

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSSB 79 cont., SB 81 37

less there appears  
and specific objec-  
evidence. (State  
. 506 P.2d 1132.)  
the points raised  
and we find no  
would require re-  
Accordingly, the  
is affirmed.

In the Matter of L. A. M., Appellant,  
v.  
STATE of Alaska, Appellee.  
No. 2221.  
Supreme Court of Alaska.  
March 15, 1978.

The Superior Court, Third Judicial District, Anchorage, James K. Singleton, J., entered order declaring minor a delinquent child for her willful failure to comply with certain court orders made after prior adjudication that she was child in need of supervision, and she appealed. The Supreme Court, Erwin, J., held that evidence supported conclusion that minor, who was chronic runaway, would not be distinguishable in sophistication or exposure to criminal activity from average child in population at state youth center, and thus, placement of such minor in state youth center was not precluded; that superior court had authority to enforce order entered against child in need of supervision, which order provided that child was not to remain away from children's home in which she had been placed without permission of appropriate adult authorities of the home; and that failure of minor to abide by court orders regarding her supervision constituted willful criminal contempt of court's authority, and she was, therefore, properly declared delinquent and subject to those sanctions available for correction of delinquent minor's behavior.

Affirmed.

Boochever, J., concurred and filed opinion in which Rabinowitz, C. J., joined.

Rabinowitz, C. J., concurred and filed opinion.

1. Contempt ⇨20

Before party may be held in criminal or civil contempt for failure to abide by court order, certain elements must be established: existence of valid order direct-

ing alleged contemnor to do or refrain from doing something and court's jurisdiction to enter that order; contemnor's notice of order within sufficient time to comply with it; and in most cases, contemnor's ability to comply with order; and contemnor's willful failure to comply with order.

2. Contempt ⇨2

Distinction between criminal and civil contempt is generally phrased in terms of whether character and purpose of contempt is "remedial" or "punitive."

3. Contempt ⇨3, 4

Where contempt power is invoked to punish alleged contemnor for "past, willful, flouting of the court's authority," contempt is criminal, but where contempt proceeding is instituted to "coerce future conduct," contempt is civil. AS 09.50.010(5), 09.50.050.

4. Contempt ⇨3

Contempt order issued against minor for minor's willful failure to comply with certain court orders made after adjudication that minor was child in need of supervision constituted criminal contempt. AS 09.50.010(5).

5. Infants ⇨16.5

Proceedings against children alleged to be in need of supervision are in substance and effect custody disputes where contestants are parent and child, and parent appeals to court to vindicate and enforce his custody rights in child against that child.

6. Adoption ⇨7.2(1)

Names ⇨9  
Parent and Child ⇨2(1), 4, 5(1), 8

The following are "parental rights" protected to varying degrees by constitution: physical possession of child, which, in case of custodial parent, includes day-to-day care and companionship of child; right to discipline child, which includes right to inculcate in child parent's moral and ethical standards; right to control and manage minor child's earnings; right to control and manage minor child's property; right to be supported by adult child; right

to have child bear parent's name; and right to prevent adoption of child without parents' consent.

See publication Words and Phrases for other judicial constructions and definitions.

**7. Adoption**  $\Leftrightarrow$  7.2(1)

**Names**  $\Leftrightarrow$  9

**Parent and Child**  $\Leftrightarrow$  2(17)

Of the so-called residual parental rights, those that remain after custody is placed in another include right to consent to adoption and to withhold consent to prevent adoption, right to visitation and right to have child bear parents' name.

**8. Parent and Child**  $\Leftrightarrow$  2(1)

Like all legal rights, parent's right to custody of his child is not absolute and may be lost through divorce, by conduct depriving child of necessities of life, by abandonment, by child's emancipation, or, subject to constitutional limitations, where welfare of child requires limitation or termination of parental rights. AS 09.55.205, 25.20.010, 47.10.010(a)(4, 5), 47.10.080(c), 47.10.290(3).

**9. Infants**  $\Leftrightarrow$  13

State has legitimate interest in protecting children from venereal disease, from exposure to use of dangerous and illicit drugs, from attempted rape, and from physical injury.

**10. Infants**  $\Leftrightarrow$  16.1

Purpose of statute creating classification of child in need of supervision is reintegration of child into her family and resumption of parental custody, including parental control. AS 47.10.010(a)(2), 47.10.290.

**11. Infants**  $\Leftrightarrow$  16.8

Evidence in delinquency hearings supported conclusion that minor, who was chronic runaway, would not be distinguishable in sophistication or exposure to criminal activity from average child in population at state youth center, and thus, place-

ment of such minor in state youth center was not precluded.

**12. Infants**  $\Leftrightarrow$  16.4

Whether child is characterized as delinquent child, child in need of supervision, dependent child, or merely child whose custody is disputed in domestic relations proceeding, court has authority, upon extending all procedural safeguards, to make orders affecting her custody. Const. art. 4, § 1.

**13. Contempt**  $\Leftrightarrow$  33

While court may have limitations on its power to act, there are only due process limitations on its authority to compel enforcement of its orders.

**14. Infants**  $\Leftrightarrow$  16.12

Superior court had authority to enforce order entered against child in need of supervision, which order provided that child was not to remain away from children's home in which he had been placed without permission of appropriate adult authorities of the home.

**15. Infants**  $\Leftrightarrow$  16.2

Failure of minor to abide by court orders regarding her supervision, following adjudication that such minor was child in need of supervision, constituted willful criminal contempt of court's authority, and she was, therefore, properly declared delinquent and subject to those sanctions available for correction of delinquent minor's behavior. AS 09.50.010, 47.10.010(a)(2, 3, 6), 47.10.080(j), 47.10.290.

Herbert D. Soll, Public Defender, Phillip P. Weidner, Asst. Public Defender, and R. Collir. Middleton Anchorage, Alaska, for appellant.

Avrum M. Gross, Atty. Gen., Juneau and Larry R. Weeks, Asst. Atty. Gen., Anchorage, for appellee.

Before RABINOWITZ, Chief Justice, and CONNOR, ERWIN, BOOCHEVER and BURKE, Justices.

OPINION

ERWIN, Justice.

L.A.M. seeks review of the superior court's order dated July 26, 1973, declaring her a delinquent<sup>1</sup> child for violation of AS 09.50.010,<sup>2</sup> i.e., willful failure to comply with certain court orders made after a prior adjudication that she was a child in need of supervision.<sup>3</sup>

In order to understand L.A.M.'s arguments and place her situation in context, it will be necessary to set out her history at some length.

L.A.M. was born in Canada in 1958 and was adopted by the M's shortly thereafter. The M's soon were divorced and Mrs. M. moved with L.A.M. to Alaska. In 1971 Mrs. M. married Mr. C. and retired from work, intending to spend more time with L.A.M. Difficulties arose almost immediately with L.A.M. neglecting to return home after staying with friends.

L.A.M. began a consistent pattern of running away in the Spring and Summer

1. AS 47.10.010(a)(1) provides in relevant part:

(a) Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the minor (1) violates a law of the state, or an ordinance or regulation of a political subdivision of the state . . .

2. AS 09.50.010 provides in relevant part: *Acts or omissions constituting contempt.* The following acts or omissions in respect to a court of justice or court proceedings are contempts of the authority of the court:

(5) disobedience of a lawful judgment, order, or process of the court . . .

3. AS 47.10.290 provides in relevant part: In this chapter, unless the context otherwise requires,

(7) "child in need of supervision" is a minor whom the court determines is within the provisions of (AS 47.10.010(a)(2), (3), (4), and (6)). [Matter in parentheses supplied.]

of 1972. During this period two petitions were filed seeking to have her declared a child in need of supervision, but in both cases the petitions were dismissed on stipulation and the matter handled informally.<sup>4</sup> On November 2, 1972, a new petition was filed. At the hearing L.A.M. admitted the allegations of the petition and was declared a child in need of supervision. She was ordered detained at the McLaughlin Youth Center pending adjudication.

On December 12, 1972, the disposition hearing was continued and L.A.M. was released to her parents. One week later the court was informed that she had run away. A pick-up order was issued and the minor was brought back to court on December 27, 1972, at which time she was detained pending disposition. The disposition hearing was finally held on January 11, 1973. Upon listening to testimony, the Master for the Family Court filed his recommendation that the minor be "released to her parents." A superior court judge adopted the finding and executed a release.

On March 19, 1973, L.A.M. was brought back to court by an intake officer who in-

AS 47.10.010(a)(2), (3) and (6) respectively provide:

[B]y reason of being wayward or habitually disobedient is uncontrolled by his parent, guardian or custodian;

[I]s habitually truant from school or home, or habitually so conducts himself as to injure or endanger the morals or health of himself or others;

[A]ssociates with vagrant, vicious or immoral people, or engages in an occupation or is in a situation dangerous to life or limb or injurious to the health, morals, or welfare of himself or others . . .

4. Children's Rule 4(d) provides: *Informal Disposition.* If the intake officer, after investigation, believes that in the best interest of the child the matter should be handled on an informal basis, he may thereafter refrain from filing a petition and shall thereafter on behalf of the court, counsel with the child and parents, guardian or custodian, and with their consent and cooperation establish such informal supervision or disposition of the child matter as the circumstances may require.

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formed the court that she had "been a runaway almost constantly since the time the court released her." The intake officer then filed a petition with the court alleging that the minor was a "child in need of supervision" by virtue of having been truant from school in violation of AS 47.10.010(a)(3) and AS 14.30.010 (truancy).<sup>5</sup> At the hearing the court was informed that Mrs. C. had obtained a child psychiatrist who had met with the child and her mother, and together they had worked out some program of counseling. The parties agreed that L.A.M. would be placed in a foster home during a period of counseling and the judge accepted a stipulation to that effect. Having previously explained to L.A.M. that if she violated a court order she could be held in contempt of court and incarcerated, the judge informed the child that she was not to leave the foster home without contacting her psychiatrist, her social worker, or her mother. She agreed. The minor was released from McLaughlin on March 31, 1973, and placed in a foster home. She ran away on April 2, without notification, and was not apprehended until May 4.

A hearing was held on May 14, 1973, at which time L.A.M. was charged with contempt of court by the intake officer. Because of the uncertainty in this area, the trial court appointed the public defender to represent her. On May 17, 1973, the hearing resumed. The state argued that a child in need of supervision could not thereby be held in contempt of court and incarcerated, but that a child guilty of "criminal contempt" could on that basis be adjudicated a "delinquent child" and thereafter institutionalized. The State, therefore, moved to dismiss the petitions, alleging contempt of court and substituting a petition of alleged delinquency. The court

denied the motion but permitted the State to file an amended petition alleging as a separate count an act of delinquency predicated upon "criminal contempt."

A petition alleging delinquency was filed on May 23, 1973, at which time a hearing was held. In responding to the petition L.A.M. denied the allegations and requested a trial. Pending trial, she was placed at the Alaska Children's Services receiving home. A written order was entered on June 8, 1973, specifically setting out the conditions under which L.A.M. would reside at the receiving home pending her adjudication hearing. Specifically, it provided that "[T]he child is not to remain away from the Anchorage Children's Christian Home overnight without the permission of the appropriate adult authorities of the home."

On July 26, 1973, an intake officer filed a petition for revocation of conditions of release pending L.A.M.'s adjudication hearing. In part, the petition stated that she had left the receiving home without permission on July 3, 1973, and remained away until July 24, 1973. A detention hearing was held on July 26th, and at the hearing L.A.M., through her counsel, admitted the allegations of the petition of alleged delinquency based on violation of a court order filed on May 23, 1973. L.A.M.'s counsel made it clear that the minor was only admitting the facts and reserving the right to litigate the legal consequences of those facts.

The court then proceeded to a consideration of the petition for revocation of conditions of release pending adjudication hearing filed on July 26, 1973. Upon admitting the allegations of this petition as well L.A.M. requested through her attorney that a disposition hearing be scheduled within thirty days.

5. AS 14.30.010 provides in relevant part:  
*When attendance compulsory.* (u) Every child between seven and 16 years of age shall attend school at the public school in the district in which the child resides during each school term. Every parent,

guardian or other person having the responsibility for or control of a child between seven and 16 years of age shall insure that the child is not absent from attendance.

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delinquency was filed  
at the time a hearing  
on the petition L.  
A.M. and requested  
that she be placed at  
receiving home. The  
petition was entered on  
the docket setting out the  
facts. L.A.M. would re-  
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mission of adult authorities

Probation officer filed  
a petition for  
revocation of conditions of  
L.A.M.'s adjudication  
and stated that  
L.A.M. had gone home without  
permission on August 3,  
and remained there until  
August 26th, and at the  
hearing her counsel, ad-  
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legation was a violation of a  
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M. stated that the minor  
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At the disposition hearing held on Au-  
gust 28, 1973, and on August 31, 1973, two  
experts testified on behalf of the minor  
and two testified on behalf of the State.  
The expert testimony pointed up the sub-  
stantial differences of opinion both as to  
principle and policy that exists regarding  
runaways and their treatment. After con-  
sidering all of the evidence, the court ac-  
cepted the recommendation of the Division  
of Corrections and ordered the minor insti-  
tutionalized, but deferred execution of the  
order for a period of sixty days to give L.  
A.M. one more opportunity to establish  
that she could be rehabilitated within the  
community. During the deferred period  
L.A.M. was assigned to Sheila Lankford of  
the Division of Corrections Probation De-  
partment.

On November 2, 1973, the superior court,  
on the request of Ms. Lankford, vacated  
the deferred order of institutionalization  
and placed the child on regular probation,  
having been advised that L.A.M. was func-  
tioning effectively within the community  
while living at home. On November 5,  
1973, the minor ran away but returned of  
her own accord on November 7. Two  
days later she ran away again and re-  
mained away until December 5, 1973, when  
she was apprehended by the police. On  
December 6, 1973, Ms. Lankford petitioned  
to revoke the minor's probation. At the  
hearing on this matter held on December  
18, the superior court granted the petition  
to revoke probation but reinstated it on  
new conditions in light of a request by Ms.  
Lankford that the minor not be institution-  
alized. It was agreed that the child would  
reside in the Alaska Children's Services  
Receiving Home.

On March 18, 1974, Ms. Lankford filed a  
further petition seeking revocation of pro-  
bation. In it she alleged that on February  
20, 1974, the minor ran away from the re-  
ceiving home and remained away until

March 16, 1974, when she was apprehended  
by the police. At the hearing on the peti-  
tion, held on March 22, 1974, the court  
found the minor had violated the condi-  
tions of her probation and had run away  
from the receiving home. The court con-  
sidered the minor's objections presented by  
her attorney and, after considering the evi-  
dence and the argument of the parties, di-  
rected that the minor be institutionalized.

L.A.M. seeks to have her adjudication of  
delinquency set aside on two grounds. She  
contends that both as a matter of statutory  
interpretation and constitutional law, a  
child in need of supervision may not be  
prosecuted for criminal contempt; or, in  
the alternative, if such a prosecution is al-  
lowable, such prosecution cannot result in  
incarceration. Upon discussing the nature  
of contempt in this case, each of these  
grounds will be dealt with in order.

[1] Before a party may be held in  
criminal or civil contempt for failure to  
abide by a court order, certain elements  
must be established: (1) the existence of  
a valid order directing the alleged con-  
temnor to do or refrain from doing some-  
thing and the court's jurisdiction to enter  
that order; (2) the contemnor's notice of  
the order within sufficient time to comply  
with it; and in most cases, (3) the con-  
temnor's ability to comply with the order;  
and (4) the contemnor's willful failure to  
comply with the order.

[2] The distinction between criminal  
and civil contempt is generally phrased in  
terms of whether the character and pur-  
pose of the contempt is "remedial" or "pu-  
nitive."

[3] In *Johansen v. State*<sup>6</sup> we used a  
balancing test in determining that the fail-  
ure to pay child support was criminal rath-  
er than civil contempt. We did so because  
incarceration was imposed for a fixed peri-  
od under AS 09.50.020<sup>7</sup> to punish a com-  
pleted act rather than to coerce future con-

6. 491 P.2d 759 (Alaska 1971).

7. See n. 2, *supra*.

duct pursuant to AS 09.50.050.<sup>8</sup> Specifically, the court held that where the contempt power was invoked to punish the alleged contemnor for "past, willful, flouting of the court's authority" pursuant to AS 09.50.010(5) (cf. AS 09.50.020), contempt was criminal, but where the contempt proceeding was instituted to "coerce future conduct" pursuant to AS 09.50.050, the contempt is civil.

[4] Applying that distinction here, the contempt order issued by the court would obviously be classified as "criminal." Were L.A.M. an adult, her failure to abide by court orders would be characterized as a "crime" under AS 09.50.010(5). Hence, L.A.M. could properly be declared a delinquent under AS 47.10.010(a)(1) after a proceeding in the Children's Court.

L.A.M. grounds her constitutional argument in *Breese v. Smith*,<sup>9</sup> where this court ruled that the right to liberty set out in Art. I, Sec. 1, of the Alaska State Constitution<sup>10</sup> guarantees every Alaskan regardless of age ". . . total personal immunity from governmental control: the right to be let alone . . ." which L.A.M. contends the supreme court qualified only to the extent that it ". . .

must yield when [it] intrudes upon the freedom of others. . . ." Therefore, she continues, a citizen's right to liberty as enunciated in *Breese, supra*, (bolstered by the more recently enacted "right to privacy")<sup>11</sup> cannot be infringed by preventing her from doing anything that does not injure a specific definable victim. Consequently, L.A.M. concludes since her conduct, i.e. running away from home and foster home placement, did not injure anyone (except perhaps herself, which she contends has not been proved), it necessarily follows that it cannot constitutionally be interfered with by the State because there is no compelling state interest to justify such an interference.

L.A.M. assumes that the only interest to be protected by legislation in this area is that of the children. This is simply not the case. The parents' interest as well as the State's must be considered.<sup>12</sup>

[5-7] Proceedings against children alleged to be in need of supervision are in substance and effect custody disputes where the contestants are parent and child, and the parent appeals to the court to vindicate and enforce his custody rights in the child against that child.<sup>13</sup> Viewed in

8. AS 09.50.050 states in relevant part: When the contempt consists of the omission or refusal to perform an act which is yet in the power of the defendant to perform, he may be imprisoned until he has performed it.

9. 501 P.2d 159, 168-170 (Alaska 1972).

10. Art. I of the declaration of rights of the Alaska Constitution, § 1, provides:

*Inherent Rights.* This constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

11. Alaska Constitution, Art. I, § 22, provides:

*Right of Privacy.* The right of the people to privacy is recognized and shall not be

infringed. The legislature shall implement this section.

12. The U. S. Supreme Court has on a number of occasions held that a parent's "right" to the custody and control of his child was constitutionally protected. See *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973); *Wisconsin v. Yoder*, 406 U.S. 205, 92 S.Ct. 1520, 32 L.Ed.2d 15 (1972); *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); *Armstrong v. Manzo*, 380 U.S. 545, 85 S.Ct. 1157, 14 L.Ed.2d 62 (1965); *May v. Anderson*, 345 U.S. 528, 73 S.Ct. 940, 97 L.Ed. 1221 (1953); *Pierce v. Society of Sisters*, 269 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925); *Meyer v. Nebraska*, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1932).

13. While there is much discussion of parental rights in reported cases, few cases attempt to define those rights making discussion difficult. A careful review of the literature, including case law, treatise and law review, indicates that the following have

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this light, the statutes creating the status "child in need of supervision" provide a judicial remedy and discourage resort to self-help and the attendant risk of violence.<sup>14</sup>

[8] Thus, before L.A.M. can sustain her case that the child in need of supervision procedure, including the invocation of the court's contempt power to enforce orders made pursuant to it, is an unconstitutional invasion of her liberty and privacy, she must first establish that her mother has no legally enforceable right to her custody and the State thus has no right to enforce such an order. We note at the outset, however, that there is more to the parent-child relationship than simple custody. It is love and trust and a responsibility toward each other which cannot be defined legally. It is impossible to discuss severing

been listed as "parental rights" protected to varying degrees by the Constitution:

(1) Physical possession of the child which, in the case of a custodial parent includes the day-to-day care and companionship of the child. In the case of a non-custodial parent, possession is tantamount to the right to visitation.

(2) The right to discipline the child, which includes the right to inculcate in the child the parent's moral and ethical standards.

(3) The right to control and manage a minor child's earnings.

(4) The right to control and manage a minor child's property.

(5) The right to be supported by an adult child.

(6) The right to have the child bear the parent's name.

(7) The right to prevent an adoption of the child without the parents' consent.

Of these so called residual parental rights, those that remain after custody is placed in another include the right to consent to an adoption and to withhold consent to prevent an adoption, the right to visitation and the right to have the child bear the parents' name. See the discussion in Burt, *Forcing Protection on Children and Their Parents*, 69 Michigan 1259 (1971); Dobson, *The Juvenile Court and Parental Rights*, 4 Family Law Quarterly 393 (1979); Young, *The Problem of Neglect: The Legal Aspects*, 43 Journal of Family Law 29 (1964); Note, *Child Neglect: Due Process for the Parent*, 70 Col.L.Rev. 465 (1970).

this relationship without considering the heartache and anguish of the parents who must ultimately live with themselves and the decision after the child reaches adulthood. Further, the consideration of such an issue must accept the limitations of the State to be a parent; good intentions are not adequate substitutes for the day-to-day relationship which we have come to accept as necessary to the growth of children into responsible adults. True, like all legal rights, a parent's right to the custody of his child is not absolute and may be lost through divorce,<sup>15</sup> by conduct depriving the child of the necessities of life,<sup>16</sup> by abandonment,<sup>17</sup> by the child's emancipation,<sup>18</sup> or, subject to constitutional limitations, where the welfare of the child requires a limitation or termination of parental rights.<sup>19</sup>

14. By withdrawing court assistance (and police assistance) from embattled parents, the state is not inducing compromise but may encourage violence, since parents have the right under Alaska law to physically control their children. See AS 11.15.11J(1) as interpreted in *State v. England*, 220 Or. 395, 349 P.2d 608 (1960), and compare the civil liability of parents for disciplining their children which is discussed in *Hebel v. Hebel*, 435 P.2d 8, 14-15 (Alaska 1967).

15. AS 09.55.205 gives a court in a divorce action the right to provide for the custody of the children.

16. See AS 47.10.010(a)(5) which, when read in conjunction with AS 47.10.080(c) and AS 47.10.290(3), permits the state to take custody of a child who "lacks proper parental care by reason of the faults, habit or neglect of his parent, guardian or custodian."

17. See AS 47.10.010(a)(4), which authorizes the state to take custody of a child who has been abandoned.

18. A child is emancipated as a matter of law when he or she reaches the age of majority which in Alaska is 19 years of age; AS 25.20.010. See *R.L.R. v. State*, 487 P.2d 27 (Alaska 1971).

19. *Turner v. Pannick*, 540 P.2d 1051, (Op. No. 1180, 1975); *In the Matter of the Adoption of K. S.*, 543 P.2d 1101, (Op.No.1211), 1975).



L.A.M. was given an opportunity to show any of the foregoing as a defense to a finding that she was a "child in need of supervision" or, subsequent thereto, to a finding that she had committed criminal contempt of court and was therefore delinquent by violating orders regarding her placement; but she failed to do so.

Runaway children of L.A.M.'s age are generally incapable of providing for or protecting themselves. As a result, police spend a substantial amount of time protecting these youths from those who would prey upon them, as well as protecting the community from those who are ultimately driven to criminal activity to provide themselves with the necessities of life.

Various other social agencies also expend considerable efforts attempting to protect and shelter runaways in an effort to provide both an alternative to criminal activities and counseling in lieu of that they received from their parents. Without question these children's matters are of broad public interest and concern. They go to all aspects of the physical and mental well being of such children.<sup>20</sup>

The family, school, social agency and police resources allocated to aid the runaway are enormous. In this case, the child had continuing aid and support of (1) her mother and step-father, (2) a private psychiatrist hired by her mother, (3) counseling with social workers in Division of Family and Children's Services, (4) probation officers in Division of Corrections, (5) school counselors, (6) psychologists and psychiatrists from Langdon Clinic, (7) Alaska Youth Advocates, (8) group home counselors, (9) her court-appointed attorney, and (10) the court. To assert that the State has no interest in this child is to

deny that the function of government is to protect its citizens. All of this presupposes the heartache and anguish of the parents, who in the first instance have been unable to deal with this problem but who must also live with the solution.

This court has previously found that there is sufficient State interest to justify restrictive measures on much less substantial grounds.<sup>21</sup> Further, this court has noted that distinct government interests with reference to children may justify legislation that could not properly be applied to adults.<sup>22</sup>

[9] The State has a legitimate interest in protecting children from venereal disease, from exposure to the use of dangerous and illicit drugs, from attempted rape, and from physical injury, all of which occurred in this case. Doubtless the State will never be entirely successful in its efforts. It does, however, have the right and obligation to try to protect its young people from such conditions.<sup>23</sup> The test set out by this court in *Ravin v. State*,<sup>24</sup> is whether the means chosen by the State are closely and substantially related to an appropriate government interest. Clearly they are here.

[10] While it may be argued that the necessary "supervision" contemplated by the statute is simply the furnishing of food, clothing, shelter and schooling in lieu of that which would otherwise have been provided by a parent, this argument begs the question, for the purpose of the supervision or treatment contemplated by the creation of the child in need of supervision and its predecessor non-criminal delinquency was reintegration of the child into her family and resumption of parental custody including parental control (cf. AS 47.10-

20. *In Re G.M.B.*, 483 P.2d 1006 (Alaska 1971); *Wagstaff v. Superior Court*, 535 P.2d 1220 (Alaska 1975).

21. *Kingery v. Chapple*, 504 P.2d 831 (Alaska 1972).

22. *Ravin v. State*, 537 P.2d 494 (Alaska 1975).

23. In the analogous equal protection argument concerning ". . . economics and social welfare, a State does not violate the Equal Protection Clause merely because the classification made by its laws are imperfect." *Dandridge v. Williams*, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed.2d 491.

24. 537 P.2d 494 (Alaska 1975).

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280). Thus, the State's efforts regarding the child are not directed solely at providing an alternate living situation (as they are in a true case of dependency) but at putting the child back in her own home. The reestablishment of her mother's custody and supervision over her and any foster placement is merely a means to that end, not an end in itself. Thus, by rejecting these efforts L.A.M. defeats, or at least slows, this reintegration process and thereby prejudices her mother's right to her custody and control, subjecting herself to the more severe sanction contemplated by AS 09.50.020.

We note that L.A.M.'s primary argument in this case is that as a child in need of supervision whose conduct from the inception of the case to the present has not changed, she may not be placed in a closed setting, i. e. one where the doors may be locked. However, the cases upon which L.A.M. relies proceed to a different point, namely that the child should not be placed in a state training school. In Colorado, California, Illinois and New York,<sup>25</sup> children in need of supervision can at the first instance be placed in juvenile halls or youth centers, i. e. places with locked doors, but cannot be placed at the state training school, i. e. maximum security institutions. The McLaughlin Youth Center in Anchorage is more the equivalent of a juvenile hall than it is a state training school. It should be noted that Alaska has contracts with Colorado and California to place Alaska delinquents who are too sophisticated for McLaughlin in the state institutions in those states. Thus L.A.M. is not to be placed at either the California or Colorado training schools; she is threatened with placement at the McLaughlin Youth Center.

[11] Substantial evidence was introduced during the many hearings of this

25. *In re Presley*, 47 Ill.2d 70, 264 N.E.2d 177 (1970); *Matter of Tomasita N.*, 30 N.Y.2d 927, 335 N.Y.S.2d 683, 287 N.E.2d 377 (1972); *C. v. Redlich*, 32 N.Y.2d 589, 300 N.E.2d 424 (1973); *Cal. Wolf. and Inst. Code*, §§ 601, 730, 777 (West 1972).

case regarding the population at the McLaughlin Youth Center. Based upon that evidence, it is clear that the kind of children who are extremely aggressive, and extremely hardened in delinquency, are not treated at McLaughlin Youth Center but are sent outside for placement at schools in Colorado and California under contract with the State of Alaska. While the population at McLaughlin is made up at the present time exclusively of "delinquents," the evidence introduced at trial convinces us that while delinquency in some form is a prerequisite to gaining admission to McLaughlin, it is not the real reason that the child is at McLaughlin. The overwhelming majority of delinquents with strong family ties are treated in the community. Those delinquents who end up at McLaughlin are by and large there for the same reason that L.A.M. may be there, namely an unwillingness to remain at home or a home substitute and heed parental or a custodian's regulations. Based upon the evidence, it appears that L.A.M. and other chronic run-aways would not be distinguishable in sophistication, exposure to criminal activity, etc., from the average child in the population at McLaughlin and that therefore the reasoning of the cases cited by L.A.M. should not apply to Alaska.

[12-14] Whether we characterize L.A.M. as a delinquent child, a child in need of supervision, a dependent child, or merely a child whose custody is disputed in a domestic relations proceeding, the court has authority, upon extending all procedural safeguards, to make orders affecting her custody. It is argued, however, that this is a situation where the court has no power to enforce its order, and thus the court must release L.A.M. This view is contrary to the inherent power of the court to enforce its orders or decrees.<sup>26</sup> While the court

26. Alaska Const. Art. IV, § 1, provides in part:

"The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. See also *De Parte Robinson*, 80 U.S. (19

may have limitations on its power to act, there are only due process limitations on its authority to compel enforcement of its orders. Hence, we reject the argument that the superior court lacked the authority to enforce specific orders against L.A.M. in this case.

[15] The lower court determined that L.A.M. would not abide by any orders it entered regarding her supervision under AS 47.10.080(j). This behavior constitutes willful criminal contempt of the court's authority: were she an adult, her actions would be characterized as a "crime" under Alaska statutes. She was, therefore, properly declared a delinquent and subject to those sanctions available for the correction of a delinquent minor's behavior. Certainly, conciliation should precede coercion; and if coercion is necessary, mild sanctions should first be tried before more severe sanctions are imposed. However, where mild sanctions fail, the court's orders must be enforced and severe sanctions should be imposed if necessary. In the instant case, all available sanctions, save institutionalization, were tried and found unsuccessful. Thus, the lower court determined that it

had no choice but to order L.A.M. institutionalized.

In affirming this decision, we note that the trial judge was most innovative in fashioning a necessary remedy for a situation not covered by statute.<sup>27</sup> The very nature of the problem, however, calls for legislative overhaul of the statutes in this area, for the trial court's remedy is not easily modified to cover other situations where there is no statutory guidance.

BOOCHEVER, Justice, with whom RABINOWITZ, Chief Justice, joins, concurring.

I concur in the court's opinion based on the last three paragraphs thereof. I would not reach the other issues discussed in the opinion. Protection of parental rights to care, custody and supervision do not seem to me to be an appropriate rationale for placing a child in an institution. In my opinion, the court's efforts were devoted primarily to furthering the welfare of the child, a subject in which the state does have an interest.<sup>1</sup> There was ample testimony to indicate that L.A.M.'s conduct was harmful to her.<sup>2</sup>

Wall) 505, 510, 22 L.Ed. 205, 207 (1874); *In re Shorridge*, 99 Cal. 526, 529, 34 P. 227, 229 (1903); Frankfurter and Landis, Power of Congress over Procedure in Criminal Contempts in "Inferior" Federal Courts—A Study in Separation of Powers, 37 Harv. L.Rev. 1010, 1017-1022 (1924); Goldfarb, *The Contempt Power*, 37-40 (Columbia University Press 1963).

27. The trial judge was a model of patience and fairness in this extremely difficult case. Further, we are indebted to him for his scholarly memorandum opinion which aided in the preparation of this opinion.

1. The state's power to act in support of the welfare of children is exemplified by such statutory enactments as compulsory education (AS 14.30.010 et seq.); financial assistance for dependent children (AS 47.25.310 et seq.); protective laws as to the employment of children (AS 23.10.325 et seq.); minimum age of consent for marriage (AS 25.05.171); prohibition of the use of alcohol and tobacco by minors and of the sale of either substance to minors (AS 04.15.050 et seq. and AS 11.60.080); punishment for statutory rape (AS 11.15.120); con-

tributing to the delinquency of a minor (AS 11.40.130); and for lewd or lascivious acts toward children (AS 11.15.134).

In *Anderson v. State*, 394 P.2d 669, 671 (Alaska 1963), this court stated that the purpose of the statute punishing acts which contribute to the delinquency of a minor is "to protect all children under the age of 18". In *Hanby v. State*, 479 P.2d 480, 498 (Alaska 1970), the court held that the state can enact statutes to protect the juveniles—to prevent as well as punish delinquency. In *Hanby*, the court found that material which was not so obscene as to be proscribed for the general population could be forbidden to minors. Children who were judged to be in a harmful environment were removed from their home in *In re P. N.*, 533 P.2d 13 (Alaska 1975). The court determines child custody in divorce proceedings according to the welfare and best interest of the child. *Horton v. Horton*, 519 P.2d 1131, 1132 (Alaska 1974); *Nichols v. Nichols*, 516 P.2d 732, 734 (Alaska 1973); *Carle v. Carle*, 503 P.2d 1050, 1052 (Alaska 1972).

2. While a runaway, L.A.M. was truant from school; was allegedly the victim of a

On the basis of the record, I do not believe that we can conclude that police spend countless hours protecting the community from anti-social conduct of runaway children. Recent studies indicate that status offenders (such as runaways) are not a source of general harm to others as contrasted with children who have committed offenses which, if perpetrated by adults, would be crimes.<sup>3</sup> I concur in the opinion since I believe that the state has an interest in the welfare of children justifying the entry of appropriate orders. In cases involving status offenders, only after all else fails, should placement in a closed setting be justified. But under the facts of this case, the trial judge had no alternative.

RABINOWITZ, Justice (concurring).

Although I am in agreement with the court's disposition of this appeal, I think it appropriate to answer appellant's contention that our prior decisions precluded the superior court from institutionalizing L.A.M. This contention is grounded upon *In re E.M.D.*, 490 P.2d 658 (Alaska 1971), where we rejected the argument that under Alaska's statutes a minor who has been adjudicated a child in need of supervision may be institutionalized by the state. Upon analysis of the relevant statutes, we concluded that "... the legislature has authorized institutionalization only

rape as reported in a call to the police; contracted gonorrhoea; suffered an injured jaw and broken teeth from a fall, which injuries had not received medical attention.

3. Clarke, Stevens II., "Some Implications for North Carolina of Recent Research in Juvenile Delinquency," *Journal of Research in Crime and Delinquency*, January 1975.

1. *In re E.M.D.*, 490 P.2d 658, 659 (Alaska 1971). In *E.M.D.*, after finding the minor to be a child in need of supervision, the trial court committed *E.M.D.* to the custody of the Department of Health and Welfare and

when the child is found to be a delinquent minor."<sup>4</sup> Thus, if the superior court in the case at bar had institutionalized L.A.M. because she had been adjudicated a child in need of supervision, such action would have been erroneous under *E.M.D.*

But here L.A.M.'s status was not merely that of a child in need of supervision; the scope of her future conduct had been limited by the superior court's order. By virtue of this order L.A.M. was, as the state argues, essentially on probation.<sup>2</sup> The majority notes that the superior court found that L.A.M. had violated the conditions of her probation by running away. The majority then observes that

Were L.A.M. an adult, her failure to abide by court orders would be characterized as a 'crime' under AS 09.50.010(5). Hence, L.A.M. could properly be declared a delinquent under AS 47.10.010(1) after a proceeding in the Children's Court.

I thus conclude that what essentially transpired below was that the trial court found a violation of the conditions of probation which it imposed pursuant to its determination that L.A.M. was a child in need of supervision, and ordered L.A.M. incarcerated.<sup>3</sup> In my view, *E.M.D.* did not prohibit the superior court from ordering the institutionalization of L.A.M. in the circumstances of this case.

directed the Department to place her in a correctional or detention facility.

2. AS 47.10.050(j) provides in part:

If the court finds the minor is a child in need of supervision it shall make any of the following orders of disposition for his supervision, care and rehabilitation:

(2) order the minor placed on probation under those conditions and limitations that the court may prescribe.

3. See AS 47.10.050(b)(1).

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April 27, 1988

TO: Members of the House Finance Committee  
and, Members of the House Rules Comm.

FROM: DADS AGAINST DISCRIMINATION  
POLITICAL ACTION COMMITTEE  
DADS PAC

*Armstrong*



SUBJECT: DADS Supports SB 117

DADS PAC supports SB 117 wholeheartedly. SB 117 was amended in House Judiciary and includes four (4) of DADS AGAINST DISCRIMINATION'S ten (10) 1988 legislative goals.

A Governor's Bill, SB 117 is also supported by the Child Support Enforcement Division and represents the best of compromise between the interests of obligees, obligors, their children and the State of Alaska. There is no opposition to this bill. There is NO FISCAL NOTE.

Representatives John Sund, Fran Ulmer and Max Gruenberg worked very hard through two full committee hearings and three subcommittee hearings to work through every section of this bill.

The following justice issues for obligors are contained in this bill:

1. The dependent allowance granted by the state to the children of unemployed workers on their unemployment checks is exempt from garnishment for child support for other children. Basic poverty-level needs of the children living in the child support-paying unemployed father's home are protected.
2. Interest charges are stopped when an employer pays garnished child support payments late to the state when the obligor has timely given-up the child support out of his pay check.
3. The mailing of the Notice of Liability by the Division must be done by certified mail. This is a protection to the state, as well as providing due process notice to the obligor.
4. An administrative process is provided to obligors to terminate wage withholding when 12 months of payments have been made, which avoids the cost of an attorney for the obligor and relieves the Division of processing wage withholding on accounts that have been current for a year.

PLEASE vote yes on SB 117! Much hard work and a good compromise have gone into this bill. THANK YOU FOR YOUR SPEEDY ASSISTANCE.

Rep. Adams

AICC Urgently Requests  
Consideration & support & passage  
of SB 79 - Runaway Bill

Current studies on Runaways  
show that Runaways are pred-  
icted to be the third wave  
of AIDS carriers. It is  
imperative that we keep  
youth off the streets.

Please pass this  
legislation

Alk. Juvenile Crime Commission

Marge Hall &

Pamela Thiel

(2)

Child sexual abuse and exploitation, juvenile delinquency, violence and criminal activity were identified nationally as some of the most serious problems confronting society. The runaway is a national and progressive epidemic that contributes to a kaleidoscope of serious societal problems. The runaway/street juvenile further impacts society by exhibiting those factors intrinsic to much of the prison population. Society is behind the power curve in identifying the scope of the problem, and the projected result, as well as implementing workable preventive measures. Alaska is impacted more heavily than comparative communities outside.

A significant conclusion was drawn by John Walsh, the father of Adam, when he spoke to the Joint Judiciary and Health and Social Services Committees of the Alaska Legislature in Juneau

"Those of you that are parents who love children have a vested interest. Those of you that don't have children and really aren't concerned with children but won't admit it publicly, consider this: 80% of the convicted felons that are in federal prisons by an FBI survey were physically or sexually abused as children. 75% of the violently mental ill in state institutions were physically or sexually assaulted as children. If you want to deal with the problem now you won't have to pay later. Because the 12 year old on the streets of Anchorage tonight, or the sexually or physically abused child in your schools today may become the rapist or murderer in Alaska's future and you'll have to deal that with a larger, much larger appropriation and much bigger cells. So, there is a way to break the chain and that's by protecting children now and stopping and helping the victim. We must stop them from becoming future criminals."

"The profiling of serial murders and rapists reveals psychological abnormalities stemming from negative life factors rooted in child and teen years as one of the predictors of serial murderers, arsonists, and rapists.

"Profile work done by the Bureau has convinced me that if communities do not act to address problems of juveniles we can expect to see a sharp rise in violent crimes as well as those crimes committed by serial murderers and rapists."



# **AIDS AND THE RUNAWAY**

## **A GENERATION AT RISK**

**Alaska Juvenile Crime Commission**

**Marroyce Hall**

**March 9, 1988**



# Alaska Juvenile Crime Commission

P.O. Box 92850 Anchorage, Alaska 99509 Ph. (907) 279-7401

Feb 12, 1988

Senator Tim Kelly  
P.O. Box 21-0001  
Anchorage, Alaska 99521  
Chairman Senate AIDS Committee

Dear Senator Kelly,

I have reviewed the state epidemiology report presented to the Senate AIDS committee by Dr. Middough, as we discussed.

While very solid work is being done within the general population of Alaskans, it appears that additional and very direct effort must be expended in the next and largest potential population of AIDS carriers, the chronic runaway and youth-at-risk.

Recent research indicates that many of the traits inherent to chronic youth at risk; drug abuse, homosexual and heterosexual prostitution, and poor health habits create conditions in which the AIDS virus will flourish.

Most youth within this population also evidence mal-adaptive or anti-social coping behaviors, immaturity, illiteracy, and suicidal tendencies. These tendencies preclude typical methods of AIDS prevention through educational awareness or personal protection. For the most part, at risk youth will reject AIDS issues or act inconsistently in protecting themselves and others.

As I indicated in our conversation, we have spent a great deal of time researching the problem. Our perspective is the result of daily hands-on experience with our chronic street youth and research and information about the AIDS epidemic nationally.

In fact, concerns that the runaway population could become "the third wave of AIDS carriers" is now expressed by organizations like Covenant House and The National Center for Missing and Exploited Children FBI special agent Lanning, Behavioral Sciences, the U.S. Surgeon General.

- Maria Kivimaki
- Pat Bulant
- Richard Burton
- Inv. Preston Chapman
- Marcy Clark
- Linda Clifford
- Gail Neal
- Sue Dolman
- Inv. Frank Felchinger
- Theresa Johnson
- John Houry
- Ray Lentman
- Us Mays
- Sharon Mahoney
- Merrily Nelson
- Officer Joe Young

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Det Steve Hollenbeck  
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Det Mark Cole  
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Police Dept

Michelle  
Police Dept

Det McQueen  
Police Dept

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Det  
Police Dept

Det  
Police Dept

Officer Stebbard  
Police Dept

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Lanley

5

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# Alaska Juvenile Crime Commission

P.O. Box 92850 Anchorage, Alaska 99509 Ph. (907) 279-7401

pg. 2

The enclosed report profiles the current problem within the New York runaway population from *Psychology Today* and a comparative of statistics on youth in Alaska who are, by their lifestyles, also at risk of contracting AIDS. In addition, we have also utilized information from the Alaska State Epidemiology report.

We are preparing recommendations appropriate to this population and will be providing your committee with a copy in the near future.

Sincerely,

Marrroyce Hall  
Executive Director

(6)

## LAST YEAR I MET ANGIE....

SHE WAS SMALL, BLOND AND BARELY OUT OF HER TEENS. ANGIE \* GREW UP LIKE ANY REGULAR KID FROM A NICE FAMILY. SHE WENT TO AN ANCHORAGE HIGH SCHOOL AND DID THE THINGS OUR KIDS DO.

WHEN I MET ANGIE, THE MOST SPECIAL PART OF HER LIFE WAS HER LITTLE DAUGHTER CHRISSEY. THEN, FOR A LONG TIME I DIDN'T SEE CHRISSEY OR HER MOM.

IT WAS THE HOLIDAY SEASON. COLORED LIGHTS, FESTIVE DECORATIONS AND A HEAVY WINTER SNOW TURNED ANCHORAGE INTO A WINTER WONDERLAND.

ANGIE CAREFULLY WRAPPED EACH SPECIAL PRESENT AND STORED UP A RAINBOW OF MEMORIES TO LAST A LITTLE GIRL A LIFETIME. WHEN ALL WAS DONE, SHE TURNED TO FACE THE FINAL SUMMONS OF THE DEADLY ADVERSARY.

TO MOST ALASKANS, ANGIE IS NOW A STATISTIC.....ONE OF ONLY 8% OF ALASKA'S FEMALE AIDS VICTIMS.

TO HER FRIENDS, HER FAMILY, AND HER LITTLE GIRL, SHE IS A TRAGIC LOSS.

• NAME CHANGED

7

EXCERPTS: PSYCHOLOGY TODAY:

## THE RUNAWAY EPIDEMIC

By: Patty Hersch

JANUARY 1988 EDITION

COMING OF AGE ON CITY STREETS

RUNAWAY AND HOMELESS TEENS THOUGHT CRACK, PROSTITUTION AND VIOLENT PIMPS WERE THE WORST STREET LIFE COULD DO TO THEM. THAT WAS BEFORE AIDS.

At all times, their habits and associates place them in extraordinary danger contracting AIDS. Reaching them has always been a challenge. Now, it's an emergency.

Donahue cannot understand why the men, the "johns" who purchase sex, are not scared of contracting AIDS. "They've got to know that they are sleeping with kids who have been all over the place. I talked to a guy, 25 years old, who'd been hustling since he was 14. He has AIDS, but he's going through denial and still doesn't use condoms. I asked him about the johns. Don't they want condoms? He answered, 'If they wanted safe sex, do you think they would be out on 42nd Street? They want fantasies. ...Condoms aren't of fantasies. AIDS isn't part of fantasies. AIDS has no impact on whats going on in the streets'"

Many of these runaway and homeless adolescents, between 20,000 and 40,000 in New York City, up to 1.2 million nationwide, are caught at the juncture of risks.

Sex more than anything puts runaway kids at risk for AIDS. Homeless kids survive any way they can. Their bodies usually become the currency of exchange.

ALASKA CHRONIC STREETYOUTH: A Generation at Risk

John Rabun, Deputy Director of the National Center for Missing and Exploited Children and the national consultant for the Alaska Juvenile Crime Commission views the runaway problem as one of the severest in the nation for cities the size of Anchorage.

"One major indicator of the problem developing in Alaska is the numbers of the runaway reported in Anchorage (nearly four times the national average). With so many youth outside of legal custody, the predictors of their involvement in activities typical of street life indicate that Alaska will continue to suffer escalating and compelling problems."

According to Municipality figures, there are approximately 600 youth annually in Anchorage who are chronic runaways. A chronic runaway is one who has left home three or more times.

There are about 300 castaway youth in Anchorage each year. These are youth on the streets who have been forced out of their homes.

\*85% of first time runaways return home after a short time on the street

COMPARED TO THE GENERAL TEEN POPULATION RUNAWAYS EVIDENCE:

Increased levels of prostitution

Increased exposure to sexually exploitive individuals.

Increased likelihood of drug dealing IV drug involvement.

Increased incidence of teenage pregnancy and sexually transmitted disease.

The educators are innovative, honest, open and desperate. Not one person I interviewed believes they are making a substantial change in the behavior of this population. Why? The teens won't remember; they will reason it is OK to have sex with friends; some girls want to get pregnant; their johns give them more money if they don't use a condom. Mostly, though, there are so many ways to die every day on the street they cannot focus on something that may kill them years from now.

But signs of infection are already evident. A young man who had asked to be tested for AIDS learned that the results were positive. Although a sensitive staff was geared to support him, he fled, crying hysterically, and disappeared into the streets. He did not return the next day, and the entire staff of Covenant House was distracted, unable to help him and wondering whether he might commit suicide or infect others out of anger.

Jim Kennedy, a physician and medical director of Covenant House, finds that young girls are being infected with Human Immunodeficiency Virus (HIV) just by having sex with new boy friends, the guys who take them in when their families throw them out. "Even if these girls never end up working as prostitutes, they are at risk when they have sex with the drug-abusing guys who control street life of local neighborhoods," he says. Last summer, he tested four girls who fit this description. Three tested HIV-positive. One of the three is pregnant.

Over the summer, Kennedy tested a small number of the street kids for AIDS: Twenty-seven percent were HIV-positive, and there was one definite case of AIDS-related. "It's as simple as arithmetic," Kennedy estimates that 15 percent of the 11,000 adolescents in and out of Covenant House in a year would test positive for Human Immunodeficiency Virus. Among those hustling every night, he imagines a rate of exposure exceeding 50 percent.

People are put at risk by their behaviors. Those at greatest risk are homosexual and bisexual men having unprotected intercourse of multiple partners and those individuals sharing needles to inject IV drugs. ASER/AIDS

Nationally, the greatest number of AIDS cases have occurred in IV drug abusers and their sexual partners, and in prostitutes who are IV drug users. ASER/AIDS

CDC reports that 48,139 people nationwide had developed AIDS by December 7, 1987, at least 57% of whom had already died. CDC estimates that between 1 and 1.5 million people are infected with the virus, many of whom are unaware that they are infected. ASER/AIDS

In Alaska, 48 AIDS cases were reported between November 1982 and December 1987, and 31 (65%) of these people are known to have died. ASER/AIDS

In Alaska, 79% of AIDS cases have occurred in the urban areas where most of the state's population is centered. Six percent of all cases in the state have occurred in women. ASER/AIDS

Alaska has a young population and a higher proportion of males than the nation as a whole, which indicates an increased potential for AIDS transmission here. The state's experience with gonorrhea, another sexually transmitted disease, offers an additional indicator that the population may be at increased risk for AIDS: Alaska ranks seventh among the 50 states and District of Columbia in the number of diagnosed gonorrhea cases (2,712 cases in 1986). ASER/AIDS

An estimated 125,000 to 200,000 teenagers become involved in prostitution each year;

Many people believe these adolescents will become part of the third wave of carriers in the AIDS epidemic.

There may never be an actual epidemic among adolescents because the latency period between infection and appearance of symptoms may be 10 years or longer. There is, however, an epidemic of exposure, and many runaway kids, years hence, may pay horribly for the events of their troubled youth.

They don't know enough about AIDS and you tell them and they forget. And you tell them again and you give them a handful of condoms. And you know they share everything from tooth brushes and IV needles to razors and chewing gum.

Jean Garrison is director of the High-Risk Program: "We've hardly begun to face the fact that they are at great risk for contracting the AIDS virus."

Often, their immune systems are already compromised by repeated exposure to infections. All of these conditions may increase the risk for developing AIDS.

Or the young man, hospitalized with AIDS, who went on a trip to Canada after he was discharged. He had a "great time," including several sexual encounters. He did not engage in sex maliciously, but irresponsibly, his physician told the group. The patient, an adolescent felt good, so he ignored his illness and did what was fun for the moment.

#### Mc LAUGHLIN YOUTH CENTER SURVEY

68% MYC inmates reported heterosexual and/or homosexual involvement with adults.

Almost 30% MYC males indicated they were forced into sexual acts.

27% of the males respondents indicated they had sex for money.

MYC

School aged children and young adults are vulnerable to exposure AIDS because experimentation with sex and drugs often occurs in this age group. Many individuals in this population are sexually active, as evidenced by the fact that in 1986 alone, 16% of the state's gonorrhea cases were in individuals 19 years of age or younger, and 9% of cases in this age group were children fourteen years or younger. He further notes that some children with AIDS or ARC will develop brain disease which will change their mental behavior. ASER-AIDS

#### \*Alaska State Department Epidemiology Report on AIDS-January 1988

Today, one out of five people with AIDS are between the ages of 20 and 29. Many of them may have been infected as teenagers, because the virus may not cause symptoms for up to 10 years.

"Teenagers are absolutely at risk, because as a group, they engage in risky behavior" says David Brumbach, director of the Maryland AIDS Foundation. "If they are having sex with multiple partners or experimenting with needle drugs, they are in a free-fire zone, and the enemy is a virus. It's deadly." SU

Scholastic Update  
Oct 16, 1987

(10)

Youth-In-Trouble National StatisticsSEXUALLY TRANSMITTED DISEASES

Youth age 10 to 24-year-old accounted for 62.5% of all gonorrhea cases and 40% of syphilis cases in 1985.

Nearly half of the estimated 20 million sexually transmitted disease patients are under age 25.

DRUG USE

In a 1986 study, 1.1% of U.S. high school seniors reported that they had used heroin.

Nearly 30% of all students will drop out before high school graduation, and youths who have dropped out of high school have higher rates of intravenous drug use than those in school.

\*Few disagree that drug abuse is a deadly evil. But the growing AIDS juggernaut, New York health officials argue, is deadlier. As many of 60% of New York, 200,000 addicts now carry the AIDS virus. The IV drug user is the gateway to the heterosexual population.

SEXUAL ACTIVITY

In the United States, 11.5 million teenagers have had sexual intercourse.

RUNAWAYS

About one million teenagers run away each year in the United States, more than half of them have run away at least three times.

An estimated 187,500 runaways are involved in illegal activities, such as drug use; prostitution and solicitation, and drug trafficking.

\*Time Magazine: Feb 15, 1988

WASHINGTON (AP) - SURGEON GENERAL C. EVERETT KOOP told a White House panel today he is concerned about the spread of the AIDS virus among teen-agers and expressed outrage at suggestions the disease cannot be spread through heterosexual intercourse.

Although only a relative handful of the more than 50,000 AIDS cases reported so far involve teen-agers, Koop said little information is available on the extent to which the virus may be lying dormant among that group.

Because of the long incubation period of the disease - five years or more - Koop said he is reluctant to rule out an outbreak of AIDS cases in young heterosexual adults who contracted the virus as teen-agers.

Fairbanks News Miner  
March 1, 1988

Covenant House staff asked this question -

As these children get sick, who will comfort them?

"Who will visit them in the hospital, bring them cards and candy, answer the questions about death and God their desperate eyes will ask? Where will they sleep between hospital visits? On a train? In Penn Station? Who will attend the funerals and weep beside their graves? Who will bury our children?"

Alaskans must decide now. We will fight the spread of AIDS in our youth, or will we, like New York, ask who will bury our children? - - -

(11)



# Alaska State Legislature



## MEMORANDUM

## Senate

TO: All Members  
House Finance Committee

FROM: Senator Pat Rodey *Pat*

DATE: April 28, 1988

RE: SB 79, "An Act relating to runaway and missing minors."

We have all heard the story many times: runaway and homeless youth present enormous problems for themselves, their families, and our communities as a whole. Runaway youths are much more likely to be exposed to exploitive situations, to abuse or deal drugs and alcohol, or to get in trouble with the law for committing illegal acts. The community must deal with an increased incidence of child prostitution and higher levels of drug involvement and crime.

Senate Bill 79 is one attempt to encourage a positive response to the plight of children on the streets.

- We have attempted to provide greater flexibility for law enforcement officers, parents and children by allowing the child and the parent to choose a temporary "neutral" location, such as a neighbor or relative's home, when a runaway child has been picked up by a police officer. Police approve of this provision because it more clearly defines their options. Families approve because it allows them greater opportunity to solve family problems outside of the state legal system. Under no circumstance, however, is a child forced to return home if they do not wish; the minor's preference is honored.

- We have attempted to encourage Covenant House and other existing runaway programs, and have developed program licensing language to promote the innovative development of new runaway programs in smaller communities throughout the state.

- We have attempted to meet the crisis needs of those few chronic runaways who are in severe danger without intervention by the state. By exempting from protective custody those minors who are residing in licensed runaway programs, we hope to encourage runaway youth to seek out these programs and look for assistance on their own. We believe this bill represents a reasonable, balanced, effort to allow secure detention.

There are those who strongly oppose any detention of runaways, regardless of the surrounding circumstances. However, as Covenant House's Greg Loken has stated, "Purity of concern for the rights of children and adolescents should not obscure the fact that a few, a very few, are simply so out of control that some coercion is necessary if they are to have any real hope of survival, let alone happiness."

Commission Myra Munson has agreed that, "...this bill avoids the damaging and ineffective use of detention as a means of addressing the problems of most runaways by limiting the use of detention to those few chronic runaways whose behavior places them in clear danger. It also avoids the danger of over use of detention by requiring that detention occur only if no other alternative exists."

Many others have expressed support for Senate Bill 79, including:

Department of Public Safety  
Office of Public Advocacy  
Public Defender  
Bill Hitchcock, Children's Court Master, Anchorage  
Alaska Foster Parents Association  
Alaska Chapter, National Association of Social Workers  
Alaska Juvenile Crime Commission  
Child Advocacy Network (representing 60 children's service agencies)  
Victims for Justice  
Mothers Against Drunk Drivers  
Tough Love

Senate Bill 79 is not a perfect solution to Alaska's runaway problems; it is however, an important step in the right direction. I urge your support of this legislation and stand ready to answer any questions you may have.

Original sponsors: Rodey, Faiks,  
Fischer, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 79 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to runaway and missing minors."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 47.10.050(b) is amended to read:

9 (b) In a contempt hearing under AS 47.10.141(c) and in all  
10 proceedings initiated under a petition for delinquency, a minor shall  
11 have the right to be represented by counsel and if indigent have  
12 counsel appointed by the court. The court shall appoint counsel in  
13 such cases unless it makes a finding on the record that the minor has  
14 made a voluntary, knowing, and intelligent waiver of the right to  
15 counsel and a parent or guardian with whom the child resides or re-  
16 sided before the filing of the petition concurs with the waiver. In  
17 cases in which it has been alleged that the minor has committed an act  
18 which would be a felony if committed by an adult, waiver of counsel  
19 shall not be accepted unless the court is satisfied that the minor has  
20 consulted with an attorney before the waiver of counsel.

21 \* Sec. 2. AS 47.10.141 is amended to read:

22 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
23 a written, telephonic, or other request to locate a minor evading the  
24 minor's legal custodian or to locate a minor otherwise missing, a law  
25 enforcement agency shall make reasonable efforts to locate the minor  
26 and shall immediately complete a missing person's report containing  
27 information necessary for the identification of the minor. As soon as  
28 practicable, but not later than 24 hours after completing the report,  
29 the agency shall transmit the report for entry into the Alaska Public

1 Safety Information Network and the National Crime Information Center  
2 computer system. As soon as practicable, but not later than 24 hours  
3 after the agency learns that the minor has been located, it shall  
4 request that the Department of Public Safety and the Federal Bureau of  
5 Investigation remove the information from the computer systems.

6 (b) A peace officer shall take into protective custody a minor  
7 described in (a) of this section if the minor is not otherwise subject  
8 to arrest or detention. The peace officer shall honor the minor's  
9 preference to [EITHER] (1) return the minor to the legal custodian if  
10 the legal custodian consents to the return; (2) take the minor to a  
11 nearby location agreed to by the minor and the legal custodian; or (3)  
12 [(2)] take the minor to an office specified by the Department of  
13 Health and Social Services, a program for runaway minors licensed by  
14 the department under AS 47.10.310, or a facility or contract agency of  
15 the department. If an office specified by the department, a licensed  
16 program for runaway minors, or a facility or contract agency of the  
17 department does not exist in the community, the officer shall take the  
18 minor to another suitable location and promptly notify the department.  
19 A minor under protective custody may not be housed in a jail or,  
20 except as provided in (c) of this section, in a [OTHER] detention  
21 facility. Immediately upon taking a minor into protective custody the  
22 officer shall advise the minor orally and in writing of the right to  
23 social services under AS 47.10.142(b), and, if known, the officer  
24 shall advise the legal custodian that the minor has been taken into  
25 protective custody.

26 \* Sec. 3. AS 47.10.141 is amended by adding a new subsection to read:

27 (c) A minor may be taken into protective custody by a peace  
28 officer and placed into temporary detention in a juvenile detention  
29 home if there has been an order issued by a court upon a finding of

1       probable cause that (1) the minor is a runaway in wilful violation of  
2       a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the  
3       minor's current situation poses a severe and imminent risk to the  
4       minor's health or safety, and (3) no reasonable placement alternative  
5       exists within the community. For the purposes of this subsection, a  
6       risk may not be considered severe and imminent solely because of the  
7       general conditions for runaway minors in the community, but shall be  
8       assessed in view of the specific behavior and situation of the minor.  
9       A minor detained under this subsection shall be brought before a court  
10      within 24 hours after the detention for a hearing to determine whether  
11      the minor is in contempt of court under AS 09.50.010(5). Protective  
12      custody may not include placement of a minor in a jail or secure  
13      facility other than a juvenile detention home, nor may an order for  
14      protective custody be enforced against a minor who is residing in a  
15      licensed program for runaway minors, as defined in AS 47.10.390.

16   \* Sec. 4. AS 47.10.142 is amended by adding a new subsection to read:

17           (f) When a minor is committed to the department for temporary  
18      placement under (e) of this section, the court order shall specify the  
19      terms, conditions, and duration of placement. The court shall require  
20      the minor to remain in the placement provided by the department and  
21      shall clearly state in the order the consequences of violating the  
22      order, including the possibility of detention under AS 47.10.141(c).

23   \* Sec. 5. AS 47.10 is amended by adding new sections to read:

24           ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

25           Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The de-  
26      partment shall

27           (1) review, inspect, and approve or disapprove for licens-  
28      ing proposed or established programs for runaway minors to ensure the  
29      health and safety of minors in the program;

- 1           (2) maintain a register of licensed programs for runaway  
2 minors;
- 3           (3) award grants for the establishment or operation of  
4 licensed programs for runaway minors;
- 5           (4) submit to the legislature and governor each January a  
6 report on programs for runaway minors in the state;
- 7           (5) adopt regulations for the administration of AS 47.10.-  
8 300 - 47.10.390, including regulations providing for the coordination  
9 of services to be provided by licensed programs for runaway minors and  
10 by the department.

11           Sec. 47.10.310. LICENSING OF PROGRAMS FOR RUNAWAY MINORS. (a)  
12 A person may not operate a program for runaway minors in the state  
13 without a license issued under this section. A person who violates  
14 this subsection is guilty of a violation.

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

17           (1) is operated by a corporation organized under AS 10.20  
18 or a municipality; and

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

20           (c) A program for runaway minors shall

21           (1) explain to a minor who seeks assistance from the pro-  
22 gram the legal rights and responsibilities of runaway minors and the  
23 services and assistance provided for runaway minors by the program and  
24 by the state or local municipality;

25           (2) attempt to determine why a minor in the program is a  
26 runaway;

27           (3) provide or help arrange for the provision of services  
28 necessary to promote the health and welfare of a minor in the program  
29 and, if appropriate, members of the minor's family; services may

1 include, but are not limited to, the provision of food, shelter,  
2 clothing, medical care, and individual or family counseling;

3 (4) promptly inform the department of a minor in the pro-  
4 gram who claims to be the victim of child abuse or neglect, as defined  
5 in AS 47.17.070, or whom an employee of the program has cause to  
6 believe has been a victim of child abuse or neglect;

7 (5) be operated with the goal of reuniting runaway minors  
8 with their families, except in cases in which reunification is clearly  
9 contrary to the best interest of the minor; and

10 (6) maintain adequate staffing and accommodations to ensure  
11 physical security and to provide crisis services to minors residing in  
12 a facility operated by the program; residents under 18 years of age  
13 shall be segregated from residents who are 18 years of age or older.

14 (d) A program for runaway minors may provide services for the  
15 protection of the health and welfare of a person under 21 years of age  
16 who is in need of the services and who is without a place of shelter  
17 in which supervision and care of the person are available.

18 Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES.  
19 A runaway minor may maintain residency for a period not exceeding 45  
20 days at a facility operated as part of a licensed program for runaway  
21 minors. The minor may maintain residency without the consent of the  
22 person or agency having custody of the minor, except that if the court  
23 has ordered the minor committed to the custody of the department,  
24 written consent of the department is required. The residency may be  
25 extended for an additional period of 45 days with the written consent  
26 of the person or agency having custody of the minor. A minor may not  
27 maintain residency beyond the 90th day following admission to a li-  
28 censed program for runaway minors without the written consent of the  
29 person or agency having custody of the minor and the written consent

1 of the department.

2 Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The  
3 director of a program for runaway minors shall make a good faith  
4 effort to notify a minor's legal custodian as soon as possible, but in  
5 no event more than 48 hours after the minor is admitted to the pro-  
6 gram, unless there are compelling circumstances that justify with-  
7 holding notice. The notice must describe the minor's physical and  
8 emotional condition and the circumstances surrounding the minor's  
9 admission to the program.

10 (b) The director of a program for runaway minors shall promptly  
11 notify a minor's legal custodian if the minor is released from the  
12 program into the custody of a person other than the legal custodian or  
13 a person representing the legal custodian.

14 Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of a li-  
15 censed program for runaway minors that identify a minor who has been  
16 admitted to or has sought assistance from the program are confidential  
17 and are not subject to inspection or copying under AS 09.25.110 -  
18 09.25.120, unless

19 (1) after being informed of the minor's right to privacy,  
20 the minor consents in writing to the disclosure of the records;

21 (2) the records are relevant to an investigation or pro-  
22 ceeding involving child abuse or neglect or a child in need of aid  
23 petition; or

24 (3) disclosure of the records is necessary to protect the  
25 life or health of the minor.

26 Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers,  
27 directors, and employees of a licensed program for runaway minors are  
28 not liable for civil damages as a result of an act or omission in  
29 admitting a minor to the program.



1           (b) This section does not preclude liability for civil damages  
2 as a result of recklessness or intentional misconduct.

3           Sec. 47.10.360. MUNICIPAL POWERS. Authority to establish and  
4 operate a licensed program for runaway minors is granted to munic-  
5 ipalities that do not otherwise have that authority.

6           Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

7           (1) "licensed program for runaway minors" means a residen-  
8 tial or nonresidential program licensed by the department under  
9 AS 47.10.310;

10          (2) "runaway minor" means a person under 18 years of age  
11 who

12                   (A) is habitually absent from home;

13                   (B) refuses to accept available care;

14                   (C) has no parent, guardian, custodian, or relative  
15 able or willing to provide care; or

16                   (D) has been physically abandoned by

17                           (i) both parents;

18                           (ii) the surviving parent; or

19                           (iii) one parent if the other parent's rights and  
20 responsibilities have been terminated under AS 25.23.180(c)  
21 or AS 47.10.080 or voluntarily relinquished.

Original sponsors: Rodey, Faiks,  
Fischer, et al.

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

HOUSE CS FOR CS FOR SENATE BILL NO. 79 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 \* Section 1. AS 47.10.141 is amended to read:

9           Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
10 a written or telephonic request to locate a minor evading the minor's  
11 legal custodian or to locate a minor otherwise missing, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor and  
13 shall immediately complete a missing person's report containing infor-  
14 mation necessary for the identification of the minor. As soon as  
15 practicable, but not later than 24 hours after completing the report,  
16 the agency shall transmit the report for entry into the Alaska Public  
17 Safety Information Network and the National Crime Information Center  
18 computer system. As soon as practicable, but not later than 24 hours  
19 after the agency learns that the minor has been located, it shall  
20 request that the Department of Public Safety and the Federal Bureau of  
21 Investigation remove the information from the computer systems.

22           (b) A peace officer shall take into protective custody a minor  
23 described in (a) of this section if the minor is not otherwise subject  
24 to arrest or detention. The peace officer shall honor the minor's  
25 preference to [EITHER] (1) return the minor to the legal custodian if  
26 the legal custodian consents to the return; (2) take the minor to a  
27 nearby location agreed to by the minor and the legal custodian; or (3)  
28 [(2)] take the minor to an office specified by the Department of  
29 Health and Social Services, a program for runaway minors approved by

1        the department under AS 47.10.310, or a facility or contract agency of  
2        the department. If an office specified by the department or a facili-  
3        ty or contract agency of the department does not exist in the communi-  
4        ty, the officer shall take the minor to another suitable location and  
5        promptly notify the department. A minor under protective custody may  
6        not be housed in a jail or, except as provided in (c) of this section,  
7        in a [OTHER] detention facility. Immediately upon taking a minor int  
8        protective custody the officer shall advise the minor orally and in  
9        writing of the right to social services under AS 47.10.142(b), and, if  
10       known, the officer shall advise the legal custodian that the minor has  
11       been taken into protective custody.

12       \* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

13                (c) A minor may be taken into protective custody by a peace  
14       officer and placed into temporary detention in a juvenile detention  
15       home if there has been an order issued by a court upon a finding of  
16       probable cause that (1) the minor is a runaway in violation of a valid  
17       court order issued under AS 47.10.142(f), (2) the minor's current  
18       situation poses a severe and imminent risk to the minor's health or  
19       safety, and (3) no reasonable placement alternative exists within the  
20       community. For the purposes of this subsection, a risk may not be  
21       considered severe and imminent solely because of the general con-  
22       ditions for runaway minors in the community, but shall be assessed in  
23       view of the specific behavior and situation of the minor. A minor  
24       detained under this subsection shall be brought before a court within  
25       48 hours after the detention for a hearing to determine whether the  
26       minor is in civil contempt of court under AS 09.50.010(5). Protective  
27       custody may not include placement of a minor in a jail or secure  
28       facility other than a juvenile detention home, nor may an order for  
29       protective custody be enforced against a minor who is residing in an

1 approved program for runaway minors, as defined in AS 47.10.390.

2 \* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

3 (f) When a minor is committed to the department for temporary  
4 placement under (e) of this section, the court order shall specify the  
5 terms, conditions, and duration of placement. The court shall require  
6 the minor to remain in the placement provided by the department and  
7 shall clearly state in the order the consequences of violating the  
8 order, including the possibility of detention under AS 47.10.141(c).

9 \* Sec. 4. AS 47.10 is amended by adding new sections to read:

10 ARTICLE 5. PROGRAMS FOR RUNAWAY MINORS.

11 Sec. 47.10.300. POWERS AND DUTIES OF THE DEPARTMENT. The de-  
12 partment shall

13 (1) review, inspect, and approve or disapprove proposed or  
14 established programs for runaway minors;

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

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

19 (4) submit to the legislature and governor each January a  
20 report on programs for runaway minors in the state;

21 (5) adopt regulations for the administration of AS 47.10.-  
22 300 - 47.10.390, including regulations providing for the coordination  
23 of services to be provided by approved programs for runaway minors and  
24 by the department.

25 Sec. 47.10.310. APPROVAL OF PROGRAMS FOR RUNAWAY MINORS. (a)  
26 The department may approve a program for runaway minors under AS 47.-  
27 10.300 - 47.10.390 only if the program

28 (1) is operated by a corporation organized under AS 10.20  
29 or a municipality; and

1 (2) meets the requirements of (b) of this section.

2 (b) A program for runaway minors shall

3 (1) explain to a minor who seeks assistance from the pro-  
4 gram the legal rights and responsibilities of runaway minors and the  
5 services and assistance provided for runaway minors by the program and  
6 by the state or local municipality;

7 (2) attempt to determine why a minor in the program is a  
8 runaway;

9 (3) provide or help arrange for the provision of services  
10 necessary to promote the health and welfare of a minor in the program  
11 and, if appropriate, members of the minor's family; services may  
12 include, but are not limited to, the provision of food, shelter,  
13 clothing, medical care, and individual or family counseling;

14 (4) promptly inform the department of a minor in the pro-  
15 gram who claims to be the victim of child abuse or neglect, as defined  
16 in AS 47.17.070, or whom an employee of the program has cause to  
17 believe has been a victim of child abuse or neglect;

18 (5) be operated with the goal of reuniting runaway minors  
19 with their families, except in cases in which reunification is clearly  
20 contrary to the health and welfare of the minor; and

21 (6) maintain adequate staffing and accommodations to ensure  
22 physical security and to provide crisis services to minors residing in  
23 a facility operated by the program; residents under 18 years of age  
24 shall be segregated from residents who are 18 years of age or older.

25 (c) A program for runaway minors may provide services for the  
26 protection of the health and welfare of a person under 21 years of age  
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28 in which supervision and care of the person are available.

29 Sec. 47.10.320. RESIDENCE IN RUNAWAY MINOR PROGRAM FACILITIES.

1 A runaway minor may maintain residency for a period not exceeding 45  
2 days at a facility operated as part of an approved program for runaway  
3 minors. The minor may maintain residency without the consent of the  
4 person or agency having custody of the minor, except that if the court  
5 has ordered the minor committed to the custody of the department,  
6 written consent of the department is required. The residency may be  
7 extended for an additional period of 45 days with the written consent  
8 of the person or agency having custody of the minor. A minor may not  
9 maintain residency beyond the 90th day following admission to an  
10 approved program for runaway minors without the written consent of the  
11 person or agency having custody of the minor and the written consent  
12 of the department.

13 Sec. 47.10.330. NOTICE TO MINOR'S LEGAL CUSTODIAN. (a) The  
14 director of an approved program for runaway minors shall make a good  
15 faith effort to notify a minor's legal custodian within 72 hours after  
16 the minor is admitted to the program, unless there are compelling  
17 circumstances that justify withholding notice. The notice must de-  
18 scribe the minor's physical and emotional condition and the circum-  
19 stances surrounding the minor's admission to the program.

20 (b) The director of an approved program for runaway minors shall  
21 promptly notify a minor's legal custodian if the minor is released  
22 from the program into the custody of a person other than the legal  
23 custodian or a person representing the legal custodian.

24 Sec. 47.10.340. CONFIDENTIALITY OF RECORDS. Records of an  
25 approved program for runaway minors that identify a minor who has been  
26 admitted to or has sought assistance from the program are confidential  
27 and are not subject to inspection or copying under AS 09.25.110 -  
28 09.25.120, unless

29 (1) the minor consents in writing to the disclosure of the

1 records;

2 (2) the records are relevant to an investigation or pro-  
3 ceeding involving child abuse or neglect or a child in need of aid  
4 petition; or

5 (3) disclosure of the records is necessary to protect the  
6 life or health of the minor.

7 Sec. 47.10.350. IMMUNITY FROM LIABILITY. (a) The officers,  
8 directors, and employees of an approved program for runaway minors are  
9 not liable for civil damages as a result of an act or omission in  
10 admitting a minor to the program or releasing a minor from the program  
11 into the custody of a person other than the minor's legal custodian.

12 (b) This section does not preclude liability for civil damages  
13 as a result of recklessness or intentional misconduct.

14 Sec. 47.10.360. PROGRAMS EXEMPT FROM LICENSING. An approved  
15 program for runaway minors is not subject to licensing or regulation  
16 under AS 47.35.

17 Sec. 47.10.370. MUNICIPAL POWERS. Authority to establish and  
18 operate an approved program for runaway minors is granted to munic-  
19 ipalities that do not otherwise have that authority.

20 Sec. 47.10.390. DEFINITIONS. In AS 47.10.300 - 47.10.390

21 (1) "approved program for runaway minors" means a residen-  
22 tial or nonresidential program approved by the department under  
23 AS 47.10.310;

24 (2) "runaway minor" means a person under 18 years of age  
25 who

26 (A) is habitually absent from home;

27 (B) refuses to accept available care;

28 (C) has no parent, guardian, custodian, or relative  
29 able or willing to provide care; or

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(D) has been physically abandoned by  
(i) both parents;  
(ii) the surviving parent; or  
(iii) one parent if the other parent's rights and  
responsibilities have been terminated under AS 25.23.180(c)  
or AS 47.10.080 or voluntarily relinquished.



Original sponsors: Rodey, Faiks,  
Fischer, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 79 (Judiciary) am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 \* Section 1. AS 47.10.141 is amended to read:

9 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
10 a written or telephonic request to locate a minor evading the minor's  
11 legal custodian or to locate a minor otherwise missing, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor and  
13 shall immediately complete a missing person's report containing infor-  
14 mation necessary for the identification of the minor. As soon as  
15 practicable, but not later than 24 hours after completing the report,  
16 the agency shall transmit the report for entry into the Alaska Public  
17 Safety Information Network and the National Crime Information Center  
18 computer system. As soon as practicable, but not later than 24 hours  
19 after the agency learns that the minor has been located, it shall  
20 request that the Department of Public Safety and the Federal Bureau of  
21 Investigation remove the information from the computer systems.

22 (b) A peace officer shall take into protective custody a minor  
23 described in (a) of this section if the minor is not otherwise subject  
24 to arrest or detention. The peace officer shall honor the minor's  
25 preference to [EITHER] (1) return the minor to the legal custodian if  
26 the legal custodian consents to the return; (2) take the minor to a  
27 nearby location designated by the legal custodian; or (3) [(2)] take  
28 the minor to an office specified by the Department of Health and  
29 Social Services or a facility or contract agency of the department.

1 If an office specified by the department or a facility or contract  
2 agency of the department does not exist in the community, the officer  
3 shall take the minor to another suitable location and promptly notify  
4 the department. A minor under protective custody may not be housed in  
5 a jail or other detention facility. Immediately upon taking a minor  
6 into protective custody the officer shall advise the minor orally and  
7 in writing of the right to social services under AS 47.10.142(b), and,  
8 if known, the officer shall advise the legal custodian that the minor  
9 has been taken into protective custody.

10 \* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

11 (c) A minor may be taken into protective custody by a peace  
12 officer and placed into temporary detention in a juvenile detention  
13 home if there has been an order issued by a court upon a finding of  
14 probable cause that the minor is a runaway in violation of a valid  
15 court order issued under AS 47.10.142(f) and is posing a clear and  
16 present danger to the minor's own welfare. A minor detained under  
17 this subsection shall be brought before a court within 48 hours after  
18 the detention for a hearing to determine whether the minor is in civil  
19 contempt of court under AS 09.50.010(5). This subsection does not  
20 apply to a minor taken into protective custody in a community that  
21 does not have a juvenile detention home.

22 \* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

23 (f) When a minor is committed to the department for temporary  
24 placement under (e) of this section, the court order shall specify the  
25 terms, conditions, and duration of placement. The court shall require  
26 the minor to remain in the placement provided by the department and  
27 shall clearly state in the order the consequences of violating the  
28 order, including the possibility of detention under AS 47.10.141(c).

Original sponsors: Rodey, Faiks,  
Fischer, et al.

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 79 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 47.10.141 is amended to read:

9 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
10 a written or telephonic request to locate a minor evading the minor's  
11 legal custodian or to locate a minor otherwise missing, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor and  
13 shall immediately complete a missing person's report containing infor-  
14 mation necessary for the identification of the minor. As soon as  
15 practicable, but not later than 24 hours after completing the report,  
16 the agency shall transmit the report for entry into the Alaska Public  
17 Safety Information Network and the National Crime Information Center  
18 computer system. As soon as practicable, but not later than 24 hours  
19 after the agency learns that the minor has been located, it shall  
20 request that the Department of Public Safety and the Federal Bureau of  
21 Investigation remove the information from the computer systems.

22 (b) A peace officer shall take into protective custody a minor  
23 described in (a) of this section if the minor is not otherwise subject  
24 to arrest or detention. The peace officer shall honor the minor's  
25 preference to [EITHER] (1) return the minor to the legal custodian if  
26 the legal custodian consents to the return; (2) take the minor to a  
27 nearby location designated by the legal custodian; or (3) [(2)] take  
28 the minor to an office specified by the Department of Health and  
29 Social Services or a facility or contract agency of the department.

1 If an office specified by the department or a facility or contract  
2 agency of the department does not exist in the community, the officer  
3 shall take the minor to another suitable location and promptly notify  
4 the department. Except as provided in (c) of this section, a [A] minor  
5 under protective custody may not be housed in a jail or other  
6 detention facility. Immediately upon taking a minor into protective  
7 custody the officer shall advise the minor orally and in writing of  
8 the right to social services under AS 47.10.142(b), and, if known, the  
9 officer shall advise the legal custodian that the minor has been taken  
10 into protective custody.

11 \* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

12 (c) A minor may be taken into protective custody by a peace  
13 officer and placed into temporary detention in a juvenile detention  
14 home if there has been an order issued by a court upon a finding of  
15 probable cause that the minor is a runaway in violation of a valid  
16 court order issued under AS 47.10.142(f) and is posing a clear and  
17 present danger to the minor's own welfare. A minor detained under  
18 this subsection shall be brought before a court within 48 hours after  
19 the detention for a hearing to determine whether the minor is in civil  
20 contempt of court under AS 09.50.010(5). This subsection does not  
21 apply to a minor taken into protective custody in a community that  
22 does not have a juvenile detention home.

23 \* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

24 (f) When a minor is committed to the department for temporary  
25 placement under (e) of this section, the court order shall specify the  
26 terms, conditions, and duration of placement. The court shall require  
27 the minor to remain in the placement provided by the department and  
28 shall clearly state in the order the consequences of violating the  
29 order, including the possibility of detention under AS 47.10.141(c).

Original sponsors: Rodey, Faiks,  
Fischer, et al.

1 IN THE SENATE

HEALTH, EDUCATION AND SOCIAL  
SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 79 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 \* Section 1. AS 47.10.141 is amended to read:

9           Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
10 a written or telephonic request to locate a minor evading the minor's  
11 legal custodian or to locate a minor otherwise missing, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor and  
13 shall immediately complete a missing person's report containing infor-  
14 mation necessary for the identification of the minor. As soon as  
15 practicable, but not later than 24 hours after completing the report,  
16 the agency shall transmit the report for entry into the Alaska Public  
17 Safety Information Network and the National Crime Information Center  
18 computer system. As soon as practicable, but not later than 24 hours  
19 after the agency learns that the minor has been located, it shall  
20 request that the Department of Public Safety and the Federal Bureau of  
21 Investigation remove the information from the computer systems.

22           (b) A peace officer shall take into protective custody a minor  
23 described in (a) of this section if the minor is not otherwise subject  
24 to arrest or detention. The peace officer shall honor the minor's  
25 preference to [EITHER] (1) return the minor to the legal custodian if  
26 the legal custodian consents to the return; (2) take the minor to a  
27 location designated by the legal custodian; or (3) [(2)] take the  
28 minor to an office specified by the Department of Health and Social  
29 Services or a facility or contract agency of the department. If an

1 office specified by the department or a facility or contract agency of  
2 the department does not exist in the community, the officer shall take  
3 the minor to another suitable location and promptly notify the depart-  
4 ment. Except as provided in (c) of this section, a [A] minor under  
5 protective custody may not be housed in a jail or other detention  
6 facility. Immediately upon taking a minor into protective custody the  
7 officer shall advise the minor orally and in writing of the right to  
8 social services under AS 47.10.142(b), and, if known, the officer  
9 shall advise the legal custodian that the minor has been taken into  
10 protective custody.

11 \* Sec. 2. AS 47.10.141 is amended by adding a new subsection to read:

12 (c) A minor may be taken into protective custody by a peace  
13 officer and placed into temporary detention in a juvenile detention  
14 facility if there has been an order issued by a court upon a finding  
15 of probable cause that the minor is a runaway in violation of a valid  
16 court order issued under AS 47.10.142(f) and is posing a clear and  
17 present danger to the minor's own welfare. A minor detained under  
18 this subsection shall be brought before a court within 48 hours after  
19 the detention for a hearing to determine whether the minor is in civil  
20 contempt of court under AS 09.50.010(5). This subsection does not  
21 apply to a minor taken into protective custody in a community that  
22 does not have a juvenile detention facility.

23 \* Sec. 3. AS 47.10.142 is amended by adding a new subsection to read:

24 (f) When a minor is committed to the department for temporary  
25 placement under (e) of this section, the court order shall specify the  
26 terms, conditions, and duration of placement. The court shall require  
27 the minor to remain in the placement provided by the department and  
28 shall clearly state in the order the consequences of violating the  
29 order, including the possibility of detention under AS 47.10.141(c).

Introduced: 1/22/87  
Referred: Health, Education and Social  
Services and Judiciary

5-0310A

1 IN THE SENATE

BY RODEY, FAIKS, FISCHER, KELLY,  
SZYMANSKI, ABOOD, UEHLING, ELIASON,  
JOSEPHSON, STURUGLEWSKI AND HALFORD

2

SENATE BILL NO. 79

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to runaway minors."

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

8 \* Section 1. AS 47.10.141 is amended to read:

9           Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving  
10 a written or telephonic request to locate a minor evading the minor's  
11 legal custodian or to locate a minor otherwise missing, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor and  
13 shall immediately complete a missing person's report containing infor-  
14 mation necessary for the identification of the minor. As soon as  
15 practicable, but not later than 24 hours after completing the report,  
16 the agency shall transmit the report for entry into the Alaska Public  
17 Safety Information Network and the National Crime Information Center  
18 computer system. As soon as practicable, but not later than 24 hours  
19 after the agency learns that the minor has been located, it shall  
20 request that the Department of Public Safety and the Federal Bureau of  
21 Investigation remove the information from the computer systems.

22           (b) A peace officer shall take into protective custody a minor  
23 described in (a) of this section if the minor is not otherwise subject  
24 to arrest or detention. If the minor has not previously been taken  
25 into protective custody under this section while evading the minor's  
26 legal custodian, then the [THE] peace officer, after complying with  
27 the requirements of (d) of this section, shall honor the minor's  
28 preference to [EITHER] (1) return the minor to the legal custodian if  
29 the legal custodian consents to the return; (2) take the minor to a

1 location designated by the legal custodian; or (3) [(2)] take the  
2 minor to an office specified by the Department of Health and Social  
3 Services or a facility or contract agency of the department. If an  
4 office specified by the department or a facility or contract agency of  
5 the department does not exist in the community, the officer shall take  
6 the minor to another suitable location and promptly notify the depart-  
7 ment. Except as provided in (c) of this section, a [A] minor under  
8 protective custody may not be housed in a jail or other detention  
9 facility. Immediately upon taking a minor into protective custody the  
10 officer shall advise the minor orally and in writing of the right to  
11 social services under AS 47.10.142(b), and, if known, the officer  
12 shall advise the legal custodian that the minor has been taken into  
13 protective custody.

14 \* Sec. 2. AS 47.10.141 is amended by adding new subsections to read:

15 (c) A minor who is taken into protective custody by a peace  
16 officer while the minor was evading the minor's legal custodian shall  
17 be placed in a juvenile detention facility approved by the department  
18 for a period of 30 days after being taken into custody if the minor  
19 was previously taken into protective custody by a peace officer in the  
20 state while the minor was evading the minor's legal custodian. Before  
21 the minor is placed in detention, the peace officer who took the minor  
22 into protective custody shall comply with the requirements of (d) of  
23 this section.

24 (d) As soon as practicable after taking into custody a minor who  
25 is evading the minor's legal custodian, a peace officer shall ac-  
26 company the minor to a location specified by the department for an  
27 examination of the minor. The department shall adopt regulations that  
28 specify the appropriate tests and analyses to be administered to the  
29 minor to detect evidence of alcohol, drug, physical, or sexual abuse.



1           (e) A peace officer shall take a minor into protective custody  
2 if the peace officer has probable cause to believe that the minor is  
3 evading the minor's legal custodian and

4                   (1) is in danger of harm or poses a threat of harm to  
5 others; or

6                   (2) is living with a person who is not a legal custodian of  
7 the minor.

SB81

SENATE COMMITTEE REPORT

FURTHER:

5/5/87

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

FINANCE \_\_\_\_\_ Committee considered \_\_\_\_\_ SB 81

Alaska Power Authority; efd.

and recommended:

[ ] replace with \_\_\_\_\_ CS FOR \_\_\_\_\_ ) [ ] same title  
[ ] or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ ) [ ] new title

[ ] attached amendment(s) and

[ ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee [ ] attached or [ ] adopted fiscal note(s)

[ ] new [ ] updated or [ ] previous  
[ ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

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Chairman signature and recommendation

[ ] Committee Backup Attached

SENATE COMMITTEE REPORT

FURTHER: FINANCE

4 /14/87

DATE TURNED INTO OFFICE 5/5/87

Mr. President:

RESOURCES \_\_\_\_\_ Committee considered SB 81

Alaska Power Authority; efd.

and recommended:

replace with CS FOR SB 81 (RES) )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]  
[Signature]  
[Signature]

OTHER RECOMMENDATIONS

[Signature] No Rec  
[Signature] No Rec  
[Signature] No Rec

[Signature]  
Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 1-29-87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: RESOURCES  
FINANCE

\*\*FISCAL NOTE(S) ATTACHED X \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/22/87 DATE TURNED INTO OFFICE 4/14/87  
Mr. President:

LABOR & COMMERCE Committee considered SB 81

~~relating to~~ the Alaska Power Authority; efd.

and recommended:

replace with CS SB 81 (L+C)  same title  
 attached amendment(s) and  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

[Signature]  
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OTHER RECOMMENDATIONS

[Signature]  
\_\_\_\_\_  
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[Signature]  
Chairman signature and recommendation

Committee Backup Attached

Original sponsor: Zharoff

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 81 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 39.25.110(11) is amended to read:

10 (11) the officers and employees of the following boards,  
11 commissions, and authorities:

12 (A) Alaska Gas Pipeline Financing Authority;

13 (B) Alaska Permanent Fund Corporation;

14 (C) Alaska Energy Center;

15 (D) Alaska Industrial Development Authority;

16 (E) Alaska Commercial Fisheries Entry Commission;

17 (F) Alaska Commission on Postsecondary Education;

18 (G) Alaska Power Authority;

19 \* Sec. 2. AS 44.83.030 is repealed and reenacted to read:

20 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The board of  
21 directors of the authority consists of seven members. The commis-  
22 sioner of commerce and economic development, the commissioner of  
23 revenue, and the director of the office of management and budget or  
24 the director's designee serve as directors of the authority. In  
25 addition, the governor shall appoint one director from the banking  
26 industry, one director who is a consumer representative, one director  
27 from business and industry, and one director who is experienced in the  
28 electrical utility industry. Directors appointed by the governor  
29 serve at the pleasure of the governor for staggered terms of six years  
S

1 and are subject to confirmation by a majority of the members of the  
2 legislature in joint session.

3 \* Sec. 3. AS 44.83.045(a) is amended to read:

4 (a) The [PUBLIC] directors appointed by the governor must  
5 [SHALL] be residents and qualified voters of Alaska and shall comply  
6 with the requirements of AS 39.50 (conflict of interest [INTERESTS]).  
7 [THE PUBLIC DIRECTORS SHALL SERVE OVERLAPPING FOUR-YEAR TERMS.]

8 \* Sec. 4. AS 44.83.045(c) is amended to read:

9 (c) The authority shall employ an executive director who may,  
10 with the approval of the authority, employ additional staff as neces-  
11 sary. In addition to its staff of regular employees, the authority  
12 may contract for and engage the services of legal and bond counsel,  
13 consultants, experts, and financial and technical advisors the author-  
14 ity considers necessary for the purpose of conducting studies, inves-  
15 tigation, hearings, or other proceedings. The board of directors  
16 shall establish the compensation of the executive director. The  
17 executive director and staff of the authority are in the exempt ser-  
18 vice under AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.-  
19 010 - 39.25.220].

20 \* Sec. 5. Notwithstanding the amendments to AS 44.83.030 made by sec. 2  
21 of this Act, the public directors of the authority on the day before the  
22 effective date of this Act shall continue to serve until their terms ex-  
23 pire. On the effective date of this Act, the governor shall replace the  
24 three commissioners in accordance with AS 44.83.030, as amended by sec. 2  
25 of this Act.

26 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
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Original sponsor: Zharoff

1 IN THE SENATE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 81 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 39.25.110(11) is amended to read:

10 (11) the officers and employees of the following boards,  
11 commissions, and authorities:

12 (A) Alaska Gas Pipeline Financing Authority;

13 (B) Alaska Permanent Fund Corporation;

14 (C) Alaska Energy Center;

15 (D) Alaska Industrial Development Authority;

16 (E) Alaska Commercial Fisheries Entry Commission;

17 (F) Alaska Commission on Postsecondary Education;

18 (G) Alaska Power Authority;

19 \* Sec. 2. AS 44.83.045(c) is amended to read:

20 (c) The authority shall employ an executive director who may,  
21 with the approval of the authority, employ additional staff as neces-  
22 sary. In addition to its staff of regular employees, the authority  
23 may contract for and engage the services of legal and bond counsel,  
24 consultants, experts, and financial and technical advisors the author-  
25 ity considers necessary for the purpose of conducting studies, inves-  
26 tigations, hearings, or other proceedings. The board of directors  
27 shall establish the compensation of the executive director. The  
28 executive director and staff of the authority are in the exempt ser-  
29 vice under AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF  
S



AS 39.25.010 - 39.25.220].

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

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Introduced: 1/22/87  
Referred: Labor & Commerce, Resources  
and Finance

5-0425A

1 IN THE SENATE

BY ZHAROFF

2 SENATE BILL NO. 81

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

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

9 \* Section 1. AS 39.25.110(11) is amended to read:

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11 commissions, and authorities:

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13 (B) Alaska Permanent Fund Corporation;

14 (C) Alaska Energy Center;

15 (D) Alaska Industrial Development Authority;

16 (E) Alaska Commercial Fisheries Entry Commission;

17 (F) Alaska Commission on Postsecondary Education;

18 (G) Alaska Power Authority;

19 \* Sec. 2. AS 44.83.030 is repealed and reenacted to read:

20 Sec. 44.83.030. MEMBERSHIP OF THE AUTHORITY. The board of  
21 directors of the authority consists of seven members. The commis-  
22 sioner of commerce and economic development serves as a director and  
23 the governor shall appoint one director from the banking industry, one  
24 consumer representative, two directors from business and industry, and  
25 two directors who are managers in the utility industry. Directors  
26 appointed by the governor serve for staggered terms of six years and  
27 are subject to confirmation by a majority of the members of the legis-  
28 lature in joint session.

29 \* Sec. 3. AS 44.83.040(a) is amended to read:  
S

1 (a) The directors shall elect one of their number as chairman  
2 and may elect other officers they determine desirable. The board  
3 shall advise the executive director on the management of the auth-  
4 ority. Four [THE POWERS OF THE AUTHORITY ARE VESTED IN THE DIRECTORS,  
5 AND FOUR] directors of the authority constitute a quorum. Action may  
6 be taken and motions and resolutions adopted by the authority at a  
7 meeting by the affirmative vote of a majority of the directors. The  
8 directors of the authority serve without compensation, but they shall  
9 receive the same travel pay and per diem as provided by law for board  
10 members.

11 \* Sec. 4. AS 44.83.045(a) is amended to read:

12 (a) The [PUBLIC] directors appointed by the governor must  
13 [SHALL] be residents and qualified voters of Alaska and shall comply  
14 with the requirements of AS 39.50 (conflict of interests). [THE  
15 PUBLIC DIRECTORS SHALL SERVE OVERLAPPING FOUR-YEAR TERMS.]

16 \* Sec. 5. AS 44.83.045(c) is amended to read:

17 (c) The authority shall employ an executive director who may [,  
18 WITH THE APPROVAL OF THE AUTHORITY,] employ additional staff as neces-  
19 sary. The powers of the authority are vested in the executive direc-  
20 tor. In addition to its staff of regular employees, the authority may  
21 contract for and engage the services of legal and bond counsel, con-  
22 sultants, experts, and financial and technical advisors the authority  
23 considers necessary for the purpose of conducting studies, investiga-  
24 tions, hearings, or other proceedings. The board of directors shall  
25 establish the compensation of the executive director. The executive  
26 director and staff of the authority are in the exempt service under  
27 AS 39.25.110 [IS SUBJECT TO THE PROVISIONS OF AS 39.25.010 - 39.25.-  
28 220].

29 \* Sec. 6. AS 44.83.110(f) is amended to read:

1           (f) The executive director [CHAIRMAN] of the authority shall  
2 annually, no later than January 2, make and deliver to the governor  
3 and the legislature a certificate stating the sum, if any, required to  
4 restore any capital reserve fund to the capital reserve fund require-  
5 ment. The legislature may appropriate the [SUCH A] sum, and the au-  
6 thority shall deposit the [ALL] sums appropriated during the then  
7 current fiscal year by the legislature for the [SUCH] restoration  
8 [SHALL BE DEPOSITED BY THE AUTHORITY] in the proper capital reserve  
9 fund. Nothing in this section creates a debt or liability of the  
10 state.

11       \* Sec. 7. Notwithstanding the amendments to AS 44.83.030 made by sec. 2  
12 of this Act, the public directors of the authority on the day before the  
13 effective date of this Act shall continue to serve until their terms ex-  
14 pire. On the effective date of this Act, the governor shall replace the  
15 director of the office of management and budget and the three commissioners  
16 in accordance with AS 44.83.030 as amended by this Act.

17       \* Sec. 8. This Act takes effect immediately under AS 01.10.070(c).  
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STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: CSB 81 LHC  
Publish Date: 4-14-87

REQUEST

Revision Date: \_\_\_\_\_  
Title: An act relating to the Alaska  
Power Authority; and providing for an  
effective date.  
Sponsor: Zharoff  
Requestor: Senate Labor and Commerce  
Committee

Agency Affected: Division of Personnel  
BRU: Personnel  
Components: Centralized Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS:

There will be no fiscal impact to the Division of Personnel.

Prepared By: Diana DeSimone  
Division: Personnel

Phone: 465-4430

Date: 2/11/87

Approved by Commissioner: Garrey Peska  
Agency: Department of Administration

Date: 2/11/87

Distribution (by preparer):

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

ALASKA STATE LEGISLATURE

15th.. Legislature 1st.... Session

SENATE BILL..... NO. ...81...

By ZHAROFF.....

"An Act relating to the Alaska Power Authority; and providing for an effective date."

Introduced in the Senate .1/22...., 19..87

HISTORY IN THE SENATE

1987	Read first time and referred to Committee on												
1 22	L&C, Resources & Finance												
# 14	Reported back with recommendation that replace w/5, 2 do pass, 1 no rec, zero fiscal, to Resources.												
5 5	Reconsidered: Replace w/5 (Rn) do pass, 3 no rec, adp. fund to Finance												
	Read second time and												
	Read third time and												
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	<table border="0"> <tr><td colspan="2">Reconsideration</td></tr> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	Reconsideration		PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed Signed by President Sent to House												
	SECRETARY OF THE SENATE												

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on												
	Reported back with recommendation that												
	Read second time and												
	Read third time and												
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused		
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Reconsideration													
PASS	Effective Date												
Yeas	Yeas												
Nays	Nays												
Absent	Absent												
Excused	Excused												
	Reported correctly engrossed Signed by Speaker Returned to Senate												
	CHIEF CLERK OF THE HOUSE												

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. ....

Updated

1988 FN.

Attach to

bill.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Department of Administration  
 Title: An act relating to the Alaska BRU: Personnel  
Power Authority; and providing for an \_\_\_\_\_  
effective date. \_\_\_\_\_  
 Sponsor: Zharoff Components: Centralized Administrative Services  
 Requestor: Senate Labor and Commerce \_\_\_\_\_  
 Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

If SB 81 is amended to include secretarial and clerical employees of the Alaska Power Authority in the Classified Service, there would be no fiscal impact. The Division of Personnel can incorporate necessary activities into the normal workload.

Prepared By: Diana DeSimone  
 Division: Personnel

Phone: 465-4430  
 Date: 1-21-88

Approved by Commissioner: John M. Andrews  
 Agency: Department of Administration

Date: 1/25/88

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

JAN 27 1988  
 LEGISLATIVE FINANCE