury.

11 (e) If an order for payment is entered by the department under
12 this section, and delinquency in the payment of any amount due the
13 state under the order continues for a period of more than 30 days after
14 the notification to the patient or the legal representative, spouse, or
15 parent of the patient by the department, the state may proceed to col-
16 lect the amounts due by appropriate proceedings. Actions to enforce
17 the collection of payments may only be brought within three years after
18 the date of notification of a delinquent payment.

19 (f) The orders of the department issued under this section may
20 relate only to charges incurred after October 1, 1981.

21 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

22 (1) "commissioner" means the commissioner of health and
23 social services;

24 (2) "court" means a superior court of the state;

25 (3) "department" means the Department of Health and Social
26 Services;

27 (4) "designated treatment facility" means a hospital, clinic,
28 institution, center or other health care facility which has been desig-
29 nated by the department for the treatment or rehabilitation of mentally

1 ill persons and for the receipt of these persons by court-ordered
2 commitment, but does not include correctional institutions;

3 (5) "evaluation facility" means a health care facility that
4 has been designated or is operated by the department to perform the
5 evaluations described in AS 47.30.655 - 47.30.915; or a medical facility
6 licensed under AS 18.20.020;

7 (6) "evaluation personnel" means mental health professionals
8 designated by the department to conduct evaluations as prescribed in
9 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no
10 staffed evaluation facility exists;

11 (7) "gravely disabled" means a condition in which a person,
12 as a result of mental illness, is in danger of physical harm arising
13 from such complete neglect of basic needs for food, clothing, shelter,
14 or personal safety as to render serious accident, illness or death
15 highly probable if care by another is not taken;

16 (8) "inpatient treatment" means care and treatment rendered
17 inside or on the premises of a treatment facility, or a part or unit of
18 a treatment facility for a continual period of 24 hours or longer;

19 (9) "least restrictive alternative" means mental health
20 treatment facilities and conditions of treatment which are

21 (A) no more harsh, hazardous or intrusive than necessary
22 to achieve the treatment objectives of the patient; and

23 (B) involve no restrictions on physical movement nor
24 supervised residence or inpatient care except as reasonably neces-
25 sary for the administration of treatment or the protection of the
26 patient or others from physical injury;

27 (10) "likely to cause serious harm" means a person who

28 (A) poses a substantial risk of imminent and substantial
29 bodily harm to himself, as manifested by recent attempts at suicide

1 or bodily harm;

2 (B) poses a substantial risk of imminent and substantial
3 bodily harm to one or more other persons as manifested by behavior
4 causing, or attempting harm, including, in regard to evaluations,
5 at least one incident within 30 days before the filing of a petition
6 for emergency hospitalization; or

7 (C) demonstrates a current intent to carry out plans of
8 serious harm to himself or another;

9 (11) "mental health professional" means a psychiatrist or
10 physician who is licensed to practice in this state or employed by the
11 federal government; a clinical psychologist licensed by the state Board
12 of Psychologists and Psychological Associate Examiners; a psychological
13 associate with a clinical psychology or counseling specialty licensed
14 by the Board of Psychologists and Psychological Associate Examiners; a
15 registered nurse with a master's degree in psychiatric nursing, licensed
16 by the State Board of Nursing; and a social worker with a master's
17 degree in social work and experience in the field of mental illness;

18 (12) "mental illness" means an organic, mental or emotional
19 impairment which has substantial adverse effects on an individual's
20 ability to exercise conscious control of his actions or ability to
21 perceive reality or to reason or understand; mental retardation, epi-
22 lepsy, drug addiction and alcoholism do not per se constitute mental
23 illness, although persons suffering from these conditions may also be
24 suffering from mental illness;

25 (13) "peace officer" includes a state police officer, muni-
26 cipal or other local police officer, state, municipal, or other local
27 health officer, public health nurse, United States marshal or deputy
28 United States marshal, or a person authorized by the court;

29 (14) "provider of outpatient care" means a mental health pro-

1 fessional or hospital, clinic, institution, center or other health care
2 facility who has been designated by the department to accept for treat-
3 ment patients who are ordered to undergo involuntary outpatient treat-
4 ment by the court or who are released early from inpatient commitments
5 on condition that they undergo outpatient treatment;

6 (15) "screening investigation" means the investigation and
7 review of facts which have been alleged to warrant emergency exam-
8 ination or treatment, including interviews with the persons making such
9 allegations, any other significant witnesses who can readily be con-
10 tacted for interviews, and, if possible, the respondent;

11 (16) "state" means a state of the United States, the District
12 of Columbia, the territories and possessions of the United States, and
13 the Commonwealth of Puerto Rico, and, with the approval of the United
14 States Congress, Canada;

15 (17) "professional person in charge" means the senior mental
16 health professional at a facility or his designee; in the absence of a
17 mental health professional it means the chief of staff or other senior
18 physician.

19 * Sec. 2. AS 12.45.087(a) is amended to read:

20 (a) If a defendant has filed a notice of intention to rely on the
21 defense of mental disease or defect excluding responsibility, or there
22 is reason to doubt his fitness to proceed, or there is reason to believe
23 that mental disease or defect of the defendant will otherwise become an
24 issue in the cause, the court shall appoint at least one qualified
25 psychiatrist, or a forensic psychologist certified by the American
26 Board of Forensic Psychology, or shall request the superintendent of
27 the Alaska Psychiatric Institute to designate at least one qualified
28 psychiatrist, which designation may be or include himself, to examine
29 and report upon the mental condition of the defendant. If the defen-

1 dant has filed notice under AS 12.45.090(a) the report shall consider
2 whether the defendant can still be committed under AS 12.45.090. The
3 court may order the defendant to be committed to a hospital or other
4 suitable facility for the purpose of the examination for not more than
5 60 days or such longer period as the court determines to be necessary
6 for the purpose and may direct that a qualified psychiatrist retained
7 by the defendant be permitted to witness and participate in the exam-
8 ination.

9 * Sec. 3. AS 12.45.090 is repealed and reenacted to read:

10 Sec. 12.45.090. PROCEDURE AFTER RAISING DEFENSE OF MENTAL DISEASE
11 OR DEFECT. (a) At the time the defendant files notice to raise the
12 affirmative defense of mental disease or defect as excluding responsi-
13 bility he shall also file notice as to whether if found not guilty by
14 reason of mental disease or defect as excluding responsibility he will
15 assert that he is not presently suffering from a mental disease or
16 defect that causes him to be dangerous to the public peace or safety.

17 (b) If the defendant is found not guilty by reason of mental
18 disease or defect as excluding responsibility and he has not filed the
19 notice required under (a) of this section, the court shall immediately
20 commit him to the custody of the commissioner of health and social
21 services.

22 (c) If the defendant is found not guilty by reason of mental
23 disease or defect as excluding responsibility, and he has filed the
24 notice required under (a) of this section, a hearing shall be held
25 immediately after the verdict is returned to determine the necessity of
26 further commitment. The hearing shall be held before the same trier of
27 fact as the underlying charge, but if a jury was the trier of fact, the
28 hearing shall be held before a jury of six drawn from the original jury
29 in accordance with rules adopted by the supreme court. At the hearing,

1 the defendant has the burden of proving by a preponderance of the
2 evidence that he is not presently suffering from a mental disease or
3 defect that causes him to be dangerous to the public. If the court or
4 jury determines that the defendant has failed to meet his burden of
5 proof, the court shall order the defendant committed to the custody of
6 the commissioner of health and social services.

7 (d) A defendant committed under (b) or (c) of this section shall
8 be held in custody for a period of time not to exceed the maximum term
9 of imprisonment for the crime for which the defendant was acquitted
10 under AS 12.45.083 or until the mental disease is cured or the defect
11 corrected as determined at a hearing under (e) of this section.

12 (e) A defendant committed under (b) or (c) of this position may
13 have the need for his continued hospitalization determined or redeter-
14 mined under a petition filed in the superior court at intervals begin-
15 ning no sooner than six months from his initial commitment and yearly
16 thereafter. The burden and standard of proof at a hearing under this
17 subsection is the same as at a hearing under (c) of this section except
18 that the defendant is not entitled to a jury unless he files a motion
19 for a jury no later than 15 days before the date set for the hearing.
20 A copy of all petitions for release shall be served on the attorney
21 general at Juneau, Alaska. A copy shall also be served upon the attor-
22 ney of record, if he is not the attorney general, who represented the
23 state or a municipality at the time the defendant was first committed.

24 (f) Continued commitment following expiration of the maximum term
25 of imprisonment for the crime for which the defendant was acquitted
26 under AS 12.45.083 is governed by the standards pertaining to civil
27 commitments as set out in AS 47.30.735.

28 (g) A person committed under this section may not be released
29 during the term of commitment except upon court order following a

1 hearing in accordance with (c) of this section. On the grounds that
2 the defendant has been cured of the mental disease or defect and is no
3 longer dangerous to public peace or safety the state may at any time
4 request the court to hold a hearing to decide if the defendant should
5 be released.

6 (h) The commissioner of health and social services or his author-
7 ized representative shall submit periodic written reports to the court
8 on the mental condition of a person committed under this section.

9 * Sec. 4. AS 12.45.110 is repealed and reenacted to read:

10 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When
11 the trial court determines by a preponderance of the evidence, in
12 accordance with AS 12.45.100, that a defendant is so mentally incompe-
13 tent that he is unable to understand the proceedings against him or
14 properly to assist in his own defense, the court shall order the pro-
15 ceedings against him stayed, except as provided in (d) of this section,
16 and may commit the defendant to the custody of the commissioner of
17 health and social services or his authorized representative for further
18 evaluation and treatment until the defendant is mentally competent to
19 stand trial, or until the pending charges against him are disposed of
20 according to law, but in no event longer than 90 days.

21 (b) On or before the expiration of the initial 90-day period of
22 commitment the court shall conduct a hearing to determine whether or
23 not the defendant remains incompetent. If the court finds by a pre-
24 ponderance of the evidence that the defendant remains incompetent, the
25 court may recommit the defendant for a second period of 90 days. The
26 court shall determine at the expiration of the second 90-day period
27 whether the defendant has become competent. If at the expiration of
28 the second 90-day period the court determines that the defendant con-
29 tinues to be incompetent to stand trial, the charges against him shall

1 be dismissed without prejudice and continued commitment of the defendant
2 shall be governed by the provisions relating to civil commitments under
3 AS 47.30.700 - 47.30.915 unless the defendant is charged with a crime
4 involving force against a person and the court finds that the defendant
5 presents a substantial danger of physical injury to other persons and
6 that there is a substantial probability that the defendant will regain
7 competency within a reasonable period of time, in which case the court
8 may extend the period of commitment for an additional six months. If
9 the defendant remains incompetent at the expiration of the additional
10 six-month period, the charges shall be dismissed without prejudice and
11 either civil commitment proceedings shall be instituted or the court
12 shall order the release of the defendant. If the defendant remains
13 incompetent for five years after the charges have been dismissed under
14 this subsection, the defendant may not be charged again for an offense
15 arising out of the facts alleged in the original charges, except if the
16 original charge is murder.

17 (c) The defendant is not responsible for the expenses of hospital-
18 ization or transportation incurred as a result of his commitment under
19 this section. Liability for payment under AS 47.30.910 does not apply
20 to commitments under this section.

21 (d) A defendant receiving medication for either a physical or a
22 mental condition may not be prohibited from standing trial, if the
23 medication either enables him to understand the proceedings against him
24 and to properly assist in his own defense or does not disable him from
25 understanding the proceedings and assisting in his own defense.

26 * Sec. 5. AS 12.45.115 is amended to read:

27 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]
28 COMMITMENT. (a) When, in the medical judgment of the custodian of an
29 accused person committed under AS 12.45.110 [AS 12.45.110(a)], the

1 accused is considered to be mentally competent to stand trial, the
2 committing court shall hold a hearing, after due notice, as soon as
3 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At
4 the hearing, evidence as to the mental condition of the accused may be
5 submitted including reports by the custodian to whom the accused was
6 committed for care.

7 (b) If at the hearing the court determines that the accused is
8 presently mentally competent to understand the nature of the proceedings
9 against him and [OR] to assist in his own defense, appropriate criminal
10 proceedings may [SHALL] be commenced against the accused.

11 (c) If at the hearing the court determines that the accused is
12 still presently mentally incompetent, the court shall recommit the
13 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-
14 110(a)].

15 (d) A finding by the court that the accused is mentally competent
16 to stand trial in no way prejudices the accused in a defense based on
17 mental disease or defect excluding responsibility. This finding may
18 not be introduced in evidence on that issue or otherwise be brought to
19 the notice of the jury.

20 * Sec. 6. Except as provided in this Act, the provisions of AS 47.30.-
21 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair
22 any action taken in a proceeding pending under statutes in effect before
23 October 1, 1981, nor do they apply retroactively to terminate the detention
24 of a person previously committed under statutes in effect before October 1,
25 1981. However, 90 days after October 1, 1981, the provisions of this Act
26 apply to all persons committed under statutes in effect before October 1,
27 1981.

28 * Sec. 7. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are
29 repealed.

1 * Sec. 8. This Act takes effect October 1, 1981.

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Introduced: 1/19/81
Referred: Health, Education &
Social Services and Judiciary

1 IN THE SENATE

BY PARR, STIMSON AND FISCHER

2 SENATE BILL NO. 100

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mentally ill persons; and providing
7 for an effective date."

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

9 * Section 1. AS 47.30 is amended by adding new sections to read:

10 ARTICLE 6. MENTAL HEALTH PROGRAM.

11 Sec. 47.30.655. PURPOSE. The purpose of this major revision of
12 Alaska civil commitment statutes is to more adequately protect the legal
13 rights of persons suffering from mental illness. The legislature has
14 attempted to balance the individual's constitutional right to physical
15 liberty and the state's interest in (1) protecting society from persons
16 who are dangerous to others; and (2) protecting persons who are dan-
17 gerous to themselves, by providing due process safeguards at all stages
18 of commitment proceedings. In addition, the following principles of
19 modern mental health care have guided this revision:

20 (1) that persons be given every opportunity to accept volun-
21 tary treatment before involvement with the judicial system;

22 (2) that persons be treated in the least restrictive alter-
23 native environment consistent with their treatment needs;

24 (3) that treatment occur as promptly as possible and as close
25 to the individual's home as possible;

26 (4) that a system of mental health community facilities and
27 supports be available;

28 (5) that patients be informed of their legal rights and be
29 informed of and allowed to participate in their treatment program as

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to
3 others be committed only if there is a reasonable expectation of im-
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of
8 mental illness and the care and treatment of the mentally ill, including
9 inpatient and outpatient care and treatment and the procurement of
10 services of specialists or other persons on a contractual or other
11 basis;

12 (2) take the actions and undertake the obligations which are
13 necessary to participate in federal grants-in-aid programs and accept
14 federal or other financial aid from whatever sources for the study,
15 examination, care, and treatment of the mentally ill;

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities
18 equipped and qualified to provide inpatient and outpatient care and
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for
23 the care or treatment of the mentally ill in facilities of the govern-
24 mental agencies in the state or in another state;

25 (7) enter into contracts with treatment facilities for the
26 custody and care or treatment of the mentally ill;

27 (8) enter into contracts which incorporate safeguards consis-
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,
5 requests for release and consents to medical or psychological treatment
6 required by AS 47.30.655 - 47.30.915;

7 (10) require reports from the head of a treatment facility
8 concerning the care of patients;

9 (11) visit each treatment facility at least annually to review
10 methods of care or treatment for patients;

11 (12) investigate complaints made by a patient or an interested
12 party on behalf of a patient;

13 (13) delegate upon mutual agreement to another officer or
14 agency of it, or a political subdivision of this state, or a treatment
15 facility designated, any of the duties and powers imposed upon it by
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-
18 30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14
21 years of age or older may be voluntarily admitted to a treatment facil-
22 ity if he is suffering from mental illness and he voluntarily signs the
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon application for
25 voluntary admission a person shall be given a copy of the following
26 documents which shall be explained to him as necessary:

27 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
28 and an explanation of any document served upon him; and

29 (2) notice that should he desire to leave at a time when the

1 treatment facility determines that he is mentally ill and as a result is
2 likely to cause serious harm to himself or others or is gravely dis-
3 abled, the facility could initiate commitment proceedings against him.

4 (b) If the applicant for voluntary admission does not understand
5 English, the explanation shall be given in a language he understands.

6 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. The professional
7 person in charge of the treatment facility or his designee shall dis-
8 charge any patient who no longer meets the standards established in
9 AS 47.30.670.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT. A
11 voluntary patient who is 14 years of age or older and who desires to
12 leave a treatment facility must submit to the facility a written notice
13 of intent to leave on a form provided to him by the facility. Upon
14 immediate investigation, the professional person in charge of the treat-
15 ment facility or a designated mental health professional shall evaluate
16 the patient in writing and discharge the patient immediately or give him
17 written notice that involuntary commitment proceedings will be initiated
18 against him. The treatment facility may detain the patient for no more
19 than 48 hours after receipt of the patient's notice of intent to leave
20 in order to initiate involuntary commitment proceedings.

21 Sec. 47.30.690. VOLUNTARY ADMISSION OF MINORS UNDER 14 YEARS OF
22 AGE. (a) A minor under the age of 14 may be admitted for 30 days
23 evaluation, diagnosis and treatment at a designated treatment facility
24 if his parent or guardian signs the admission papers and if, in the
25 opinion of the professional person in charge of the facility,

26 (1) he is gravely disabled or is suffering from mental ill-
27 ness and as a result he is likely to cause serious harm to himself or
28 others;

29 (2) there is no less restrictive alternative available for

1 his treatment; and

2 (3) there is reason to believe that the patient's mental
3 condition could be improved by the course of treatment.

4 (b) The minor may be released by the treatment facility at any
5 time during the 30-day period if the professional person in charge of
6 the facility or his designated mental health professional determines
7 the minor would no longer benefit from continued hospitalization and
8 the minor is not dangerous. The minor's parents or his guardian must
9 be notified by the facility of the contemplated release and that,
10 unless they initiate involuntary commitment proceedings, the minor will
11 be released.

12 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14
13 YEARS OF AGE FROM VOLUNTARY DETENTION AND COMMITMENT. The parent or
14 guardian of any minor who is less than 14 years of age may request and
15 obtain immediate release of the minor at any time.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult, a judge shall immediately conduct a
19 screening investigation or direct a local mental health professional
20 employed by the department or by a program which receives money from
21 the department under AS 47.30.520 - 47.30.620 to conduct a screening
22 investigation of the person alleged to be mentally ill and, as a result
23 of that condition, alleged to be gravely disabled or to present a
24 likelihood of serious harm to himself or others. Within 48 hours after
25 the completion of the screening investigation, a judge may issue an ex
26 parte order orally or in writing, stating that there is probable cause
27 to believe the respondent is mentally ill and that condition causes the
28 respondent to be gravely disabled or to present a likelihood of serious
29 harm to himself or others. The court shall provide findings on which

1 the conclusion is based, appoint an attorney to represent the respon-
2 dent, and may direct that a peace officer take the person into custody
3 and deliver him to the nearest designated appropriate facility for
4 emergency examination or treatment. The ex parte order shall be pro-
5 vided to the respondent and made a part of the respondent's clinical
6 record.

7 (b) The petition required in (a) of this section shall allege that
8 the respondent is reasonably believed to present a likelihood of serious
9 harm to himself or others or is gravely disabled as a result of mental
10 illness and shall specify the factual information on which that belief
11 is based including the names and addresses of all persons known to the
12 petitioner who have knowledge of those facts through personal observa-
13 tion.

14 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
15 officer who has probable cause to believe that a person is gravely
16 disabled or is suffering from mental illness and is likely to cause
17 serious harm to himself or others of such an immediate nature that con-
18 siderations of safety do not allow initiation of involuntary commitment
19 procedures set out in AS 47.30.700, may cause the person to be taken
20 into custody and delivered to a treatment or evaluation facility. Upon
21 arrival at the treatment facility, the peace officer shall complete an
22 application for examination of the person in custody and be interviewed
23 by a mental health professional at the facility.

24 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
25 under AS 47.30.700 or 47.30.705 for emergency examination and treatment
26 to a treatment facility shall be thoroughly examined and evaluated as to
27 his mental and physical condition by a mental health professional and by
28 a physician within 24 hours after arrival at the facility.

29 (b) If the mental health professional who performs the emergency

1 examination has reason to believe that the respondent is (1) mentally
2 ill and that condition causes the person to be gravely disabled or to
3 present a likelihood of serious harm to himself or others, and (2) is in
4 need of care or treatment, the mental health professional may hospi-
5 talize him on an emergency basis. If a judicial order has not been
6 obtained under AS 47.30.700, the mental health professional shall apply
7 for an ex parte order authorizing hospitalization for emergency treat-
8 ment.

9 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
10 proper order for evaluation, it must accept the order and the respondent
11 for an evaluation period not to exceed 72 hours. The facility shall
12 promptly notify the court of the date and time of the respondent's
13 arrival. The court shall set a date, time and place for a 14-day com-
14 mitment hearing, to be held if needed within 72 hours after the respon-
15 dent's arrival, and the court shall notify the facility, the respondent,
16 his attorney, and the prosecuting attorney of the hearing arrangements.
17 Evaluation personnel, where used, shall similarly notify the court of
18 the date and time when they first met with the respondent.

19 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
20 at any time in the course of the 72-hour period the mental health pro-
21 fessionals conducting the evaluation determine that the respondent does
22 not meet the standards for commitment specified in AS 47.30.700, the
23 respondent shall be discharged from the facility or the place of evalua-
24 tion by evaluation personnel and the petitioner and the court so noti-
25 fied.

26 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)
27 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
28 30.915, he shall be immediately notified orally and in writing of his
29 rights under this section. Notification shall be in a language under-

1 stood by the respondent. His guardian, if any, and if the respondent
2 requests, an adult designated by the respondent, shall also be notified
3 of the respondent's rights under this section.

4 (b) Unless a respondent is released or voluntarily admits himself
5 for treatment within 72 hours of his arrival at the facility or, if he
6 is evaluated by evaluation personnel, within 72 hours from the beginning
7 of his meeting with evaluation personnel, he is entitled to a court
8 hearing to be set for not later than the end of that 72-hour period to
9 determine whether there is cause to detain him after the 72 hours have
10 expired for up to an additional 14 days on the grounds that he is grave-
11 ly disabled or mentally ill and as a result presents a likelihood of
12 serious harm to himself or others. The facility or evaluation personnel
13 shall give notice to the court of the releases and voluntary admissions
14 under AS 47.30.700 - 47.30.820.

15 (c) The respondent has a right to communicate immediately, at the
16 department's expense, with his guardian, if any, or an adult designated
17 by the respondent and the attorney designated in the ex parte order, or
18 any attorney of the respondent's choice.

19 (d) The respondent has the right to be represented by an attorney,
20 to present evidence and to cross-examine witnesses who testify against
21 him at the hearing.

22 (e) The respondent has the right to be free of the effects of
23 medication and other forms of treatment to the maximum extent possible
24 before the 14-day commitment hearing; however, the facility or evalua-
25 tion personnel may treat him with medication under prescription by a
26 licensed physician or by a less restrictive alternative of his pre-
27 ference if, in the opinion of a licensed physician and another mental
28 health professional, the treatments are necessary to

29 (1) prevent bodily harm to the respondent or others;

1 (2) prevent such deterioration of the respondent's mental
2 condition that subsequent treatment might not enable him to recover; or

3 (3) allow the respondent to prepare for and participate in
4 the proceedings.

5 (f) A respondent, if he is represented by counsel, may waive,
6 orally or in writing, the 72-hour time limit on the 14-day commitment
7 hearing and have the hearing set for a date no more than seven calendar
8 days after his arrival at the facility. The respondent's counsel shall
9 immediately notify the court of the waiver.

10 Sec. 47.30.730. PROCEDURE FOR 14-DAY COMMITMENT; PETITION FOR
11 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
12 petition for commitment to a treatment facility may be filed in court.
13 The petition must be signed by two mental health professionals who have
14 examined the respondent. The petition must

15 (1) allege that the respondent is mentally ill and as a
16 result is likely to cause harm to himself or others or is gravely dis-
17 abled;

18 (2) allege that the evaluation staff has considered but has
19 not found that there are any less restrictive alternatives available
20 that would adequately protect the respondent or others; or, if a less
21 restrictive involuntary form of treatment is sought, specify the treat-
22 ment and the basis for supporting it;

23 (3) allege with respect to a gravely disabled respondent that
24 there is reason to believe that the respondent's mental condition could
25 be improved by the course of treatment sought;

26 (4) allege that a specified treatment facility or less re-
27 strictive alternative that is appropriate to the respondent's condition
28 has agreed to accept the respondent;

29 (5) allege that the respondent has been advised of the need

1 for, but has not accepted, voluntary treatment, and request that the
2 court commit the respondent to the specified treatment facility or less
3 restrictive alternative for a period not to exceed 14 days;

4 (6) list the prospective witnesses who will testify in sup-
5 port of commitment or involuntary treatment;

6 (7) list the facts and specific behavior of the respondent
7 supporting the allegation in (1) of this subsection.

8 (b) A copy of the petition shall be served on the respondent, his
9 attorney, and his guardian, if any, before the 14-day commitment hear-
10 ing.

11 Sec. 47.30.735. 14-DAY COMMITMENT. (a) Upon receipt of a proper
12 petition for commitment, the court shall hold a hearing at the date and
13 time previously specified according to procedures set out in AS 47.30.-
14 715.

15 (b) The hearing shall be conducted in a physical setting least
16 likely to have a harmful effect on the mental or physical health of the
17 respondent, within practical limits. At the hearing, in addition to
18 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
19 the right

20 (1) to be present at the hearing; this right may be waived
21 only with the respondent's informed consent; if the respondent is in-
22 capable of giving informed consent, the respondent may be excluded from
23 the hearing only if the court, after hearing, finds that the incapacity
24 exists and that there is a substantial likelihood that the respondent's
25 presence at the hearing would be severely injurious to his mental or
26 physical health;

27 (2) to view and copy all petitions and reports in the court
28 file of his case;

29 (3) to have the hearing open or closed to the public as he

1 elects;

2 (4) to be proceeded against according to the rules of evi-
3 dence applicable to civil proceedings;

4 (5) to have an interpreter if he does not understand English;

5 (6) to present evidence on his behalf;

6 (7) to cross-examine witnesses who testify against him;

7 (8) to remain silent.

8 (c) At the conclusion of the hearing the court may commit the re-
9 spondent to a treatment facility for not more than 14 days if it finds,
10 by clear and convincing evidence, that the allegations required in
11 AS 47.30.730(a) are true.

12 (d) If the court finds that there is a viable less restrictive
13 alternative available and that the respondent has been advised of and
14 refused voluntary treatment through the alternative, the court may order
15 the less restrictive alternative treatment for not more than 14 days.

16 (e) The court shall specifically state to the respondent, and
17 give him written notice, that if commitment or other involuntary treat-
18 ment beyond the 14 days is to be sought, the respondent shall have the
19 right to a full hearing or jury trial.

20 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 14-DAY
21 COMMITMENT. (a) At any time during the respondent's 14-day commitment,
22 the professional person in charge of the treatment facility to which the
23 respondent has been confined, or his professional designee, may file
24 with the court a petition for 90-day commitment of that respondent. The
25 petition must include all material required under AS 47.30.730(a) except
26 that references to "14 days" shall be read as "90 days"; and

27 (1) allege that the respondent has attempted to inflict or
28 has inflicted serious bodily harm upon himself or another since his
29 acceptance for evaluation, or that he was committed initially as a

1 result of conduct in which he attempted or inflicted serious bodily harm
2 upon himself or another, or that he continues to be gravely disabled;

3 (2) allege that the respondent has received appropriate and
4 adequate care and treatment during his 14-day commitment;

5 (3) be verified by the professional person in charge of the
6 facility providing treatment during the 14-day commitment, or his pro-
7 fessional designee.

8 (b) The court shall have copies of the petition for 90-day commit-
9 ment served upon the respondent, his attorney, and his guardian, if any.
10 The petition for 90-day commitment and proofs of service shall be filed
11 with the clerk of the court, and a date for hearing shall be set, by the
12 end of the next judicial day, for not later than five judicial days from
13 the date of filing of the petition. The clerk shall notify the respon-
14 dent, his attorney, and the petitioner of the hearing date at least
15 three judicial days in advance of the hearing.

16 (c) Findings of fact relating to the respondent's behavior made at
17 a 14-day commitment hearing under AS 47.30.735 shall be admitted as
18 evidence and may not be rebutted except that newly discovered evidence
19 may be used for the purpose of rebutting the findings.

20 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
21 dent subject to a petition for 90-day commitment has, in addition to the
22 rights specified elsewhere in this chapter, or otherwise applicable, the
23 rights enumerated in this section. Written notice of these rights shall
24 be served on the respondent, his attorney, his guardian, if any, and an
25 adult designated by the respondent at the time the petition for 90-day
26 commitment is served. An attempt shall be made by oral explanation to
27 insure that the respondent understands the rights enumerated in the
28 notice. If the respondent does not understand English, the explanation
29 shall be given in a language he understands.

1 (b) Unless the respondent is released or voluntarily admits him-
2 self following the filing of a petition and before the hearing, he is
3 entitled to a judicial hearing within five judicial days of the filing
4 of the petition as set out in AS 47.30.740(b) to determine whether the
5 allegations required in AS 47.30.740(a) are true. If the respondent
6 voluntarily admits himself following the filing of the petition, the
7 voluntary admission constitutes a waiver of any hearing rights under
8 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-
9 dent's voluntary admission under this subsection, the respondent submits
10 to the facility a written notice of intent to leave, the professional
11 person in charge of the treatment facility may file with the court a
12 petition for 120-day commitment of the respondent under AS 47.30.770.
13 The 120-day commitment hearing shall be scheduled for a date not
14 earlier than 90 days after the respondent's voluntary admission.

15 (c) The respondent is entitled to a jury trial upon request filed
16 with the court if the request is made at least two judicial days before
17 the hearing. If the respondent requests a jury trial, the hearing may
18 be continued for no more than 10 calendar days. The jury shall consist
19 of six persons.

20 (d) If a jury trial is not requested, the court may still con-
21 tinue the hearing at the respondent's request for no more than 10
22 calendar days.

23 (e) The respondent has a right to retain an independent licensed
24 physician or other mental health professional to examine him and to
25 testify on his behalf. Upon request by an indigent respondent, the
26 court shall appoint an independent licensed physician or other mental
27 health professional to examine him and testify on his behalf. The
28 court shall consider an indigent respondent's request for a specific
29 physician or mental health professional. A motion for the appointment

1 may be filed in court at any reasonable time before the hearing and
2 shall be acted upon promptly. Reasonable fees and expenses for expert
3 examiners shall be determined by the rules of court.

4 (f) The proceeding shall in all respects be in accord with con-
5 stitutional guarantees of due process and, except as otherwise specifi-
6 cally provided in AS 47.30.700 - 47.30.815, the rules of evidence and
7 procedure in civil proceedings.

8 (g) Until the court issues a final decision, the respondent shall
9 continue to be treated at the treatment facility unless the petition for
10 90-day commitment is withdrawn. If no decision has been made within 20
11 days of filing of the petition, not including extensions of time due to
12 jury trial or other requests by the respondent, he shall be released.

13 Sec. 47.30.750. CONDUCT OF HEARING. The hearing shall be con-
14 ducted in the same manner, and with the same rights for the respondent,
15 as set out in AS 47.30.735(b).

16 Sec. 47.30.755. COURT ORDER. (a) After the hearing and within
17 the time limit specified in AS 47.30.745, the court may commit the
18 respondent to a treatment facility for no more than 90 days if the court
19 or jury finds by clear and convincing evidence that the allegations
20 required in AS 47.30.740(a) are true.

21 (b) If the court finds that there is a less restrictive alterna-
22 tive available and that the respondent has been advised of and refused
23 voluntary treatment through the alternative, the court may order the
24 less restrictive alternative treatment after acceptance by the program
25 of the respondent for a period not to exceed 90 days.

26 Sec. 47.30.760. PLACEMENT AT CLOSEST FACILITY. Treatment shall
27 always be available at a state-operated hospital; however, if space is
28 available and upon acceptance by another treatment facility, a respon-
29 dent who is committed shall be placed by the court at the treatment

1 facility closest to his home unless the court finds that

2 (1) another treatment facility in the state has a program
3 more suited to the respondent's condition, and this interest outweighs
4 the desirability of the respondent being closer to home;

5 (2) another treatment facility in the state is closer to the
6 respondent's friends or relatives who could benefit him through their
7 visits and communications; or

8 (3) the respondent wants to be further removed from his
9 home, and the mental health professionals who sought his commitment
10 concur in the desirability of removed placement.

11 Sec. 47.30.765. APPEAL. The respondent has the right to an
12 appeal from any order of involuntary commitment. The court shall
13 inform the respondent of this right.

14 Sec. 47.30.770. ADDITIONAL 120-DAY COMMITMENT. (a) The respondent
15 shall be released from involuntary treatment at the expiration of 90
16 days unless the professional person in charge of the treatment facility,
17 or his designee, files a petition for a 120-day commitment conforming
18 to the requirements of AS 47.30.740(a) except that all references to
19 "14-day commitment" shall be read as "the previous 90-day commitment"
20 and all references to "90-day commitment" shall be read as "120-day
21 commitment".

22 (b) The procedures for service of the petition, notification of
23 rights and judicial hearing shall be as set out in AS 47.30.740 -
24 47.30.750. If the court or jury finds by clear and convincing evidence
25 that the grounds for 90-day commitment as set out in AS 47.30.755 are
26 present, the court may order the respondent committed for an additional
27 treatment period not to exceed 120 days from the date on which the
28 first 90-day treatment period would have expired.

29 (c) Successive 120-day commitments are permissible on the same

1 ground and under the same procedures as the original 120-day commitment.
2 No order of commitment may exceed 120 days.

3 (d) Findings of fact relating to the respondent's behavior made at
4 a 14-day commitment hearing under AS 47.30.735, a 90-day commitment
5 hearing under AS 47.30.750, or a previous 120-day commitment hearing
6 under this section shall be admitted as evidence and may not be rebutted
7 except that newly discovered evidence may be used for the purpose of
8 rebutting the findings.

9 Sec. 47.30.775. COMMITMENT OF MINORS. The provisions of AS 47.-
10 30.700 - 47.30.815 apply to minors. However, all notices required to be
11 served on the respondent in AS 47.30.700 - 47.30.815 shall also be
12 served on the parent or guardian of a respondent who is a minor, and
13 parents or guardians of a minor respondent shall be notified that they
14 may appear as parties in any commitment proceeding concerning the minor
15 and that as parties they are entitled to retain their own attorney or
16 have one appointed for them by the court. A minor respondent has the
17 same rights to waiver and informed consent as an adult respondent under
18 AS 47.30.655 - 47.30.915; however, he shall be represented by counsel in
19 waiver and consent proceedings.

20 Sec. 47.30.780. EARLY DISCHARGE. The professional person in
21 charge of a treatment facility or his designee shall at any time dis-
22 charge a respondent on the ground that the respondent is no longer
23 gravely disabled or likely to cause serious harm as a result of mental
24 illness. A certificate to this effect shall be sent to the court which
25 shall enter an order officially terminating the involuntary commitment.

26 Sec. 47.30.785. AUTHORIZED ABSENCES. A respondent undergoing
27 involuntary treatment on an inpatient basis under AS 47.30.700 - 47.30.-
28 815 may be authorized to be absent from the treatment facility during
29 times specified by the professional person in charge of the facility, or

1 his professional designee, when an authorization to be absent is in the
2 best interests of the respondent and he is not likely to cause harm to
3 himself or others.

4 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a re-
5 spondent undergoing involuntary treatment on an inpatient basis is
6 absent from the treatment facility without, or in excess of, authoriza-
7 tion under AS 47.30.785, the professional person in charge of the facil-
8 ity or his professional designee may cause the respondent to be taken
9 into custody and returned to the treatment facility.

10 Sec. 47.30.795. INVOLUNTARY OUTPATIENT CARE FOR COMMITTED PERSONS.

11 (a) A respondent who was not originally committed to involuntary out-
12 patient care under AS 43.30.700 - 43.30.915 may be released before the
13 expiration of his commitment period on the condition that he receive
14 specified outpatient treatment from a provider of outpatient care, for a
15 length of time not to exceed the duration of his commitment period, when
16 the professional person in charge of the treatment facility or his
17 professional designee finds that

18 (1) security for the respondent or others no longer requires
19 that he be treated on an inpatient basis; and

20 (2) there is reason to believe that the respondent's mental
21 condition would improve as a result of the specified outpatient treat-
22 ment.

23 (b) A copy of the conditions for early release shall be given to
24 the respondent, his attorney, his guardian, if any, the provider of out-
25 patient care, and the court.

26 (c) If at any time during the commitment period the provider of
27 outpatient care determines that the respondent can no longer be treated
28 on an outpatient basis because he is likely to cause harm to himself or
29 others or is gravely disabled, the provider shall give the respondent

1 oral and written notice, with copies to the respondent's attorney, his
2 guardian, if any, the court and inpatient treatment facility, that he
3 must return to the inpatient treatment facility within 24 hours for a
4 length of time not to exceed the duration of his commitment period. If
5 the respondent fails to arrive at the treatment facility under a 24-hour
6 notice, the facility shall cause him to be taken into custody and trans-
7 ported to the facility. A peace officer shall assist the provider of
8 outpatient care or the facility if requested.

9 (d) If the provider of outpatient care determines that the respon-
10 dent will require continued outpatient care after the expiration of his
11 commitment period, the provider is entitled to initiate further commi-
12 ment proceedings in the same manner as if the provider were the pro-
13 fessional person in charge of a treatment facility, and the provisions
14 of AS 47.30.655 - 47.30.915 apply, except that provisions relating to
15 inpatient treatment shall be read as applicable to outpatient treatment.

16 Sec. 47.30.800. CONVERSION OF INVOLUNTARY OUTPATIENT TREATMENT TO
17 INPATIENT COMMITMENT. (a) A respondent ordered by the court under the
18 provisions of AS 47.30.700 - 47.30.915 to receive involuntary outpatient
19 treatment may be required to undergo inpatient treatment when the pro-
20 vider of outpatient care finds that (1) the respondent is mentally ill
21 and is likely to cause serious harm to himself or others or is still
22 gravely disabled; (2) the respondent's behavior since the hearing re-
23 sulting in courtordered treatment indicates that he now needs inpatient
24 treatment to protect himself or others; (3) there is reason to believe
25 that the respondent's mental condition will improve as a result of
26 inpatient treatment; and (4) there is an inpatient facility appropriate
27 to the respondent's need which will accept him as a patient. Treatment
28 for these respondents shall be available at state-operated hospitals at
29 all times.

1 (b) Upon making the findings specified in (a) of this section,
2 the provisions of AS 47.30.795(b) relating to notice and AS 47.30.745
3 relating to hearing apply.

4 Sec. 47.30.805. COMPUTING PERIODS OF TIME. (a) Except as pro-
5 vided in (b) of this section,

6 (1) computations of a 72-hour evaluation period do not in-
7 clude Saturdays, Sundays, legal holidays, or any period of time neces-
8 sary to transport the respondent to the treatment facility;

9 (2) a 14-day commitment period expires at the end of the
10 14th day after the 72 hours following initial acceptance;

11 (3) a 90-day commitment period expires at the end of the
12 90th day after the expiration of a 14-day period of treatment;

13 (4) a 120-day commitment period expires at the end of the
14 120th day, after the expiration of a 90-day period of treatment or
15 previous 120-day period, whichever is applicable.

16 (b) When a respondent has failed to appear or absented himself
17 contrary to any order properly made or entered under AS 47.30.655 -
18 47.30.915, the relevant commitment period shall be extended for a
19 period of time equal to the respondent's absence if written notice of
20 absence is promptly provided to the respondent's attorney and his
21 guardian, if there is one, and if, within 24 hours after the respondent
22 has returned to the evaluation or treatment facility, written notice of
23 the corresponding extension and the reason for it is given to the
24 respondent, his attorney, and to the court.

25 Sec. 47.30.810. HABEAS CORPUS. Nothing in AS 47.30.655 - 47.30.-
26 915 may be construed as limiting a person's right to a writ of habeas
27 corpus.

28 Sec. 47.30.815. LIMITATION OF LIABILITY; PENALTY FOR FALSE APPLI-
29 CATION. (a) A person acting in good faith upon either actual knowledge

1 or reliable information who makes application for evaluation or treat-
2 ment of another person under AS 47.30.700 - 47.30.915 is not subject to
3 civil or criminal liability.

4 (b) The following persons may not be held civilly or criminally
5 liable for detaining a person under AS 47.30.700 - 47.30.915 or for
6 releasing a person under AS 47.30.700 - 47.30.915 at or before the end
7 of the period for which the person was admitted or committed for evalua-
8 tion or treatment if the persons have performed their duties in good
9 faith and without gross negligence:

10 (1) an officer of a public or private agency;

11 (2) the superintendent, the professional person in charge,
12 the professional designee of the professional person in charge, and the
13 attending staff of a public or private agency;

14 (3) a public official performing functions necessary to the
15 administration of AS 47.30.700 - 47.30.915;

16 (4) a peace officer responsible for detaining a person under
17 AS 47.30.700 - 47.30.915.

18 (c) A person who wilfully initiates an involuntary commitment pro-
19 cedure under AS 47.30.700 without having good cause to believe that the
20 other person is suffering from a mental illness and as a result is
21 gravely disabled or likely to cause serious harm to himself or others,
22 is guilty of a felony.

23 ARTICLE 9. PATIENT RIGHTS.

24 Sec. 47.30.825. PATIENT RIGHTS; MEDICAL. All patients who are
25 receiving services from a treatment facility licensed under AS 18.20.-
26 020, have the following rights:

27 (1) The patient, or his counsel, guardian, or the adult
28 designated in accordance with AS 47.30.725 if the patient is mentally
29 incapable of participation, shall be entitled to participate in form-

1 ulating his individualized treatment plan and in the evaluation process
2 as much as possible, at minimum to the extent of requesting specific
3 forms of therapy, inquiring why specific therapies are or are not in-
4 cluded in his treatment program, and being informed as to his present
5 medical and psychological condition and prognosis. The treating phy-
6 sician may not withhold any of this information from the patient.

7 (2) Counsel and guardian for a patient, or if there is no
8 guardian the adult designated in accordance with AS 47.30.725, have the
9 right at all reasonable times to examine all records of, and plans for,
10 the patient's treatment and to make copies, upon payment of costs if
11 requested, of any portion of these records.

12 (3) Every patient has the right to know the name of medica-
13 tion that he is asked to take, what its purpose is, and what side
14 effects may occur with this medication. If the patient is incapable of
15 understanding the purpose and side effects of the medication, the treat-
16 ing physician or mental health professional shall explain it to the
17 patient's counsel or guardian, or if there is no guardian the adult
18 designated in accordance with AS 47.30.725.

19 (4) The quiet room, or other form of physical restraint, may
20 not be used, except as provided in this paragraph unless a patient is
21 likely to physically harm himself or others unless restrained. The form
22 of restraint utilized shall be that which is in the patient's best
23 interest and which constitutes the least restrictive alternative avail-
24 able. When practicable, the patient shall be consulted as to his pre-
25 ference among forms of adequate, medically advisable restraints in-
26 cluding medication, and his preference shall be considered. Nothing in
27 this section is intended to limit the right of staff to use the quiet
28 room at the patient's request or with his knowing concurrence when
29 considered in the best interests of the patient. Patients placed in a

1 quiet room or other physical restraint shall be checked at least every.
2 15 minutes or more often if good medical practice so indicates. Pa-
3 tients in the quiet room must be visited by a staff member at least once
4 every hour and must be given adequate food and drink and access to
5 bathroom facilities. At no time may a patient be kept in the quiet room
6 or other form of physical restraint against his will longer than neces-
7 sary to accomplish the purposes set out in this paragraph. All uses of
8 the quiet room or other restraint shall be recorded in the patient's
9 medical record, the information including but not limited to the reasons
10 for its use, the duration of use, and the name of the authorizing staff
11 member.

12 (5) All persons have the right to be free from unnecessary or
13 excessive medication. Psychotropic medication shall be administered
14 only on the order of a licensed physician when the physician determines
15 that such medication is in the best interest of the patient or will
16 prevent serious harm to others.

17 (6) A patient capable of giving informed consent has the
18 absolute right to accept or refuse electro-convulsive therapy or aver-
19 sive conditioning. Patients who lack substantial capacity to make this
20 decision may not be given such therapy or conditioning without a court
21 order following a hearing compatible with full due process.

22 (7) In no event may treatment include psychosurgery, lobotomy
23 or other comparable form of treatment without specific informed consent
24 of the patient, including a minor unless he is clearly too young or
25 disabled to give an informed consent in which case the consent of his
26 legal guardian shall be required. In addition, no such treatment may be
27 given without a court order after hearing compatible with full due
28 process.

29 (8) When, in the written opinion of a patient's attending

1 physician, a true medical emergency exists and a surgical operation is
2 necessary to save the life, physical health, eyesight, hearing or member
3 of the patient, the professional person in charge of the treatment
4 facility or his professional designee may give consent to the surgical
5 operation if time will not permit obtaining the consent of the proper
6 relatives or guardian or appropriate judicial authority. However, no
7 operation may be authorized if the patient is not a minor and knowingly
8 withholds consent on religious grounds.

9 (9) Each patient upon discharge shall be given a discharge
10 plan specifying the kinds and amount of care and treatment he should
11 have after discharge and such other steps as he might take to benefit
12 his mental health after leaving the facility. The patient shall have
13 the right to participate, as far as practicable, in formulating his
14 discharge plan. A copy of the plan shall be given to the patient, his
15 guardian, the court, if appropriate, and any follow-up agencies.

16 Sec. 47.30.830. PROHIBITION OF EXPERIMENTAL TREATMENTS. (a)
17 Experimental treatments involving any significant risk of physical or
18 psychological harm may not be administered to a patient.

19 (b) If the personnel of an evaluation or treatment facility are
20 uncertain as to whether a proposed treatment is experimental or is
21 experimental as applied to a particular patient or would involve a
22 significant risk of mental or physical harm to the patient, the matter
23 may be referred to the commissioner of health and social services for a
24 determination. The patient, his attorney, his guardian, if any, and an
25 adult designated by the patient, shall, simultaneously with the referral
26 to the commissioner, be provided with copies of all the documents by
27 which the referral is made and shall have the opportunity to provide
28 evidence to the commissioner on the question.

29 (c) A determination that a treatment is experimental and entails

1 significant risks of mental or physical harm is binding upon all persons
2 involved in the administration of treatment to a patient.

3 Sec. 47.30.835. CIVIL RIGHTS NOT IMPAIRED. A person undergoing
4 evaluation or treatment under AS 47.30.655 - 47.30.915 may not be denied
5 a civil right, including but not limited to, the right to free exercise
6 of religion and the right to dispose of property, sue and be sued, enter
7 into contractual relationships and vote. Court-ordered treatment or
8 evaluation under this chapter is not a determination of legal incompe-
9 tency.

10 Sec. 47.30.840. RIGHT TO PRIVACY AND PERSONAL POSSESSIONS. A
11 person undergoing evaluation or treatment under AS 47.30.655 - 47.30.915
12 shall

13 (1) not be photographed without his consent and that of his
14 guardian if a minor, except that he may be photographed upon admission
15 to a facility for identification and for administrative purposes of the
16 facility; all photographs shall be confidential and may not be released
17 by the facility except under court order;

18 (2) at the time of admission to an evaluation or treatment
19 facility, have reasonable precautions taken by the staff to inventory
20 and safeguard his personal property; a copy of the inventory signed by
21 the staff member making it shall be given to the patient and made avail-
22 able to his attorney and any other person authorized by the patient to
23 inspect the document;

24 (3) have access to individual storage space for his private
25 use while undergoing evaluation or treatment;

26 (4) be permitted to wear his own clothing, to keep and use
27 his own personal possessions including his toilet articles if they are
28 not considered unsafe for him or other patients who might have access to
29 them, and to keep and be allowed to spend a reasonable sum of his own

1 money for his own needs and comfort;

2 (5) be allowed to have visitors at reasonable times;

3 (6) have ready access to letter writing materials, including
4 stamps, and have the right to send and receive unopened mail;

5 (7) have reasonable access to a telephone, both to make and
6 receive confidential calls.

7 Sec. 47.30.845. CONFIDENTIAL RECORDS. Information and records
8 obtained in the course of evaluation, examination or treatment are
9 confidential and are not public records, except as the requirements of a
10 hearing under AS 47.30.655 - 47.30.915 may necessitate a different pro-
11 cedure. Information and records may be disclosed under regulations
12 established by the department only to

13 (1) physicians and providers of health, mental health or
14 social and welfare services involved in caring for, treating or rehabil-
15 itating the patient;

16 (2) individuals to whom the patient has given written consent
17 to have information disclosed;

18 (3) persons authorized by a court order;

19 (4) persons doing research or maintaining health statistics,
20 if the anonymity of the patient is assured, and the facility recognizes
21 the project as a bona fide research or statistical undertaking;

22 (5) the division of corrections in a case in which a prisoner
23 confined to the state prison is a patient in the state hospital on
24 authorized transfer either by voluntary admission or by court order;

25 (6) governmental or law enforcement agencies when necessary
26 to secure the return of a patient who is on unauthorized absence from a
27 facility where the patient was undergoing evaluation or treatment.

28 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
29 of a respondent from a treatment facility or the issuance of a court

1 order denying a petition for commitment, the respondent may at any time
2 move to have all court records pertaining to the proceedings expunged on
3 condition that he file a full release of all claims of whatever nature
4 arising out of the proceedings and the statements and actions of persons
5 and facilities in connection with the proceedings.

6 Sec. 47.30.855. POSTING OF RIGHTS. The rights set out in AS 47.-
7 30.825 - 47.30.855 shall be prominently posted in all treatment facili-
8 ties in places accessible to all patients. A patient who does not
9 understand English shall have his rights explained to him in a language
10 he understands.

11 Sec. 47.30.860. NOTICES IN LANGUAGES OTHER THAN ENGLISH. Where
12 practicable all documents and notices required by AS 47.30.655 - 47.30.-
13 915 to be served on a respondent, or on his parents, guardian or adult
14 designee, shall be explained in a language the person understands if he
15 is not competent in English.

16 Sec. 47.30.865. DISCRIMINATION PROHIBITED. (a) The fact that a
17 person is or has been evaluated or treated for mental illness may not be
18 a basis for discrimination in:

- 19 (1) seeking employment;
20 (2) resuming or continuing professional practice or previous
21 occupation;
22 (3) obtaining or retaining housing;
23 (4) obtaining or retaining licenses or permits, including but
24 not limited to motor vehicle licenses, motor vehicle operator's and
25 chauffeur's licenses, and professional or occupational licenses.

26 (b) Applications for positions, licenses, and housing may not
27 contain requests for information concerning evaluation or treatment
28 experiences.

29 (c) It is unlawful for a person to aid, abet, incite, compel or

1 coerce the doing of an act forbidden under this section or to attempt to
2 do so.

3 ARTICLE 10. MISCELLANEOUS PROVISIONS.

4 Sec. 47.30.870. TRANSPORTATION. When a person is to be evaluated
5 or involuntarily committed to a facility, or presented for a judicial
6 hearing under this chapter, the department shall arrange, and is autho-
7 rized to pay for, the person's necessary transportation to the desig-
8 nated facility or hearing accompanied by appropriate medical or nursing
9 attendants and if necessary by a peace officer. The department shall
10 pay return transportation of a person, appropriate medical and nursing
11 attendants, and if necessary a peace officer, after a determination that
12 the person is not committable, at the end of a commitment period, or at
13 the end of a voluntary stay at a treatment facility following an evalu-
14 ation conducted in accordance with AS 47.30.715. When advisable, one or
15 more relatives or friends shall be permitted to accompany the person.
16 The department may pay necessary travel, housing and meal expenses
17 incurred by one relative or friend in accompanying the person if the
18 department determines that the person's best interests require that he
19 be accompanied by the relative or friend and the relative or friend is
20 indigent.

21 Sec. 47.30.875. NONRESIDENT PATIENTS. (a) The admission papers
22 of a person who is admitted to a treatment facility under AS 47.30.655 -
23 47.30.915 shall include a statement as to his residence. The department
24 may return a patient who is not a resident of the state to the state of
25 his residence with court approval if the person has been committed. If
26 the state in which he has residence does not accept him as a patient,
27 the person shall be treated as a resident of this state under the pro-
28 visions of AS 47.30.655 - 47.30.915.

29 (b) To facilitate the return of nonresident patients the depart-

1 ment may enter a reciprocal agreement or compact with another state
2 providing for the prompt return under appropriate supervision of resi-
3 dents of that state who are mentally ill. Mentally ill residents of
4 this state who have been placed in a facility outside this state may be
5 admitted with the approval of the department to a treatment facility in
6 the state designated by the department. The department may enter into
7 reciprocal agreements or contracts with another state providing for
8 custody, care or treatment, or return of mentally ill residents of this
9 state by the other state and for the custody and care or treatment of
10 mentally ill residents of that state by this state on a reimbursable
11 basis. A resident of this state who has been committed in another state
12 and is returned in accordance with this section shall, within 72 hours
13 of his admission to the designated facility, be examined. After exami-
14 nation the mental health professional in charge of the facility shall
15 release him or shall petition for involuntary commitment as prescribed
16 in AS 47.30.740.

17 (c) In taking action under (a) and (b) of this section, consider-
18 ation shall be given to the best interests of the patient particularly
19 to the relationship of the patient to his family, legal guardian, or
20 friends to maintain relationships and encourage visits beneficial to the
21 patient.

22 Sec. 47.30.885. RIGHTS OUTSIDE STATE. Nothing in AS 47.30.655 -
23 47.30.915 alters or impairs the application or availability to a pa-
24 tient, while hospitalized in another state under contractual arrange-
25 ments entered in accordance with AS 47.30.655 - 47.30.915, of the
26 rights, remedies or safeguards provided by the laws of this state.

27 Sec. 47.30.890. PROVISION FOR PERSONAL NEEDS UPON DISCHARGE. The
28 department shall insure that

29 (1) no patient is discharged from a treatment facility with-

1 out suitable clothing; and

2 (2) a discharged indigent patient is furnished

3 (A) suitable transportation to his permanent residence
4 in this state or to another suitable place at the discretion of
5 the department; and

6 (B) a reasonable amount of money to meet his immediate
7 needs.

8 Sec. 47.30.895. DISPOSITION OF PERSONAL EFFECTS AND UNCLAIMED
9 FUNDS. (a) Assets in the custody of a treatment facility which belong
10 to a patient who dies before discharge, or to a patient who leaves the
11 hospital without authority, if unclaimed by the patient or his legal
12 heirs or representatives within four years after the death or departure
13 of the patient, shall be disposed of in the manner prescribed by the
14 department and the proceeds shall be deposited in the state treasury.

15 (b) If a mentally ill individual has died in a foreign facility
16 and the department desires to recover the patient's personal property
17 under this section, the commissioner of health and social services or
18 his designated representative may secure the property and for that pur-
19 pose only is designated the decedent's administrator. Property so
20 recovered shall be disposed of as provided by law.

21 Sec. 47.30.900. DISPOSITION OF FUNDS SUBJECT TO CLAIM. The de-
22 partment shall make diligent inquiry in every instance after departure
23 without authority or death of a patient, to ascertain the whereabouts
24 of the patient or that of his legal heirs or representatives, and shall
25 turn over to the proper person the money or articles of personal prop-
26 erty in the custody of the facility to the credit of the patient.
27 Claims to the money or articles of personal property, including claims
28 by this state, may be presented to the department at any time. If a
29 claim other than by this state is established by clear and convincing

1 evidence more than four years after the death or departure without
2 authority of a patient, it shall be certified to the legislature for
3 consideration and the legislature may pay the claim.

4 Sec. 47.30.905. FEES AND EXPENSES FOR JUDICIAL PROCEEDINGS. (a)
5 The witnesses and the jury in commitment proceedings under AS 47.30.-
6 655 - 47.30.915 are entitled to the fees, compensation, and mileage
7 established by the administrative rules of court for other jurors and
8 witnesses. Compensation, mileage, fees, and other expenses arising
9 from commitment proceedings shall be audited and allowed by the superior
10 court of the judicial district in which the proceedings are held. To
11 the extent that services of a peace officer are used to carry out the
12 provisions of AS 47.30.655 - 47.30.915, he is entitled to fees and
13 actual expenses from the same source and in the same manner as for his
14 other official duties.

15 (b) An attorney appointed for a person under AS 47.30.655 - 47.-
16 30.915 shall be compensated for his services as follows:

17 (1) the person for whom an attorney is appointed shall, if
18 he is financially able under standards as to financial capability and
19 indigency set by the court, pay the costs of the legal services;

20 (2) if the person is indigent under those standards, the
21 costs of the services shall be paid by the state.

22 Sec. 47.30.910. LIABILITY FOR EXPENSE OF PLACEMENT IN A TREATMENT
23 FACILITY. (a) A patient, or his legal representative acting in a
24 representative capacity, or his spouse, or his parents if the patient
25 is under the age of 18, shall pay or contribute to the payment of the
26 charges for the care or treatment of the patient when hospitalized
27 under AS 47.30.655 - 47.30.915. The charges may not exceed the actual
28 cost of the care and treatment as determined by the department. The
29 department may order payment by the patient or by the person responsible

1 for payment for the patient's care and treatment under this subsection,
2 according to ability to provide for payment. The department may make
3 necessary investigations to determine the ability to pay and may require
4 sworn statements of income by the patient, or his legal representative
5 acting in a representative capacity, or his spouse or parent. In the
6 exercise of his discretion, the commissioner may impose full liability
7 for the patient's actual cost of care and treatment on the patient, his
8 legal representative, his spouse or parent for refusal to supply a
9 sworn statement of income. An order for payment shall be issued by the
10 department within six months after the date on which the charge was in-
11 curred. The order shall remain in full force and effect unless modified
12 by subsequent court or department order. Liability under this subsec-
13 tion shall be determined as follows: a patient hospitalized under
14 AS 47.30.655 - 47.30.915, or the person responsible for payment of
15 charges for the patient, may be required to pay according to his ability
16 to provide for payment, as determined by the department, and in the
17 manner and proportion which the department finds is not detrimental to
18 the patient's rehabilitation; however, after the patient has been
19 hospitalized under AS 47.30.655 - 47.30.915 for an aggregate period of
20 12 months, the patient or person responsible for payment may not be re-
21 quired to pay more than \$50 a month toward the charges for the care and
22 treatment of the patient.

23 (b) As used in (a) of this section, the term "actual cost of the
24 care and treatment" means either the rate provided for by a contract
25 entered into under AS 47.30.655 - 47.30.915, or, in the absence of a
26 contract, a daily rate fixed by the department, and includes expenses
27 of transportation incidental to examination or hospitalization.

28 (c) The department may charge, or accept from a person money or
29 property, for the care or treatment of an inpatient or outpatient or for

1 other purposes, even if the payment is not required by an order of the
2 department, so long as the total payments received do not exceed the
3 actual cost of care or treatment.

4 (d) All money paid by the patient or on his behalf, under this
5 section, shall be deposited in the state treasury.

6 (e) If an order for payment is entered by the department under
7 this section, and delinquency in the payment of any amount due the state
8 under the order continues for a period of more than 30 days after the
9 notification to the patient or the legal representative, spouse, or
10 parent of the patient by the department, the state may proceed to col-
11 lect the amounts due by appropriate proceedings. Actions to enforce the
12 collection of payments may only be brought within three years after the
13 date of notification of a delinquent payment.

14 (f) The orders of the department issued under this section may
15 relate only to charges incurred after October 1, 1981.

16 Sec. 47.30.915. DEFINITIONS. In AS 47.30.655 - 47.30.915

17 (1) "commissioner" means the Commissioner of Health and
18 Social Services;

19 (2) "court" means a superior court of the state;

20 (3) "department" means the Department of Health and Social
21 Services;

22 (4) "evaluation facility" means a health care facility that
23 has been designated or is operated by the department to perform the
24 evaluations described in AS 47.30.655 - 47.30.915; however, a correc-
25 tional institution or facility or jail may not be used as an evaluation
26 facility;

27 (5) "evaluation personnel" means mental health professionals
28 designated by the department to conduct evaluations as prescribed in
29 AS 47.30.655 - 47.30.915 who conduct evaluations in places in which no

1 staffed evaluation facility exists;

2 (6) "gravely disabled" means a condition in which a person,
3 as a result of mental illness, is in danger of physical harm arising
4 from such complete neglect of basic needs for food, clothing, shelter,
5 or personal safety as to render serious accident, illness or death
6 highly probable if care by another is not taken;

7 (7) "inpatient treatment" means care and treatment rendered
8 inside or on the premises of a treatment facility, or a part or unit of
9 a treatment facility for a continual period of 24 hours or longer;

10 (8) "least restrictive alternative" means mental health
11 treatment facilities and conditions of treatment which are

12 (A) no more harsh, hazardous or intrusive than necessary
13 to achieve the treatment objectives of the patient; and

14 (B) involve no restrictions on physical movement nor
15 supervised residence or inpatient care except as reasonably neces-
16 sary for the administration of treatment or the protection of the
17 patient or others from physical injury;

18 (9) "likely to cause serious harm" means

19 (A) a substantial risk of imminent and substantial
20 bodily harm to the person himself, as manifested by recent attempts
21 at suicide or bodily harm; or

22 (B) substantial risk of imminent and substantial bodily
23 harm to one or more other persons as manifested by behavior caus-
24 ing, or attempting harm, including, in regard to evaluations, at
25 least one incident within 30 days before the filing of a petition
26 for emergency hospitalization;

27 (10) "mental health professional" means a psychiatrist or
28 physician who is licensed to practice in this state; a clinical psychol-
29 ogist certified by the state Board of Psychologist and Psychological

1 Associate Examiners; a registered nurse with psychiatric training,
2 licensed by the State Board of Nursing; and a social worker with a
3 master's degree and experience in the field of mental illness;

4 (11) "mental illness" means an organic, mental or emotional
5 impairment which has substantial adverse effects on an individual's
6 ability to exercise conscious control of his actions or ability to
7 perceive reality or to reason or understand; mental retardation, epi-
8 lepsy, drug addiction and alcoholism do not per se constitute mental
9 illness, although persons suffering from these conditions may also be
10 suffering from mental illness;

11 (12) "peace officer" includes a state police officer, muni-
12 cipal or other local police officer, state, municipal, or other local
13 health officer, public health nurse, United States marshal or deputy
14 United States marshal, or a person authorized by the court;

15 (13) "provider of outpatient care" means a mental health pro-
16 fessional or hospital, clinic, institution, center or other health care
17 facility who has been designated by the department to accept for treat-
18 ment patients who are ordered to undergo involuntary outpatient treat-
19 ment by the court or who are released early from inpatient commitments
20 on condition that they undergo outpatient treatment;

21 (14) "screening investigation" means the investigation and
22 review of facts which have been alleged to warrant emergency examination
23 or treatment, including interviews with the persons making such allega-
24 tions, any other significant witnesses who can readily be contacted for
25 interviews, and, if possible, the respondent;

26 (15) "state" means a state of the United States, the District
27 of Columbia, the territories and possessions of the United States, and
28 the Commonwealth of Puerto Rico, and, with the approval of the United
29 States Congress, Canada;

1 (16) "treatment facility" means a hospital, clinic, institu-
2 tion, center or other health care facility which has been designated by
3 the department for the treatment or rehabilitation of mentally ill
4 persons and for the receipt of these persons by court-ordered commit-
5 ment, but does not include correctional institutions;

6 (17) "professional person in charge of the treatment facility"
7 means the senior mental health professional at the facility; in the
8 absence of a mental health professional it means the chief of staff or
9 other senior physician.

10 * Sec. 2. AS 12.45.090 is repealed and reenacted to read:

11 Sec. 12.45.090. COMMITMENT AFTER JUDGMENT OF NOT GUILTY. (a) If
12 the court or jury finds the defendant not guilty on the ground of mental
13 disease or defect as excluding responsibility and the court considers
14 his being at large dangerous to the public peace or safety, the court
15 shall immediately commit the defendant to the custody of the commis-
16 sioner of health and social services.

17 (b) If the defendant asserts at the time a verdict of not guilty
18 on the ground of mental disease or defect as excluding responsibility is
19 returned that he is not presently suffering from a mental disease or
20 defect which causes him to be a danger to the public, a hearing shall be
21 set within 60 days to determine the necessity of further commitment.
22 The hearing shall be held before either the court or a jury of six
23 persons who may be drawn from the jury impaneled for a trial on the
24 underlying charge in accordance with rules promulgated by the supreme
25 court. At the hearing, the defendant has the burden of proving by a
26 preponderance of the evidence that he is not presently suffering from a
27 mental disease or defect which causes him to be a danger to the public.

28 (c) If the court or jury determines that the defendant has failed
29 to sustain his burden of proof, the court shall order him to be committed

1 to the custody of the commissioner of health and social services and
2 held in custody for a period of time not to exceed the maximum sentence
3 for the offense committed by the defendant or until the disease is cured
4 or the defect corrected or he is otherwise discharged from the institu-
5 tion by authority of law.

6 (d) The defendant may file a petition in the superior court for a
7 hearing to have the need for his continued hospitalization determined or
8 redetermined. The defendant is entitled to a hearing on the question no
9 sooner than six months after his initial commitment and annually there-
10 after. The burden and standard of proof at a release hearing shall be
11 the same as at the initial hearing and the defendant shall be entitled
12 to a hearing before a jury of six upon request filed not later than 15
13 days before the date set for the hearing with the court.

14 (e) Continued hospitalization following the expiration of the
15 maximum term of sentence of the criminal offense for which the defendant
16 was acquitted on the ground of mental disease or defect shall be gov-
17 erned by the standards and burden of proof relating to civil commitments
18 under AS 47.30.700 - 47.30.915.

19 (f) A person committed under this section may not be released
20 during the term of commitment except upon court order following a hear-
21 ing under this section. The state may at any time request the court to
22 release the defendant on the grounds that the defendant has been cured
23 of the mental disease or defect and is no longer a danger to the public
24 peace or safety.

25 (g) The committing court in its commitment order shall require the
26 commissioner of health and social services or his authorized representa-
27 tive to submit periodic written reports on the mental condition of a
28 person who is committed under (a) of this section.

29 (h) A copy of all petitions for release shall be served on the

1 attorney general. A copy shall also be served upon the attorney of
2 record, if he is not the attorney general, who represented the state at
3 the time the defendant was first committed.

4 * Sec. 3. AS 12.45.110 is repealed and reenacted to read:

5 Sec. 12.45.110. COMMITMENT ON FINDING OF INCOMPETENCY. (a) When
6 the trial court determines by a preponderance of the evidence, in accor-
7 dance with AS 12.45.100, that a defendant is so mentally incompetent
8 that he is unable to understand the proceedings against him or properly
9 to assist in his own defense, the court shall order the proceedings
10 against him stayed, except as provided in (d) of this section, and may
11 commit the defendant to the custody of the commissioner of health and
12 social services or his authorized representative for further evaluation
13 and treatment until the defendant is mentally competent to stand trial,
14 or until the pending charges against him are disposed of according to
15 law, but in no event longer than 90 days.

16 (b) On or before the expiration of the initial 90-day period of
17 commitment the court shall conduct a hearing to determine whether or not
18 the defendant remains incompetent. If the court finds by a preponder-
19 ance of the evidence that the defendant remains incompetent, the court
20 may recommit the defendant for a second period of 90 days. The court
21 shall determine at the expiration of the second 90-day period whether
22 the defendant has become competent. If at the expiration of the second
23 90-day period the court determines that the defendant continues to be
24 incompetent to stand trial, the charges against him shall be dismissed
25 without prejudice and continued commitment of the defendant shall be
26 governed by the provisions relating to civil commitments under AS 47.-
27 30.700 - 47.30.915 unless the defendant is charged with a crime involv-
28 ing force against a person and the court finds that the defendant pre-
29 sents a substantial danger of physical injury to other persons and that

1 there is a substantial probability that the defendant will regain compe-
2 tency within a reasonable period of time, in which case the court may
3 extend the period of commitment for an additional six months. If the
4 defendant remains incompetent at the expiration of the additional six-
5 month period, the charges shall be dismissed without prejudice and
6 either civil commitment proceedings shall be instituted or the court
7 shall order the release of the defendant. If the defendant remains
8 incompetent for five years after the charges have been dismissed under
9 this subsection, the defendant may not be charged again for an offense
10 arising out of the facts alleged in the original charges, except if the
11 original charge is murder.

12 (c) The defendant is not responsible for the expenses of hospital-
13 ization or transportation incurred as a result of his commitment under
14 this section. Liability for payment under AS 47.30.910 does not apply
15 to commitments under this section.

16 (d) A defendant receiving medication for either a physical or a
17 mental condition may not be prohibited from standing trial, if the
18 medication either enables him to understand the proceedings against him
19 and to properly assist in his own defense or does not disable him from
20 understanding the proceedings and assisting in his own defense.

21 * Sec. 4. AS 12.45.115 is amended to read:

22 Sec. 12.45.115. DETERMINATION OF SANITY AFTER [RELEASE FROM]
23 COMMITMENT. (a) When, in the medical judgment of the custodian of a
24 accused person committed under AS 12.45 110 [AS 12.45.110(a)], the
25 accused is considered to be mentally competent to stand trial, the
26 committing court shall hold a hearing, after due notice, as soon as
27 conveniently possible [AFTER RELEASE OF THE ACCUSED FROM CUSTODY]. At
28 the hearing, evidence as to the mental condition of the accused may be
29 submitted including reports by the custodian to whom the accused was

1 committed for care.

2 (b) If at the hearing the court determines that the accused is
3 presently mentally competent to understand the nature of the proceedings
4 against him and [OR] to assist in his own defense, appropriate criminal
5 proceedings may [SHALL] be commenced against the accused.

6 (c) If at the hearing the court determines that the accused is
7 still presently mentally incompetent, the court shall recommit the
8 accused in accordance with AS 12.45.110 [AS PROVIDED IN AS 12.45.-
9 110(a)].

10 (d) A finding by the court that the accused is mentally competent
11 to stand trial in no way prejudices the accused in a defense based on
12 mental disease or defect excluding responsibility. This finding may
13 not be introduced in evidence on that issue or otherwise be brought to
14 the notice of the jury.

15 * Sec. 5. Except as provided in this Act, the provisions of AS 47.30.-
16 660 - 47.30.815 enacted by sec. 1 of this Act do not in themselves impair
17 any action taken in a proceeding pending under statutes in effect before
18 October 1, 1981, nor do they apply retroactively to terminate the detention
19 of a person previously committed under statutes in effect before October 1,
20 1981. However, 90 days after October 1, 1981, the provisions of this Act
21 apply to all persons committed under statutes in effect before October 1,
22 1981.

23 * Sec. 6. AS 47.30.010 - 47.30.170 and AS 47.30.190 - 47.30.340 are
24 repealed.

25 * Sec. 7. This Act takes effect October 1, 1981.
26
27
28
29

Original sponsors: Parr, Stimson,
and Fischer

Offered: 5/14/81
Referred: Finance

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 100 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to mentally ill persons; and providing
7 for an effective date."

8

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

9

* Section 1. AS 47.30 is amended by adding new sections to read:

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ARTICLE 6. MENTAL HEALTH PROGRAM.

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Sec. 47.30.655. PURPOSE. The purpose of this major revision of
Alaska civil commitment statutes is to more adequately protect the legal
rights of persons suffering from mental illness. The legislature has
attempted to balance the individual's constitutional right to physical
liberty and the state's interest in (1) protecting society from persons
who are dangerous to others; and (2) protecting persons who are dan-
gerous to themselves, by providing due process safeguards at all stages
of commitment proceedings. In addition, the following principles of
modern mental health care have guided this revision:

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(1) that persons be given every opportunity to accept volun-
tary treatment before involvement with the judicial system;

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(2) that persons be treated in the least restrictive alter-
native environment consistent with their treatment needs;

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(3) that treatment occur as promptly as possible and as close
to the individual's home as possible;

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(4) that a system of mental health community facilities and
supports be available;

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(5) that patients be informed of their legal rights and be
informed of and allowed to participate in their treatment program as

29

1 much as possible;

2 (6) that persons who are mentally ill but not dangerous to
3 others be committed only if there is a reasonable expectation of im-
4 proving their mental condition.

5 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department
6 is the mental health authority of the state and shall

7 (1) administer a comprehensive program for the prevention of
8 mental illness and the care and treatment of the mentally ill, including
9 inpatient and outpatient care and treatment and the procurement of
10 services of specialists or other persons on a contractual or other
11 basis;

12 (2) take the actions and undertake the obligations which are
13 necessary to participate in federal grants-in-aid programs and accept
14 federal or other financial aid from whatever sources for the study,
15 examination, care, and treatment of the mentally ill;

16 (3) administer AS 47.30.655 - 47.30.915;

17 (4) designate, operate, and maintain treatment facilities
18 equipped and qualified to provide inpatient and outpatient care and
19 treatment for the mentally ill;

20 (5) provide for the placement of mentally ill patients in
21 designated treatment facilities;

22 (6) enter into arrangements with governmental agencies for
23 the care or treatment of the mentally ill in facilities of the govern-
24 mental agencies in the state or in another state;

25 (7) enter into contracts with treatment facilities for the
26 custody and care or treatment of the mentally ill;

27 (8) enter into contracts which incorporate safeguards consis-
28 tent with AS 47.30.655 - 47.30.915 and the preservation of the civil
29 rights of the patients with another state for the custody and care or

1 treatment of patients previously committed from this state under 48
2 U.S.C., sec. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70
3 Stat. 709;

4 (9) prescribe the form of applications, records, reports,
5 requests for release, and consents to medical or psychological treatment
6 required by AS 47.30.655 - 47.30.915;

7 (10) require reports from the head of a treatment facility
8 concerning the care of patients;

9 (11) visit each treatment facility at least annually to
10 review methods of care or treatment for patients;

11 (12) investigate complaints made by a patient or an interested
12 party on behalf of a patient;

13 (13) delegate upon mutual agreement to another officer or
14 agency of it, or a political subdivision of the state, or a treatment
15 facility designated, any of the duties and powers imposed upon it by
16 AS 47.30.655 - 47.30.915; and

17 (14) adopt regulations to implement the provisions of AS 47.-
18 30.655 - 47.30.915.

19 ARTICLE 7. VOLUNTARY ADMISSION FOR TREATMENT.

20 Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 14
21 years of age or older may be voluntarily admitted to a treatment facil-
22 ity if he is suffering from mental illness and he voluntarily signs the
23 admission papers.

24 Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon the application of a
25 person for voluntary admission, or at the time a person admitted under
26 AS 47.30.690 reaches the age of 14, he shall be given a copy of the
27 following documents which shall be explained to him as necessary:

28 (1) notice of rights as set out in AS 47.30.825 - 47.30.865
29 and an explanation of any document served upon him; and

1 (2) notice that should he desire to leave at a time when the
2 treatment facility determines that he is mentally ill and as a result
3 is likely to cause serious harm to himself or others or is gravely dis-
4 abled, the facility could initiate commitment proceedings against him.

5 (b) If an applicant for voluntary admission does not understand
6 English, the explanation shall be given in a language he understands.

7 Sec. 47.30.680. DISCHARGE OF VOLUNTARY PATIENTS. A patient who
8 no longer meets the standards established in AS 47.30.670 shall be
9 discharged from the treatment facility.

10 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.
11 A voluntary patient who is 14 years of age or older and who desires to
12 leave a treatment facility must submit to the facility a written notice
13 of intent to leave on a form provided to him by the facility. Upon
14 immediate investigation, the patient shall be evaluated in writing and
15 discharged immediately or given written notice that involuntary commit-
16 ment proceedings will be initiated against him. The treatment facility
17 may detain the patient for no more than 48 hours after receipt of the
18 patient's notice of intent to leave in order to initiate involuntary
19 commitment proceedings.

20 Sec. 47.30.690. ADMISSION OF MINORS UNDER 14 YEARS OF AGE. (a)
21 A minor under the age of 14 may be admitted for 21 days evaluation,
22 diagnosis, and treatment at a designated treatment facility if his
23 parent or guardian signs the admission papers and if, in the opinion of
24 the professiona¹ person in charge,

25 (1) he is gravely disabled or is suffering from mental ill-
26 ness and as a result he is likely to cause serious harm to himself or
27 others;

28 (2) there is no less restrictive alternative available for
29 his treatment; and

1 (3) there is reason to believe that the patient's mental
2 condition could be improved by the course of treatment.

3 (b) The minor may be released by the treatment facility at any
4 time during the 21-day period if the professional person in charge or
5 his designated mental health professional determines the minor would no
6 longer benefit from continued hospitalization and the minor is not
7 dangerous. The minor's parents or his guardian must be notified by the
8 facility of the contemplated release and that, unless they initiate
9 involuntary commitment proceedings, the minor will be released.

10 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 14
11 YEARS OF AGE FROM DETENTION AND COMMITMENT. The parent or guardian of
12 a minor who is less than 14 years of age may request and obtain imme-
13 diate release of the minor at any time, unless as the result of mental
14 illness, the minor is likely to cause serious harm to himself or
15 others.

16 ARTICLE 8. INVOLUNTARY ADMISSION FOR TREATMENT.

17 Sec. 47.30.700. INITIATION OF INVOLUNTARY COMMITMENT PROCEDURES.

18 (a) Upon petition of any adult, a judge shall immediately conduct a
19 screening investigation or direct a local mental health professional
20 employed by the department or by a local mental health program which
21 receives money from the department under AS 47.30.520 - 47.30.620 or
22 another mental health professional designated by the judge, to conduct
23 a screening investigation of the person alleged to be mentally ill and,
24 as a result of that condition, alleged to be gravely disabled or to
25 present a likelihood of serious harm to himself or others. Within 48
26 hours after the completion of the screening investigation, a judge may
27 issue an ex parte order orally or in writing, stating that there is
28 probable cause to believe the respondent is mentally ill and that
29 condition causes the respondent to be gravely disabled or to present a

1 likelihood of serious harm to himself or others. The court shall pro-
2 vide findings on which the conclusion is based, appoint an attorney to
3 represent the respondent, and may direct that a peace officer take the
4 person into custody and deliver him to the nearest appropriate facility
5 for emergency examination or treatment. The ex parte order shall be
6 provided to the respondent and made a part of the respondent's clinical
7 record. The court shall confirm an oral order in writing within 24
8 hours after it is issued.

9 (b) The petition required in (a) of this section shall allege
10 that the respondent is reasonably believed to present a likelihood of
11 serious harm to himself or others or is gravely disabled as a result of
12 mental illness and shall specify the factual information on which that
13 belief is based including the names and addresses of all persons known
14 to the petitioner who have knowledge of those facts through personal
15 observation.

16 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace
17 officer who has probable cause to believe that a person is gravely
18 disabled or is suffering from mental illness and is likely to cause
19 serious harm to himself or others of such an immediate nature that con-
20 siderations of safety do not allow initiation of involuntary commitment
21 procedures set out in AS 47.30.700, may cause the person to be taken
22 into custody and delivered to the nearest evaluation facility. A
23 correctional facility may be used as an emergency evaluation facility
24 if an evaluation facility is not available. Upon arrival at the
25 evaluation facility, the peace officer shall complete an application
26 for examination of the person in custody and be interviewed by a mental
27 health professional at the facility.

28 Sec. 47.30.710. EXAMINATION. (a) A respondent who is delivered
29 under AS 47.30.700 or 47.30.705 for emergency examination and treatment

1 to an evaluation facility shall be examined and evaluated as to his
2 mental and physical condition by a mental health professional and by a
3 physician within 24 hours after arrival at the facility.

4 (b) If the mental health professional who performs the emergency
5 examination has reason to believe that the respondent is (1) mentally
6 ill and that condition causes the person to be gravely disabled or to
7 present a likelihood of serious harm to himself or others, and (2) is
8 in need of care or treatment, the mental health professional may hospi-
9 talize him, or arrange for hospitalization, on an emergency basis. If
10 a judicial order has not been obtained under AS 47.30.700, the mental
11 health professional shall apply for an ex parte order authorizing
12 hospitalization for evaluation.

13 Sec. 47.30.715. ACCEPTANCE OF ORDER. When a facility receives a
14 proper order for evaluation, it must accept the order and the respondent
15 for an evaluation period not to exceed 72 hours. The facility shall
16 promptly notify the court of the date and time of the respondent's
17 arrival. The court shall set a date, time and place for a 21-day com-
18 mitment hearing, to be held if needed within 72 hours after the respon-
19 dent's arrival, and the court shall notify the facility, the respondent,
20 his attorney, and the prosecuting attorney of the hearing arrangements.
21 Evaluation personnel, when used, shall similarly notify the court of
22 the date and time when they first met with the respondent.

23 Sec. 47.30.720. RELEASE BEFORE EXPIRATION OF 72-HOUR PERIOD. If
24 at any time in the course of the 72-hour period the mental health pro-
25 fessionals conducting the evaluation determine that the respondent does
26 not meet the standards for commitment specified in AS 47.30.700, the
27 respondent shall be discharged from the facility or the place of eval-
28 uation by evaluation personnel and the petitioner and the court so noti-
29 fied.

1 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)
2 When a respondent is detained for evaluation under AS 47.30.655 - 47.-
3 30.915, he shall be immediately notified orally and in writing of his
4 rights under this section. Notification shall be in a language under-
5 stood by the respondent. His guardian, if any, and if the respondent
6 requests, an adult designated by the respondent, shall also be notified
7 of the respondent's rights under this section.

8 (b) Unless a respondent is released or voluntarily admits himself
9 for treatment within 72 hours of his arrival at the facility or, if he
10 is evaluated by evaluation personnel, within 72 hours from the beginning
11 of his meeting with evaluation personnel, he is entitled to a court
12 hearing to be set for not later than the end of that 72-hour period to
13 determine whether there is cause to detain him after the 72 hours have
14 expired for up to an additional 21 days on the grounds that he is
15 gravely disabled or mentally ill and as a result presents a likelihood
16 of serious harm to himself or others. The facility or evaluation
17 personnel shall give notice to the court of the releases and voluntary
18 admissions under AS 47.30.700 - 47.30.820.

19 (c) The respondent has a right to communicate immediately, at the
20 department's expense, with his guardian, if any, or an adult designated
21 by the respondent and the attorney designated in the ex parte order, or
22 an attorney of the respondent's choice.

23 (d) The respondent has the right to be represented by an attorney,
24 to present evidence, and to cross-examine witnesses who testify against
25 him at the hearing.

26 (e) The respondent has the right to be free of the effects of
27 medication and other forms of treatment to the maximum extent possible
28 before the 21-day commitment hearing; however, the facility or evalua-
29 tion personnel may treat him with medication under prescription by a

1 licensed physician or by a less restrictive alternative of his pre-
2 ference if, in the opinion of a licensed physician in the case of
3 medication, or of a mental health professional in the case of alterna-
4 tive treatment, the treatment is necessary to

- 5 (1) prevent bodily harm to the respondent or others;
- 6 (2) prevent such deterioration of the respondent's mental
7 condition that subsequent treatment might not enable him to recover; or
- 8 (3) allow the respondent to prepare for and participate in
9 the proceedings.

10 (f) A respondent, if he is represented by counsel, may waive,
11 orally or in writing, the 72-hour time limit on the 21-day commitment
12 hearing and have the hearing set for a date no more than seven calendar
13 days after his arrival at the facility. The respondent's counsel shall
14 immediately notify the court of the waiver.

15 Sec. 47.30.730. PROCEDURE FOR 21-DAY COMMITMENT; PETITION FOR
16 COMMITMENT. (a) In the course of the 72-hour evaluation period, a
17 petition for commitment to a treatment facility may be filed in court.
18 The petition must be signed by two mental health professionals who have
19 examined the respondent, one of whom is a physician. The petition must

20 (1) allege that the respondent is mentally ill and as a
21 result is likely to cause harm to himself or others or is gravely dis-
22 abled;

23 (2) allege that the evaluation staff has considered but has
24 not found that there are any less restrictive alternatives available
25 that would adequately protect the respondent or others; or, if a less
26 restrictive involuntary form of treatment is sought, specify the treat-
27 ment and the basis for supporting it;

28 (3) allege with respect to a gravely disabled respondent
29 that there is reason to believe that the respondent's mental condition

1 could be improved by the course of treatment sought;

2 (4) allege that a specified treatment facility or less re-
3 strictive alternative that is appropriate to the respondent's condition
4 has agreed to accept the respondent;

5 (5) allege that the respondent has been advised of the need
6 for, but has not accepted, voluntary treatment, and request that the
7 court commit the respondent to the specified treatment facility or less
8 restrictive alternative for a period not to exceed 21 days;

9 (6) list the prospective witnesses who will testify in sup-
10 port of commitment or involuntary treatment;

11 (7) list the facts and specific behavior of the respondent
12 supporting the allegation in (1) of this subsection.

13 (b) A copy of the petition shall be served on the respondent, his
14 attorney, and his guardian, if any, before the 21-day commitment hear-
15 ing.

16 Sec. 47.30.735. 21-DAY COMMITMENT. (a) Upon receipt of a proper
17 petition for commitment, the court shall hold a hearing at the date and
18 time previously specified according to procedures set out in AS 47.30.-
19 715.

20 (b) The hearing shall be conducted in a physical setting least
21 likely to have a harmful effect on the mental or physical health of the
22 respondent, within practical limits. At the hearing, in addition to
23 other rights specified in AS 47.30.655 - 47.30.915, the respondent has
24 the right

25 (1) to be present at the hearing; this right may be waived
26 only with the respondent's informed consent; if the respondent is in-
27 capable of giving informed consent, the respondent may be excluded from
28 the hearing only if the court, after hearing, finds that the incapacity
29 exists and that there is a substantial likelihood that the respondent's

1 presence at the hearing would be severely injurious to his mental or
2 physical health;

3 (2) to view and copy all petitions and reports in the court
4 file of his case;

5 (3) to have the hearing open or closed to the public as he
6 elects;

7 (4) to be proceeded against according to the rules of evi-
8 dence applicable to civil proceedings;

9 (5) to have an interpreter if he does not understand English;

10 (6) to present evidence on his behalf;

11 (7) to cross-examine witnesses who testify against him;

12 (8) to remain silent.

13 (c) At the conclusion of the hearing the court may commit the re-
14 spondent to a treatment facility for not more than 21 days if it finds,
15 by clear and convincing evidence, that the respondent is mentally ill
16 and as a result is likely to cause harm to himself or others or is
17 gravely disabled.

18 (d) If the court finds that there is a viable less restrictive
19 alternative available and that the respondent has been advised of and
20 refused voluntary treatment through the alternative, the court may
21 order the less restrictive alternative treatment for not more than 21
22 days if the program accepts the respondent.

23 (e) The court shall specifically state to the respondent, and
24 give him written notice, that if commitment or other involuntary treat-
25 ment beyond the 21 days is to be sought, the respondent shall have the
26 right to a full hearing or jury trial.

27 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 21-DAY
28 COMMITMENT. (a) At any time during the respondent's 21-day commitment,
29 the professional person in charge, or his professional designee, may

1 file with the court a petition for 90-day commitment of that respondent.
2 The petition must include all material required under AS 47.30.730(a)
3 except that references to "21 days" shall be read as "90 days"; and

4 (1) allege that the respondent has attempted to inflict or
5 has inflicted serious bodily harm upon himself or another since his
6 acceptance for evaluation, or that he was committed initially as a
7 result of conduct in which he attempted or inflicted serious bodily
8 harm upon himself or another, or that he continues to be gravely dis-
9 abled, or that he demonstrates a current intent to carry out plans of
10 serious harm to himself or another;

11 (2) allege that the respondent has received appropriate and
12 adequate care and treatment during his 21-day commitment;

13 (3) be verified by the professional person in charge, or his
14 professional designee, during the 21-day commitment.

15 (b) The court shall have copies of the petition for 90-day com-
16 mitment served upon the respondent, his attorney, and his guardian, if
17 any. The petition for 90-day commitment and proofs of service shall be
18 filed with the clerk of the court, and a date for hearing shall be set,
19 by the end of the next judicial day, for not later than five judicial
20 days from the date of filing of the petition. The clerk shall notify
21 the respondent, his attorney, and the petitioner of the hearing date at
22 least three judicial days in advance of the hearing.

23 (c) Findings of fact relating to the respondent's behavior made
24 at a 21-day commitment hearing under AS 47.30.735 shall be admitted as
25 evidence and may not be rebutted except that newly discovered evidence
26 may be used for the purpose of rebutting the findings.

27 Sec. 47.30.745. 90-DAY COMMITMENT HEARING RIGHTS. (a) A respon-
28 dent subject to a petition for 90-day commitment has, in addition to
29 the rights specified elsewhere in this chapter, or otherwise applicable,

1 the rights enumerated in this section. Written notice of these rights
2 shall be served on the respondent, his attorney, his guardian, if any,
3 and may be served on an adult designated by the respondent at the time
4 the petition for 90-day commitment is served. An attempt shall be made
5 by oral explanation to insure that the respondent understands the
6 rights enumerated in the notice. If the respondent does not understand
7 English, the explanation shall be given in a language he understands.

8 (b) Unless the respondent is released or voluntarily admits him-
9 self following the filing of a petition and before the hearing, he is
10 entitled to a judicial hearing within five judicial days of the filing
11 of the petition as set out in AS 47.30.740(b) to determine if he is
12 mentally ill and as a result is likely to cause harm to himself or
13 others, or if he is gravely disabled. If the respondent voluntarily
14 admits himself following the filing of the petition, the voluntary
15 admission constitutes a waiver of any hearing rights under AS 47.30.740
16 or under AS 47.30.685. If at any time during the respondent's voluntary
17 admission under this subsection, the respondent submits to the facility
18 a written notice of intent to leave, the professional person in charge
19 may file with the court a petition for 120-day commitment of the respon-
20 dent under AS 47.30.770. The 120-day commitment hearing shall be
21 scheduled for a date not earlier than 90 days after the respondent's
22 voluntary admission.

23 (c) The respondent is entitled to a jury trial upon request filed
24 with the court if the request is made at least two judicial days before
25 the hearing. If the respondent requests a jury trial, the hearing may
26 be continued for no more than 10 calendar days. The jury shall consist
27 of six persons.

28 (d) If a jury trial is not requested, the court may still con-
29 tinue the hearing at the respondent's request for no more than 10