

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8255 SENATE HEALTH EDUCATION & SOCIAL SERVICES

(1) determine policy and implement that policy through an administrator; and

(2) maintain minutes of meetings which must be made available to the division.

(b) The operator must:

(1) provide the division with the name, address, and telephone number of the person and/or registered agent ultimately responsible for operation of the facility or proposed facility and, if the facility is operated by a corporation organized under AS 10.20, the name, address, and telephone number of each member of its board of directors as defined in AS 10.20.720;

(2) provide the division with a description of the land and building in which the facility is located and the name of the owner of the land and building;

(3) designate an administrator who exercises authority

for administration of the facility;

(4) designate an employee to supervise the facility operations for any period during which the administrator is not immediately available;

(5) have written personnel policies and procedures, a copy of which is given to each employee at the time of employment and made continuously available to each employee at the job site, which include

(A) personnel qualifications and job descriptions for all personnel including those who are not careproviders;

(B) terms of employment, including, but not limited to, salaries, sick leave, holidays, vacations, and other benefits offered; and

(C) procedures for annual evaluation and for promotion, dismissal, resignation, and grievance; and

(6) have an operations manual which includes facility policies, procedures, program descriptions, and forms which must be made available to employees and the division upon request.

(c) A facility's practices must conform to its written policies and procedures.

(d) If either the person ultimately responsible for the operation of a facility, the registered agent or the board of directors of a corporate organization and the facility administrator are regularly located 75 miles or more from the facility, the operator must establish a local advisory board which

(1) is available to supervise facility operations in emergencies;

(2) prepares reports and recommendations to be submitted to the person ultimately responsible for the operation of the facility; and

(3) meets a minimum of four times each year.

(e) An operator must immediately remove an officer, administrator, employee, volunteer, resident, or any person under control of the facility from contact with minors when there is reasonable cause to suspect that the person has physically or sexually abused a minor or unlawfully furnished alcohol or a controlled substance to a minor. The operator must immediately inform the division and the nearest law enforcement agency of the action and reasons for the action.

(f) An operator must not allow an employee or volunteer under the influence of alcohol or controlled substances to be in contact with minors unless the controlled substances are taken as prescribed by a licensed physician and do not impair the person's ability to perform assigned duties or job responsibilities.

(g) A facility's practices must conform to its written policies and procedures. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.530. CHANGES AFFECTING LICENSE. (a) The following changes must be reported by the operator to the division as soon as possible, and no later than 30 days before implementation of the change:

(1) the location of the facility;

(2) the name of the facility;

(3) the administration; and

(4) the services offered such as other types of care provided at the same facility, ages or number of minors served, or expanded, reduced or remodeled space.

(b) The operator must report to the division a change of administrator as soon as possible but no later than one week following change.

(c) The operator must report to the division a change in the facility and/or facility operations caused by fire or other disaster within 24 hours.

(d) If a facility anticipates a program change, or experiences an unanticipated program change, the operator must apply for modification of the existing license under 7 AAC 53.430 and operate as close as reasonably possible to the guidelines given in its existing license until the division acts on the application for modification. (Eff. / / , Register)

Authority: AS 47.05.010
AS 47.10.300
AS 47.10.310

7 AAC 53.540. INSURANCE AND RISKS. (a) An operator must maintain bodily injury liability insurance, including insurance on vehicles used to transport residents, and on high-risk activities, for not less than \$100,000 per resident, and \$300,000 per accident with a company authorized to write insurance

policies in the state. The insurance policies must contain the following endorsement: "if this policy is cancelled or not renewed, the company agrees to give notice to the Division of Family and Youth Services, P.O. Box H-05, Juneau, Alaska 99811-0630, at least 30 days before coverage under the policy ends."

(b) An operator must immediately correct a situation causing an imminent risk to the health or safety of minors when the facility discovers the situation. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.550. REPORTS AND RECORDS. (a) An operator must document compliance with the requirements of 7 AAC 53.410 -- 7 AAC 53.770 on forms prescribed by the division unless the division has approved, in advance, the use of alternate forms.

(b) An operator must make and retain records for each minor admitted to the facility. The records must contain entries that

are signed and dated, and must be:

- (1) maintained in a uniform and organized manner;
- (2) protected against destruction and damage;
- (3) stored in a manner which insures confidentiality;
- (4) retained for five years after the minor's discharge from the facility;
- (5) available for inspection as the department or division may require; and
- (6) destroyed by burning or shredding if the records are to be destroyed after the required period of retention. (Eff. / / , Reg.)

Authority: AS 47.05.010
AS 47.10.300
AS 47.10.310

AS 47.10.340

7 AAC 53.560. INSPECTION. (a) Before granting a license, the division will inspect the facility to determine if the facility meets the requirements of 7 AAC 53.410 -- 7 AAC 53.770. The division may request an inspection by state or local environmental health officials whenever such an inspection is considered prudent.

(b) License applicants and operators must permit representatives of the division to inspect their facilities, review records, and interview careproviders and minors as necessary to determine compliance with 7 AAC 53.410 -- 7 AAC 53.770.

(c) If the division identifies a facility or location that the division believes is housing runaway minors in violation of law or licensing regulation, the division may refer the matter to a law enforcement agency or may seek an administrative search warrant. A representative of the division may inspect the facility or location, review records, and interview the operator,

careproviders and minors as necessary to determine compliance with 7 AAC 53.410 -- 7 AAC 53.770. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.570. FIRE AND LIFE SAFETY. (a) A facility housing six or more minors must meet the standards for fire and life safety contained in 13 AAC 50.010 -- 13 AAC 50.080 and 13 AAC 55.010 -- 13 AAC 55.150.

(b) A facility housing fewer than six minors must meet the fire safety standards for a foster home contained in 7 AAC 50.560. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.580. SANITATION AND ENVIRONMENTAL PROTECTION. (a)

A facility housing six or more minors must satisfy the sanitation and environmental protection requirements contained in 18 AAC 30.800 -- 18 AAC 30.890.

(b) A facility housing fewer than six minors must satisfy the following requirements for sanitation and environmental protection:

(1) the facility must have a water supply, sewage disposal, and refuse control system which satisfies the requirements of the environmental health inspection agency having jurisdiction in the area where the facility is located;

(2) the facility must have the equipment and space necessary for the proper care, storage, refrigeration, and preparation of food;

(3) the facility must be free of hazards which can cause injury;

(4) medicines, cleansers, and other harmful chemicals

must be stored safely and be inaccessible to children under ten years of age; and

(5) firearms and ammunition must not be located on the premises. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.590. GENERAL ENVIRONMENTAL REQUIREMENTS. (a) A facility must contain space, furniture, and equipment sufficient to provide care for minors and to support facility programs.

(b) A facility must provide each minor with

(1) a bed which is substantially constructed and in good repair;

(2) a clean, nontoxic, fire-resistant mattress and plastic or launderable mattress cover, together with linens and

covers adequate for the season;

(3) space for clothing and personal possessions; and

(4) adequate bath towels, hand towels, wash cloths, and toiletries necessary for customary personal hygiene, including such items as soap, a toothbrush, toothpaste, and shampoo.

(c) A facility must have a meeting space where minors may receive counseling services or visits from clergy, family members and others and be assured of private conversation.

(d) A facility must have appropriate work and storage areas adjacent to the area of use when the following functions are conducted on the premises:

(1) administrative office functions and record storage;

(2) food preparation and serving;

(3) housekeeping services;

(4) laundry;

(5) rest area and meeting space for staff;

(6) storage of program materials; and

(7) repair or maintenance.

(e) Subparagraph (d) of this section does not require that rooms be assigned exclusive to a single function.

(f) A facility must provide sleeping and bathroom areas for live-in staff that are separate from the facilities provided for minors.

(g) A facility must have 24-hour telephone or radiophone service.

(h) A facility must use buildings exclusively for the care of runaway minors except where more than one occupancy or type of

care is authorized by the division. More than one occupancy or type of care may be authorized if

(1) the occupancy of others is consistent with the health, safety, comfort, and well-being of the minors in the facility;

(2) the other users of the building comply with applicable state and municipal fire safety, environmental health, and licensing codes; and

(3) the division reviewed and approved a plan for the separation of the facility's occupants before licensing the facility for multi-use.

(i) A runaway minor program facility may provide shelter and services to homeless persons over seventeen years of age but less than twenty-one years of age when the division has approved the facility's plan to segregate residents who are under age eighteen from residents who are eighteen years of age or older. (Eff. / / , Register)

Authority: AS 47.05.010
AS 47.10.300
AS 47.10.310

7 AAC 53.600. EMERGENCY PROVISIONS. (a) If a minor experiences an illness, accident, seizure, or other emergency requiring medical attention, the operator must provide emergency first aid and promptly refer the minor to medical care. The operator must notify the minor's parent or guardian of a medical emergency as soon as possible but in no event more than 24 hours later. If the minor is in custody of the department or the minor's parent or guardian is unknown, the operator must notify the division instead.

(b) An operator must immediately report to the division incidents involving suicide attempts, cruel or abusive treatment, or serious injury.

(c) An operator must report a minor's unauthorized absence for more than four hours past curfew to the minor's parent,

guardian, or custodian, or to the division, as appropriate in each individual case.

(d) An operator must record the date, time, and circumstances of an emergency under (a) or (b) or an incident under (c) of this section for review by the division.

(e) An operator must immediately report a minor's death to the division and the nearest law enforcement agency.

(f) An operator must require each careprovider of the facility to read and sign a statement clearly defining child abuse and neglect which outlines the careprovider's responsibility to report all incidents of known or suspected child abuse or neglect immediately to the administrator of the facility or to a person designated by the administrator, and to the division.

(g) An operator must post first aid procedures and maintain readily available first aid supplies appropriate to the size of the facility.

(h) An operator must post, adjacent to the facility telephone, a list of emergency telephone numbers including fire, police, licensed health care professional, poison control, hospital or emergency medical clinic, ambulance and the division.

(i) An operator must have at least one employee with a current first aid certificate on duty at all times unless first aid courses are not regularly available in the community in which the facility is located. Certified employees must have training in hypothermia and cardiopulmonary resuscitation. If courses are not regularly available, the operator must enroll one or more employees in the first available first aid course offered in the community to meet this requirement, and the enrolled employees must satisfactorily progress in the course.

(j) An operator must provide a means for transporting minors to emergency services. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS.47.10.310

7 AAC 53.610. ADMINISTRATOR. (a) A facility must have an administrator who possesses the skills and experience necessary to competently manage program services, records, finances, and personnel appropriate to the nature, size and location of the facility.

(b) The administrator of a facility must be a responsible, mature individual of good character.

(c) An administrator must have experience in the human services field appropriate to the nature, size and location of the facility. An individual who administers a facility which serves 15 or fewer residents must have two years of experience in the human services field. An individual who administers a facility which serves 16 or more residents must have three years of experience in the human services field.

(d) An administrator must also meet the careprovider qualifications in 7 AAC 53.620.

(e) The person ultimately responsible for operation of the facility seeking a license under 7 AAC 53.410 -- 7 AAC 53.770 must provide to the division written verification that before hiring an administrator it has

(1) obtained, reviewed and confirmed the legitimacy of at least three written references, at least two of which were from persons who supervised the administrator in a previous workplace;

(2) verified that the references obtained provide evidence of the administrator's good character and competence to manage the program;

(3) obtained a release from the potential administrator to allow the facility and the division to review child custody records in each state where the administrator lived during the preceding five years and inquired to determine if, as a parent or guardian, the administrator had a child adjudicated as a Child in Need of Aid as a result of the administrator's act or omission;

(4) obtained fingerprints and a release from the potential administrator to allow the facility and the division to review criminal records of the administrator maintained by the Alaska Department of Public Safety and the Federal Bureau of Investigation and submitted the fingerprints to law enforcement authorities to determine if the administrator is under indictment for or has been convicted of a felony or crime described in 7 AAC 53.620(a)(6);

(5) obtained written verification that the administrator has been tested free of active pulmonary tuberculosis before coming into contact with minors in the facility, and at least annually thereafter; and

(6) reviewed the records obtained and verified that the administrator meets the requirements of (a) -- (d) of this section.

(f) The person ultimately responsible for operation of the facility licensed under 7 AAC 53.410 -- 7 AAC 53.770 must annually conduct a review of the administrator's performance.

(g) The facility must retain the records and documents used to verify that the requirements of this section have been met and must make them available to the division for inspection and copying upon request. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.620. CAREPROVIDER QUALIFICATIONS. (a) A careprovider must

(1) be at least 19 years of age;

(2) provide positive guidance and set clear and consistent limits to foster a minor's ability for self-discipline;

(3) provide support and encouragement to enable family reunification;

(4) model positive interpersonal skills;

(5) be free from physical or mental disease, including alcoholism or drug abuse, which would threaten the health, safety or well-being of minors in the facility;

(6) not be under indictment for or been convicted of a felony or a crime of any classification which involves the elements of assault, sexual assault or misconduct, child abuse or contributing to the delinquency of a minor; and

(7) not have had, as a parent or guardian, a child adjudicated as a child in need of aid within the past five years as a result of the person's act or omission.

(b) A careprovider who has supervisory responsibility for the program and child care, including one who works without a supervisor on the premises, must have a minimum of one year experience in the human services field.

(c) A careprovider must not be allowed to have contact with

minors in a facility licensed under this chapter until the administrator of the facility has verified that the careprovider meets the requirements of (a) and (b) of this section by

(1) obtaining, reviewing and verifying the legitimacy of at least three references from persons unrelated to the careprovider which provide evidence of the person's good character and ability to provide good care for minors;

(2) obtaining verification of the age of the careprovider;

(3) obtaining a release from the careprovider to allow the facility and the division to review child custody records in each state where the careprovider lived during the preceding five years and inquiring to determine if, as a parent or guardian, the careprovider had a child adjudicated as a Child in Need of Aid as a result of the careprovider's act or omission;

(4) obtaining fingerprints and a release from the careprovider to allow the facility and the division to review

criminal records of the careprovider maintained by the Alaska Department of Public Safety and the Federal Bureau of Investigation, and submitting the fingerprints to law enforcement authorities to determine if the careprovider is under indictment for or been convicted of a felony or crime described in (a) (6) of this section; and

(5) obtaining written verification that the careprovider has been tested free of active pulmonary tuberculosis before coming into contact with minors in the facility, and at least annually thereafter, as follows:

(A) a careprovider who has never had a positive tuberculin skin test result must obtain a tuberculin skin test; and

(B) a careprovider who has previously had a positive tuberculin skin test result, or a careprovider whose tuberculin skin test obtained under (1) of this subsection has a positive result

(i) must have a health evaluation by a health care provider to identify symptoms suggesting that tuberculosis disease is present; the health evaluation must also include evaluation for the presence of any of the following risk factors: evidence of inadequately treated past tuberculosis disease, history of close exposure to a case of communicable pulmonary tuberculosis within the previous two years, history of a negative tuberculin test within the previous two years, diabetes mellitus (severe or poorly controlled), diseases associated with severe immunologic deficiencies, immunosuppressive therapy, silicosis, gastrectomy, excessive alcohol intake, or human immunodeficiency virus infection; if symptoms suggesting tuberculosis disease are present, or if any of the risk factors are present, a chest x-ray must be obtained as part of the health evaluation and the health care provider must report the case to the section of epidemiology, division of public health; and

(ii) if the careprovider has previously received

appropriate anti-tuberculin chemotherapy and has no symptoms suggesting that tuberculosis is present, the careprovider need not have further annual tuberculosis evaluation under this subsection.

(d) An operator must annually evaluate each careprovider's performance in writing. The written performance evaluation must include a plan for correcting any deficiencies identified during the evaluation process.

(e) The facility must retain the records and documents used to verify that the requirements of this section have been met and make them available to the division for inspection and copying upon request.

(f) The division may assess compliance with this section by reviewing required records, performance evaluations and, as deemed necessary by the division, through observation of careproviders in the performance of their duties. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.630. STAFFING REQUIREMENTS. (a) A facility must have a sufficient number of careproviders on duty in the facility to provide for the care and safety of minors and to otherwise meet the requirements of 7 AAC 53.410 -- 7 AAC 53.770.

(b) A careprovider must be on duty in a facility whenever one or more minors are present.

(c) At least one careprovider who is able to read and write the English language must be on duty at a facility at all times.

(d) The on duty staff-to-child ratio in a facility must be as follows:

(1) one careprovider for every six minors in care during waking hours; and

(2) one careprovider for every 12 minors in care during sleeping hours.

(e) A facility must have an emergency back-up staffing plan for periods when only one staff member is on duty.

(f) Only those careproviders who are on duty with the primary responsibility for direct care and supervision of minors may be counted in the ratios required by (d) of this section. Careproviders are not required to be awake to be counted as "on duty" during sleeping hours.

(g) The director or administrator may be counted as a careprovider for the purposes of (d) of this section only if the facility serves 12 or fewer minors and the director or administrator meets the requirements of subsection (f) of this section.

(h) Careproviders who devote time to food preparation and building maintenance may not be counted to meet the ratios required by (d) of this section, unless food preparation and

building maintenance are used as life skills education for minors in care.

(i) A child of a staff member will be counted in the ratio required by (d) of this section if the child resides in the facility.

(j) The division may waive the staff-to-child ratio requirements of this section if it determines that facility layout, electronic monitoring systems, or other circumstances are sufficient to insure the safety and welfare of the residents.

(k) In this section, "sleeping hours" means the hours from eleven p.m. to seven a.m. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.640. STAFF ORIENTATION, SUPERVISION, AND TRAINING.

(a) A facility must provide orientation for each staff member

regarding

(1) the organization of the facility, administrative procedures, and program approach;

(2) the staff member's duties and responsibilities, including those duties and responsibilities to be carried out in emergencies;

(3) the operational manual and the equipment relevant to assigned duties and responsibilities;

(4) the physical plant layout;

(5) acceptable and prohibited behavior management techniques, including the facility's discipline policies;

(6) crisis management and the appropriate use of passive restraint methods;

(7) emergency and safety procedures;

(8) in-service training opportunities;

(9) the staff member's responsibility under AS 47.17.020 to report suspected child abuse and neglect to the division; and

(10) the requirement under AS 47.10.340 that records identifying a minor who has been admitted to or sought assistance from the facility remain confidential and the procedures for safeguarding of confidential information.

(b) The orientation required in (a) of this section must begin at the time of employment and be completed before the employee is permitted to work with the minors without direct supervision. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.650. TRANSPORTATION. (a) A vehicle used in

transporting minors must be licensed, insured, and operated in accordance with state law.

(b) A staff member of a facility, or other person acting on behalf of the facility, operating a vehicle for the purpose of transporting minors must be properly licensed to operate that class of vehicle according to state law.

(c) An operator must ensure that there is prudent supervision in a vehicle used by the facility to transport minors including use of seat belts, absence of passenger overloading and prohibiting riding in the back of open pickup trucks and other open vehicles. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.660. NON-DISCRIMINATION PRACTICES. A facility may not discriminate in the provision of services or in admissions because of race, creed, color, or national origin. (Eff. / /

, Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.670. ADMISSION POLICIES. (a) A facility must have written admission policies. The written admission policies must include

(1) the criteria and procedures used to determine eligibility for admission and eligibility for other services offered by the facility;

(2) procedures for notifying a minor's parent or guardian of the physical and emotional condition of the minor and the circumstances surrounding the minor's admission to the facility; and

(3) procedures to document the notifications required by this subsection.

(b) A facility may accept only those persons who meet the eligibility criteria outlined in the admissions policies and for whom the facility has an operational program.

(c) A facility may not knowingly admit

(1) a person who is not in the age range specified on the facility's license;

(2) more minors into care than the number specified on the facility's license;

(3) a child who is younger than ten years of age except in a facility licensed to provide emergency shelter care for young children;

(4) a person who requires continuous nursing services or continuous medical care; or

(5) a person who has been determined through a

psychiatric or psychological evaluation to be a danger to the person or others, unless:

(A) the admission is for less than six hours;

(B) is necessary to prevent harm to the person;

(C) no reasonable alternative exists to provide adequate protection for the person under the circumstances;

(D) the physical plant and staffing patterns are sufficient to prevent harm to the person or others; and

(E) the department is immediately notified of the admission.

(d) Upon a minor's admission to the facility, careproviders of the facility must

(1) immediately inform the minor seeking assistance of the minor's legal rights and responsibilities under AS

47.10.141 -- 47.10.142 and AS 47.10.300 -- 47.10.390 and of the services and assistance available for runaway minors from the program and from state and municipal governments;

(2) attempt to determine why the minor is a runaway;

(3) notify the minor's parent or guardian of the minor's physical and emotional condition and the circumstances surrounding the minor's admission to the program as soon as possible but no later than 48 hours after the admission, unless

(A) there is reason to believe that the minor has been physically or sexually abused by the minor's parent or guardian and the division is notified immediately; or

(B) there is reason to believe that notifying the minor's parent or guardian would endanger the life or safety of the minor or the staff of the facility and the division is notified immediately; or

(C) the minor will not divulge the name of the

minor's parent or guardian or the parent or guardian cannot be reached after a good faith effort and the division is notified within 48 hours;

(4) compare the minor's name to the list of names, provided by the Department of Public Safety, of minors who are runaways, missing, or for whom there is an order to take custody, and determine if the minor is listed; if the minor is listed, the facility must immediately inform the appropriate law enforcement agency of the minor's whereabouts;

(5) notify the division, within 24 hours, of the whereabouts of a minor who has been reported by the division to be in the custody of the department or if the facility knows there is an order for the department or a law enforcement agency to take custody of the minor; and

(6) obtain, within 48 hours, the written consent of the division for minors in the custody of the department to remain in residence in the facility.

(e) The division may notify facilities of runaway minors who are in the custody of the department or for whom there is an order directing the department or a law enforcement agency to take custody. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

AS 47.10.330

7 AAC 53.680. PROGRAM OF CARE. (a) A facility must have a written program of care, describing how it provides services to runaway minors.

(b) A facility's program of care must include procedures for

(1) explaining to a runaway minor the minor's legal rights and options of service and assistance available from the program and state and municipal governments;

(2) determining why a minor is a runaway;

(3) assessing the services required to meet the needs of the minor and the minor's family, if appropriate;

(4) establishing reunification of runaways with their families as a primary goal, except in cases in which reunification is clearly contrary to the best interests of the minor;

(5) identifying minors for whom reunification is not an appropriate goal and working with the department to develop plans to provide for the care and safety of these minors;

(6) identifying the symptoms of child abuse and neglect and immediately reporting identified cases to the division in conformance with AS 47.17 and AS 47.10.310(c) when there is reasonable cause to suspect that a runaway minor has been abused or neglected or when a minor claims that to be the case;

(7) identifying the symptoms of alcohol and drug abuse or dependence and making referrals to treatment resources, as

appropriate;

(8) providing or assisting in arranging for necessary services including food, shelter, clothing, medical care, and individual and family counseling;

(9) providing for visitation and other forms of communication by the minor with the minor's family and significant others; and

(10) restricting a minor's involvement in an activity related to fund raising or publicity for a facility without the prior written consent of the minor and the minor's parent or guardian; the facility must also receive the approval of the court if the minor is in state custody. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.690. ASSESSMENT, PLAN OF CARE, AND CASE RECORDS.

(a) For minors, including minors in department custody, expected to remain in the facility no more than 45 days, the facility must, within ten days of the minor's admission, complete an assessment of the minor and the minor's circumstances which shall include

(1) observations of the minor while in the facility;

(2) a meeting of staff, the minor, the minor's parent or guardian, and other concerned individuals, as available;

(3) a review of any written materials which have been supplied by persons listed in (2) of this subsection; and

(4) a review of

(A) the reasons for the minor's admission to the facility and the minor's circumstances at the time of admission;

(B) the minor's significant history, including education, health, professional evaluations, and any medication or special treatments the minor may need; and

(C) the minor's family circumstances including the needs and strengths of the family and the likelihood of successful reunification.

(b) Upon completion of the assessment, facility careproviders must prepare a plan of care based on the assessment which shall include

(1) the findings of the assessment;

(2) the goals to be achieved or worked toward for the minor and the minor's family including reunification with the family or development of an alternative plan;

(3) strategies for fostering positive family relationships for the minor and his or her family regardless of whether reunification is the goal of the plan;

(4) a description of the services to be provided by the facility, the child's parents, guardian, or agency having custody and, if appropriate, the department;

(5) plans for family involvement as appropriate and desired by the minor;

(6) plans for religious participation as appropriate and desired by the minor;

(7) plans for education as appropriate; and

(8) discharge plans, which should include the planned date of discharge and designate the person or agency to whom the minor is expected to be discharged.

(c) The facility shall establish a record for each child admitted to the facility. The record shall include the assessment and the plan of care, along with other relevant documents. The format and the records shall be subject to

division review. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

AS 47.10.340

7 AAC 53.700. CARE AGREEMENT. (a) An agreement between a facility and a parent or guardian of the minor which provides for placement of the minor in a facility for more than 45 days must

(1) be executed in writing;

(2) specify the period of the agreement;

(3) include by reference or attachment the consent of the parent or guardian to emergency medical and surgical care of the minor, and the plan of care developed for the minor;

(4) specify the arrangements for safekeeping personal funds of the minor in excess of \$100.00, and an allowance for the

minor as appropriate;

(5) specify the nature and frequency of reports to, and meetings involving, the minor's parent(s) or guardian, the agency having custody of the child, and the department, as appropriate;

(6) provide for notification of the child's parent, guardian, agency having custody of the child, or department, as appropriate, in the event of unauthorized absences, medical or dental problems, or any significant events regarding the minor;

(7) delineate financial responsibilities of the parties;

(8) be approved by the department in writing if it provides for residency of the minor in the facility for more than 90 days; and

(9) be retained in the minor's record.

(b) An agreement between a facility and the department, authorizing the facility to provide more than 45 days of care to

a minor for whom the department has custody must, in addition to the requirements of (a) of this section, provide authorization to care for the child as required by policy, regulations, or statutes.

(c) All parties to an agreement executed pursuant to (a) or (b) of this section shall be provided with a copy of the agreement when it is executed.

(d) An amendment to the care agreement, including a change in the plan of care, must be written and signed by the parties to the placement agreement. The facility must deliver copies of the amendment to the parties involved. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

AS 47.10.320

7 AAC 53.710. CONFIDENTIALITY. A facility may not allow records identifying a minor who has sought assistance from or

been admitted to the facility to be inspected or copied unless

(1) the minor has, after receiving effective written notice of the minor's right to privacy, given written consent to the disclosure of the records;

(2) the division has determined the records to be relevant to an investigation of child abuse or neglect or a child in need of aid proceeding, and the division has made a written request to the facility for the records;

(3) disclosure of the records is necessary to protect the life or health of the minor and the disclosure is made only to a health care provider, law enforcement agency or the division; or

(4) disclosure of the records is required by 7 AAC 53.580(b), 7 AAC 53.690(c), or 7 AAC 53.740(d). (Eff. / / ; Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

AS 47.10.340

7 AAC 53.720. DISCIPLINE AND BEHAVIOR MANAGEMENT. (a) A facility must have a written description of the methods of behavior management used by the facility. The description must identify acceptable and unacceptable youth behavior. The methods must include provisions for positive responses to acceptable behavior and appropriate response to unacceptable behavior. The facility must deliver and explain the description to a minor upon the minor's admission to the facility.

(b) Discipline or control must be appropriate to the minor's age and development level. A minor in care may not be

(1) subjected to unusual, severe, cruel, capricious, or humiliating punishment;

(2) subjected to verbal abuse or derogatory remarks by the staff;

(3) deprived of meals, water, clothing, mail, family contacts, or contacts with the minor's guardian or custodian as a method of discipline;

(4) disciplined by shaking or by striking with a hand or object;

(5) physically restrained except for use of a non-violent crisis intervention technique which does not include use of mechanical restraints and which is necessary to protect the minor from inflicting injury on him or herself, others, or property;

(6) confined in a locked room for any reason;

(7) subjected to discipline administered by another minor;

(8) denied treatment equal to that given to the children of staff members when the staff members' children are on the premises; or

(9) denied participation in religious activities or required to participate in religious activities.

(c) A facility may not coerce or otherwise require a minor to make written or oral public statements regarding the minor's background, condition of dependency, destitution, or neglect, or the minor's acknowledgement of gratitude to the facility. (Eff.

/ / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.730. NUTRITION. (a) A facility must provide plentiful, nutritious food in comfortable surroundings. Minors and staff may be periodically involved in meal planning and preparation.

(b) A facility must ensure that, on a daily basis, each minor is provided with three nutritious, attractively prepared meals in a quality and quantity which meet the 1980, 9th edition

Recommended Dietary Allowances established by the National Academy of Sciences.

(c) A facility must

(1) routinely serve breakfast and dinner on-site and not more than 15 hours apart;

(2) routinely serve lunch on-site except to the extent that lunch is provided in an approved program away from the facility;

(3) offer snacks of nourishing quality between meals;

(4) provide a special diet for a minor when prescribed by a licensed health care professional;

(5) use recipes which provide food that is appropriate to the habits, preferences, and physical abilities of the residents, including wild game and traditional Alaskan Native foods, where appropriate and available in a form which is sanitary and

healthful; and

(6) keep on file for one year menus reflecting actual meals served.

(d) A facility may not deny a meal to a minor admitted to the facility except in accordance with a physician's order.

(e) A facility may not force-feed a minor or otherwise coerce a minor to eat against the minor's will except by order of a physician.

(f) A facility must provide substantially similar meals to careproviders and residents. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.740. MEDICAL AND DENTAL CARE. (a) It is the responsibility of a facility to maintain and promote the health

of minors in care. The responsibility established in this subsection includes the prevention of illness and the provision of or help in arranging for the provision of routine and emergency medical, dental, and visual care.

(b) A facility must have clear written policies and procedures governing the care of minor acute illnesses, actions to be taken in the event of medical emergencies, and the use and administration of medication to minors. These policies and procedures must be distributed to the facility's careproviders and must include

(1) procedures for verifying any medication a minor is taking and the minor's drug allergies;

(2) the names and telephone numbers of health personnel who can assist in medical emergencies;

(3) the conditions under which careproviders monitor the taking of medications;

(4) procedures for documenting the taking of medication by minors; and

(5) procedures for documenting medication errors and drug reactions and for notifying a licensed health care professional regarding medication errors and drug reactions.

(c) A facility must maintain a health record for each admitted minor which shall document

(1) referrals for examination and care of the minor;

(2) medical, dental and visual examinations and care provided to the minor including a record of specific illnesses and medical emergencies; and

(3) a record of medications prescribed and administered to the minor at the facility.

(d) Upon request, the facility must provide a copy or summary of the minor's health record to the minor or the minor's

parent or guardian, except for any portion that is protected by law from disclosure without the minor's consent.

(e) A facility must keep medication in locked storage unless needed by a minor for frequent or emergency use.

(f) A facility must have policies and procedures to ensure that minors admitted to the facility are screened, assessed and treated for communicable diseases. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310

7 AAC 53.750. DISCHARGE OF MINORS. (a) A facility must have written discharge policies and procedures.

(b) A facility must discharge a runaway minor to the minor's parent or guardian after 45 days if the minor's parent or guardian has not consented in writing to the minor's residence at the program facility for a period exceeding 45 days.

(c) A facility must discharge a runaway minor to the minor's parent or guardian after 90 days if the minor's parent or guardian or the division has not consented in writing to the minor's residence at the program facility for a period exceeding 90 days.

(d) A facility must compile a discharge summary within five days of the date of a minor's discharge. The discharge summary must include the circumstances of the discharge, a summary of services provided, progress in achieving the goals established in the plan of care, assessed needs which remain unmet, and the name, address, telephone number, and relationship of the person or program to whom the child is discharged, if known.

(e) The facility must provide the written discharge summary on minors who are in the custody of the department to the department within five days of discharge.

(f) A facility must notify a minor's parent or guardian within 24 hours if the minor is released from the program into

the custody of a person other than the parent or guardian or a person representing the parent or guardian, unless unable to do so because the custodian is unknown or cannot be reached, in which case the facility must notify the division. (Eff. / / , Register)

Authority: AS 47.05.010
AS 47.10.310
AS 47.10.330

7 AAC 53.760. IMMUNITY FROM LIABILITY. The officers, directors, administrators, careproviders, staff and other employees of a licensed runaway minor program facility are not liable for civil damages as a result of an act or omission in the admission of a minor to the facility or to a facility program. (Eff. / / , Register)

Authority: AS 47.05.010
AS 47.10.300
AS 47.10.310
AS 47.10.350

7 AAC 53.770. DEFINITIONS. In 7 AAC 53.410 - 7 AAC 53.770:

(1) "administrator" means the individual designated by the legal entity or person with overall responsibility for the facility to administer the facility's program and includes a "director" as identified in AS 47.10.330;

(2) "careprovider" means an employee, volunteer, or other person working in a facility whose duties include care and supervision of minors;

(3) "child abuse or neglect" has the same meaning as in AS 47.17.070;

(4) "child in need of aid" means a child who has been adjudicated as a child in need of aid under AS 47.10.010 or as a dependent child under a similar statute in another state or jurisdiction;

(5) "department" means the Alaska Department of Health

and Social Services;

(6) "director" means the director of the division of family and youth services in the Alaska Department of Health and Social Services;

(7) "division" means the division of family and youth services in the Alaska Department of Health and Social Services;

(8) "facility" means a runaway minor program facility or a proposed runaway minor program facility and includes directors, administrators, staff and other employees as appropriate in the context;

(9) "guardian" means an individual who is appointed by the court to manage the affairs of another person;

(10) "human service field" means an area of endeavor in social services, juvenile corrections, education, mental health, and health care;

(11) "operator" means the entity licensed to operate a runaway minor program facility and includes the administrator, careproviders and staff, as appropriate to the context;

(12) "person" means a natural person, corporation, association, organization, or governmental agency;

(13) "reasonable cause to suspect" means cause, based on all the facts and circumstances known, that would lead a reasonable person to believe that his/her suspicions are or may be valid;

(14) "runaway minor" means a person under 18 years of age who

(A) is habitually absent from home; or

(B) refuses to accept available care; or

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

(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;

(15) "runaway minor program facility" means a place, operated by someone licensed by the division, which provides 24-hour care for one or more runaway minors who are not related by blood, marriage, or legal adoption to the operator;

(16) "staff" or "staff member" means the directors, administrators, careproviders, maintenance employees, and other persons regularly working at the facility;

(17) "vehicle" means a self-propelled device for conveying persons or property, including automobiles, motorcycles, snow machines, all-terrain vehicles, airplanes, construction equipment, sailboats, and other vessels. (Eff. / / , Register)

Authority: AS 47.05.010

AS 47.10.300

AS 47.10.310



Alaska State Legislature

Senator Randy Phillips

SESSION
State Capitol
Juneau, AK 99801
(907) 465-4949
800-478-4950
Fax: 465-4979

INTERIM
P.O. Box 142
Eagle River AK 99577
(907) 694-4949

CHAIR
Legislative Budget & Audit
Community & Regional Affairs

VICE-CHAIR
Transportation

MEMBER
Alaska Commission on
Postsecondary Education

Sectional Analysis

CS SB 45

Section 1:

Summarizes the general purposes of sections 13 and 17 of the bill, citing both the requirements of the pertinent federal Act and conditions specific to the state.

Section 2.

This section sets out the findings and intent that relate to the "safe homes" sections of the bill. *(one change from original, changed "protect" to "reduce the risk to")* Change requested by DHSS

Section 3-8.

These sections amend the code of civil procedure relating to actions to remove the disabilities of minority. Under current law, a minor can get court approval to have the responsibilities and powers of an adult for either general purposes or for a specific purpose. The changes in these sections would allow the legal custodian of a minor to file a petition to remove the disabilities of the minor. Formerly, only the minor could file such a petition.

Section 9.

The substantive effect of all the changes in this section is to raise from 16 to 18 the age of minors covered by the statute that makes it a crime to contribute to the delinquency of a minor by encouraging the minor to be absent from the custody of parents or other custodians. Exceptions are made for minors for whom the disabilities of minority have been removed and for persons who aid runaway minors by keeping them in a "safe home."

Section 10.

This section is a technical amendment made necessary by the amendments to AS 11.51.130(a) under sec 8 of this bill.

Section 11

This section, relating to working hours is self-explanatory.

Section 12.

This section provides immunity to the state and to agencies that designate safe homes for the acts of a minor in a safe home.

Section 13. (Senator Duncan Amendment)

Substantially revises and extends the key juvenile detention/incarceration provision of current statutory law, AS 47.10.130.

Proposed AS 47.10.130(a) establishes an explicit prohibition against incarceration of a minor in a correctional facility.

Proposed AS 47.10.130(b) carries forward without change language of the current statute assigning responsibility for notification of the minor's parent(s), guardian(s), or custodian(s) of the minor's detention.

Proposed AS 47.10.130(c) sets out three exceptions to the general prohibition against a minor's incarceration in a correctional facility:

- (1) minors adjudicated delinquent or held in official detention pending filing of a delinquency adjudication petition, the incarceration not to exceed six hours or the time necessary to arrange other transportation, whichever is shorter;
- (2) minors held pending prosecution as an adult; and
- (3) minors held in protective custody, that is, held because they are intoxicated or incapacitated by alcohol.

Proposed AS 47.10.130(d) places conditions and limitations on the holding of minors who are placed in correctional facilities under the exceptions of sec. 130(c)(1) (temporary detention pending transportation) or 130(c)(3) (protective custody detention). Those conditions and limitations include assignment to quarters separate from adults and provision of necessary services separate from the services that are provided to adults held in the correctional facility.

Proposed AS 47.10.130(e) recognizes weather related and similar delays beyond the control of the custodian by allowing an extension of the holding of a minor in temporary detention pending transportation beyond the six hour maximum in limited circumstances. At the same time, the subsection imposes specific duties on the person having responsibility for the minor's detention to document the reason for the extension and to advise the pertinent parties of the delay in transportation.

Proposed AS 47.10.130(f) authorizes extension of the holding of the minor in temporary detention pending transportation only so long as necessary to complete the necessary transportation arrangements for the minor.

For minors held in protective custody, proposed AS 47.10.130(g) directs that the parameters of treatment and detention that are set out in AS 47.37.170(i) are made applicable to minors so held.

Section 14

This section establishes requirements and immunities relating to persons who operate safe homes for runaway minors.

Two changes from original, AS 47.10.394(b)(3) new and AS 47.10.394(c) added 48 hour notice requirement. Changes requested by Senator Ellis

Section 15.

This section allows a peace officer to take a minor who is in protective custody to a safe home that agrees to shelter the minor. This section also requires the officer to inform the minor's custodian that counseling services are available through the Department of Health and Social Services.

Section 16.

This section requires the Department of Health and Social Services to offer counseling services to the custodian of a runaway minor (and to the custodian's household) before the department may take emergency custody of the minor.

Section 17. (Senator Duncan's Amendment)

Makes correlative changes to a juvenile detention statute, AS 47.10.190. (relates to section 13)

Section 18.

This section provides that a person may not represent a home as a "safe home" for runaways unless the person has the appropriate permit.

Section 19.

This section directs DHSS to adopt regulations under the which a nonprofit corporation may apply for a license to designate and supervise safe homes for runaway minors. The regulations must include health and safety standards for the homes. Upon notification by a licensed agency, DHSS will provide a permit to the designated homes.

One change from original, AS 47.35.085(b)(2) new wording, Change requested by DHSS

Section 20.

This section requires that an agency may not designate safe homes unless licensed to do so by DHSS.

Section 21.

This section defines "runaway minor" and "safe home."

Section 22.

This section gives the bill an immediate effective date.

Note: Former bill section 9 which relates to possession and purchase of a firearm by persons under age 21 has been deleted from the bill.

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF HEALTH AND
SOCIAL SERVICES

DIVISION OF FAMILY AND YOUTH SERVICES

P.O. BOX 110630
JUNEAU, ALASKA 99811-0630
PHONE: (907) 465-3170

Honorable Steve Rieger, Senator
Alaska State Legislature
State Capitol
Juneau, Alaska

March 17, 1993

RE: SB 45 Information Request

Dear Senator Rieger,

The following information is provided as requested during the hearing before the Senate HESS committee for SB 45 on 3/5/93.

1. Can the Department create Safe Homes without a statutory change?

The department believes that authority under AS 47.10. and AS 47.35 could permit the creation of safe homes. The department finds existing statutory language ambiguous and out dated. and we would feel much more comfortable with explicit authority to crate such homes.

2. What is a safe home, what are the other safe home programs?

The department is aware of two programs in the Municipality of Anchorage that are known as "Safe Homes". One program which was sponsored by CARRS grocery served minors 16 and older who were runaways from home. It is not known if this program is still in existence. The second is a program sponsored by the Municipality of Anchorage School District for school children. These homes are available if a child needs help while on the way to or from school.

Both programs are not licensed by the department.

3. If the bill language were changed to homeless rather than runaway what impact would result?

The department has adopted the national definitions for the terms of "runaway" or "homeless" minor. This adoption avoids confusion by assuring that everyone understands the meaning of the terms. The federal grant programs also have adopted the

RIEGER/WING
SB45
3/17/93
page 2

definitions of these terms and expects that applicants use the same definitions. The definitions are as follows:

Runaway: Youth who leave home and return at a later date. If the objective of services is to return the youth to a home environment or group care, then the youth is a runaway.

Homeless: Youth who leave home and do not return or who periodically return to destructive home environments. If the objective of service is preparation for independent living then the youth is homeless. Homeless youth do not have any apparent legal means of financial support.

The combined definitions for runaway and homeless youth that has been adopted by the department are functionally equivalent to the statutory definition for runaway youth contained in the Alaska Statutes.

4. What are the resources available now for runaway and homeless youth?

This is best described in the department's policy on runaway and homeless youth. A portion of that policy reads as follows;

Runaway children not in the custody of the department who are detained by a law enforcement officer and request DFYS services, or who individually present themselves and request DFYS services, will be assessed for services. This assessment will be done either by a DFYS worker or by referral to a contract agency providing services for runaways.

The worker will assess the needs of referred adolescents and provide services as appropriate and necessary. The worker may assume Emergency Custody if appropriate. The worker will not assume Emergency Custody solely on the basis of either the minor's refusal to return home or the parent's refusal to provide care.

RIEGER/WING
SB45
3/17/93
page 3

The department has alternatives for a youth that meet the assessment criteria. Unfortunately these alternatives are not available in all communities across the state.

1. There are foster homes available for children where child protection or delinquency issues are present.
2. There are foster homes available for emergency services.
3. There are informal arrangements between families who are friends that provide temporary shelter.

Thank you for the opportunity to assist the committee in its consideration of SB 45.

Sincerely yours,

for *Randall Hines, acting*
Deborah R. Wing
Director
Division of Family and Youth Services

cc. Senator Randy Phillips



U.S. Department of Justice

Office of Justice Programs

*Office of Juvenile Justice and
Delinquency Prevention*

Office of the Administrator

Washington, D.C. 20531

March 2, 1993

The Honorable Walter J. Hickel
Governor of Alaska
Box A
Juneau, Alaska 99811

Dear Governor Hickel:

I am pleased to inform you that I have granted a waiver of termination and approved Alaska's Juvenile Justice and Delinquency Prevention 1991 Comprehensive Plan. The award of \$325,000 in Formula Grant funds is to implement the State's plan, pursuant to the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 et seq., as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992, (Public Law 102-586). This represents Alaska's 1991 entitlement under this Act.

Please be advised that Alaska's eligibility for FY 1992 Formula Grant Funds will almost certainly depend upon Alaska's success in passing legislation that would require the elimination of all incidents of the secure detention of status and nonoffender juveniles in adult jails and lockups.

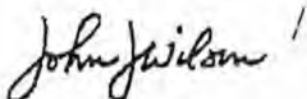
Alaska has reduced the number of status and nonoffender juveniles securely detained in adult jails and lockups to 27 during the period January 1, 1990 to December 31, 1992. However, the Office of Juvenile Justice and Delinquency Prevention Formula Grants regulation requires, as a condition for waiving the termination of funding sanction for noncompliance, that a State has removed all such juveniles from secure detention in adult jails and lockups. This standard can be met by demonstrating zero violations, or through enactment of a State law that prohibits this practice.

In view of: (1) Alaska's substantial progress toward full compliance; (2) the dedicated efforts of the Division of Family and Youth Services, the Governor's State Advisory Group and the Legislature to enact legislation during the 1992 legislative session, and the commitment to secure passage of this legislation in the 1993 session; and (3) your support for achieving the goal of removing all juveniles from adult jails and lockups as evidenced by your Executive Proclamation of October 8, 1992, I have determined to grant a third, and final waiver of termination to Alaska. This will provide continued funding to programs supporting the jail removal effort and an opportunity to enact needed State legislation during the 1993 legislative session.

The OJJDP stands ready to assist you in any way that we can, including technical assistance with the drafting of legislation, in achieving the important national goal of removing juveniles from adult jails and lockups.

If you have any questions concerning this award, please feel free to contact this Office. Concurrent with this letter, we are transmitting the award document to the Division of Family and Youth Services, which administers the Formula Grant funds.

Sincerely,



John J. Wilson
Acting Administrator

from DHSS

BRIEFING PAPER
FOR

AMENDMENT TO SB 45

"An Act relating to the detention and incarceration of minors."

Since 1976, Alaska has received formula grants from the U.S. Department of Justice under the Juvenile Justice and Delinquency Prevention (JJDP) Act. Funds are allocated annually among the states on the basis of relative population of children under age eighteen. Alaska receives the minimum annual allocation of \$325,000. Acceptance of these funds has obligated the state to improve its juvenile justice system and comply with the requirements of the Act which calls for:

Deinstitutionalization - a termination of the practice of securely detaining non-offenders or status offenders;

Separation - complete separation of juvenile offenders from adult prisoners when housed in the same secure facility;

Jail Removal - termination of the practice of holding any juvenile in an adult jail or lockup facility; and

Annual Monitoring - regular inspection of facilities which detain children along with collection, analysis and reporting of admission or booking data to assess compliance.

These requirements were to be achieved incrementally with deinstitutionalization to be achieved within three years of submission of the state's first grant application.

Separation and jail removal were to be achieved by December 1985, but subsequent extensions allowed exceptions to full compliance until December 1988.

Since 1989, Alaska has had to seek waivers to receive this formula grant funding because we have been unable to meet the OJJDP standard addressing the removal of youth from adult jails and lockups. On March 2, 1993 the Division received approval of its third and final waiver and was awarded \$325,000 of Federal 1991 formula grant funds.

In the fall of 1992 the Act was re-authorized and provides for a "floating" minimum state allocation of \$343,658, an increase from previous years.

Of utmost concern to the Division is the recent verbal advisement from the Office of Juvenile Justice and Delinquency Prevention indicating Alaska's eligibility to receive 1992 Federal Formula grant funds will depend on passage of jail removal legislation this session. Without this grant revenue of \$343,658 annually, it would be necessary to use

state general funds to continue funding ten (10) Non-Secure Attendant Shelter programs serving twelve (12) communities.

The Non-Secure Attendant Shelter model has been Alaska's most effective approach in attempting to comply with the jail removal requirement of the JJDP Act. In FY 92 it cost approximately \$171,150 to provide alternative placement to 472 youth who may have otherwise been placed in adult jails or lockups. Please see attached graph reflecting the reduction in mandate violations since 1987.

The proposed amendment to SB 45 would prohibit the confinement of youth in adult lock-ups, jails and correctional facilities except under special situations. These special situations are:

1. Juveniles may be held for a criminal offense for up to six (6) hours pending transport to a juvenile facility.
2. Juveniles may be held longer if transportation to a juvenile facility is not possible.
3. Juveniles may be held under protective custody as authorized in AS 47.37.170(b).
4. Juveniles may be held if they have been waived to adult jurisdiction.

In all cases juveniles held under this amendment would be kept separate from all adult prisoners by both sight and sound, unless the minor has been waived.

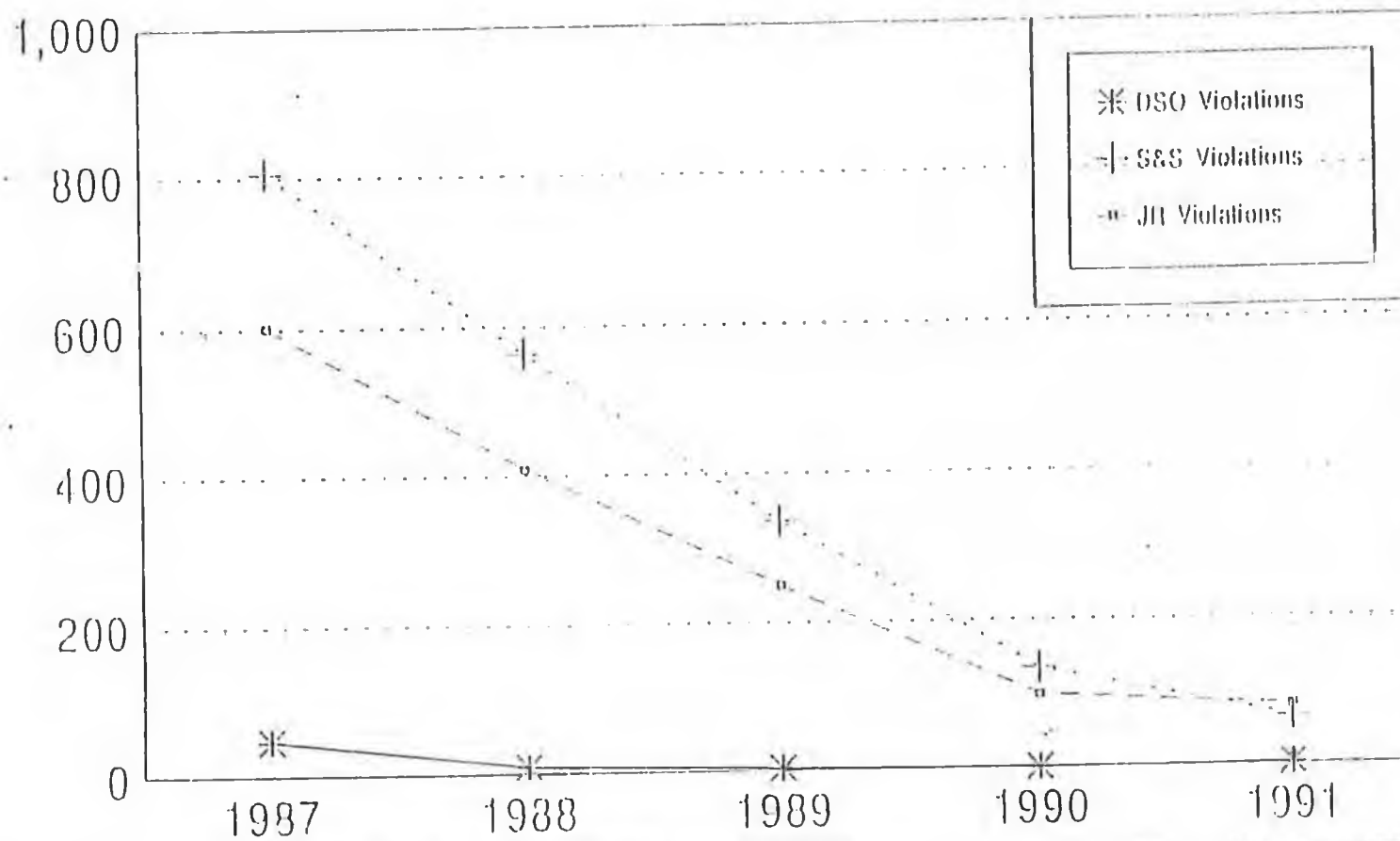
Enactment of this legislation would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended and enable us to apply for further Juvenile Justice and Delinquency Prevention formula grant funding.

Passage of this legislation does not adversely affect the juvenile waiver legislation that is currently before the Legislature. The JJDP Act does not apply to juveniles who have been waived to adult criminal court for processing. Waived juveniles represent a "swing" group, who may be placed with either adult offenders or other juveniles.

Attachment

JJDPA VIOLATIONS

(Source UAA Monitoring Reports)



DSO Violations	46	9	3	0	2
S&S Violations	806	564	336	135	65
JR Violations	601	409	249	99	81

NON-SECURE ATTENDANT CARE SHELTERS
FY 92

<u>LOCATION</u>	<u>EXPENDED</u>	<u>YOUTH SERVED</u>
Dillingham	\$15,000	84
Fairbanks	\$10,000	39
Juneau	\$20,000	33
Kenai/Seward/Homer	\$48,150	203
Ketchikan	\$24,200	58
Kodiak	\$ 5,546	2
Manitlag	\$11,929	13
North Slope Borough	\$ 6,250	21
Petersburg	\$ 3,403	2
Sitka	\$10,204	15
Valdez	\$11,612	10
Wrangell	<u>\$ 4,855</u>	<u>2</u>
Total	\$171,150	472

Policy Number: 89-1301
Date: April 1989
Issue: Separation

Policy: OJJDP discourages the placement of any youth in a facility which can be used for the detention and confinement of adult criminal offenders. However, minimal and acceptable separation for monitoring purposes of Section 223(a)(13) means that juvenile offenders and adult criminal offenders cannot see each other and no conversation is possible. This is commonly referred to as "sight and sound" separation and must be accomplished in the areas which include, but are not limited to admissions, sleeping, toilet and shower, dining, recreational, educational, vocational, transportation, health care and other areas as appropriate. This separation may be established through architectural design or time phasing the use of an area to prohibit simultaneous use by juveniles and adults.

Separation from adult offenders includes trustees.

A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from adult criminal offenders pursuant to the requirements of Section 223(a)(13). Such juveniles may also, however, be incarcerated with other juveniles who are under the jurisdiction of a juvenile court?

This is because Section 223(a)(13) prohibits regular contact in institutions between two specific groups or categories of persons. The first is juveniles alleged to be or found to be delinquent, status offenders, and nonoffenders. The second is adult persons incarcerated because they have been convicted of a crime or are waiting trial on criminal charges.

Juveniles waived or transferred to criminal court are members of neither group or category subject to the Section 223(a)(13) prohibition. Therefore, such juveniles may be detained or confined in institutions where they have regular contact with either group or category covered by the prohibition. They are a "swing group" of individuals who can be placed with whomever the legislature or courts deem appropriate.

For purposes of monitoring compliance with Section 223(a)(13), separation is not required in nonsecure, community-based programs or facilities.

References:

Section 223(a)(13), JJDP Act.

Section 31.303, Formula Grants Regulation, Federal Register, June 1985.

Legal Opinion No. 77-9, December 1, 1976.

"LAW ENFORCEMENT CUSTODY OF JUVENILES"
VIDEO TRAINING GUIDE

December, 1990

Prepared for

U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention

This video training guide was prepared under U.S. Department of Justice Contract No. OJP-88-C-006, by Community Research Associates, Champaign, Illinois in conjunction with the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

The Assistant Attorney General, Office of Justice Programs, coordinates the criminal and juvenile justice activities of the following program Offices and Bureaus: National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention and Office of Victims of Crime.

- ▶ No regular contact with adult offenders is allowed, thus separation from adult offenders must be maintained at all times. This means that juvenile offenders and adult offenders cannot see each other and no conversation is possible (i.e., sight and sound separation). Separation may be accomplished through time phasing the use of an area to prohibit simultaneous use by juveniles and adults.
- ▶ Records must be maintained to document the length of time a juvenile is held in secure custody. (This may be critical in the event of a lawsuit.)
- ▶ The six hour period for securely holding accused delinquent offenders is limited to temporary holding for the purposes of identification, processing, release to parents or guardian or transfer to juvenile court officials or to a juvenile facility. Any such holding of juveniles should be limited to absolute minimum time necessary to complete this action, not to exceed six (6) hours but in no case overnight.
- ▶ Written departmental policies and procedures for handling delinquent offenders should be developed and followed.

What If's

1. Q. If one of the offenders is an adult, can they be jointly transported from the arrest scene to the station and still meet the separation requirement?

A. If a juvenile and adult are arrested in the joint commission of a crime, they should be transported separately, if possible. If separate transportation is not available and they must be transported together, it is not a violation of the requirement to separate juvenile and adult offenders. However, upon arrival at the station, sight and sound separation must occur during all phases of booking and interviewing if these functions occur in a secure area.

2. Q. Can the juvenile being temporarily detained be held in a juvenile holding area with a juvenile being tried as an adult or must they be separated?

A. A juvenile who has been transferred or waived or is otherwise under the jurisdiction of a criminal court does not have to be separated from other juveniles.

3. Q. If a juvenile is handcuffed to a cuffing rail while being processed, is then uncuffed for interviewing and is later placed in the juvenile holding area, when does the six (6) hour clock start and stop?

Jail Removal

The intent of the jail removal legislation is to achieve complete removal of all juveniles from adult jails and lockups. Current requirements call for the following:

Status Offenders and Nonoffenders--These juveniles, who are not charged with an act which would be unlawful for an adult, should never be held in secure custody at a jail or lockup.

Delinquent Offenders--These juveniles, charged with an act which would be unlawful for an adult, should never be held in secure custody for more than six hours.

Waived Felony Offenders--These juveniles, once officially charged in criminal court with a felony offense, are not included in JJDP Act requirements.

Waived Non-Felony Offenders--These juveniles, waived or direct filed to criminal court for processing but not charged with a criminal felony, should never be held in secure custody for more than six hours.

* Separation of Juveniles from Adults

The intent of the federal legislation is to provide full removal of juveniles from adult jails and lockups. If full removal is not achieved, the legislation requires that any juvenile held in secure custody be completely separated from adult offenders at the facility. Juveniles should not be able to see or communicate with adult offenders. Through physical design and/or time phasing, as complete a separation as possible should be achieved, with no more than haphazard or accidental contact permitted. This level of separation applies to all activities at the facility, including: reception, housing, dining, recreation, education, vocation/work, visiting, medical/dental or segregation.

Currently, this legislation does not apply to juveniles who have been waived to adult criminal court for processing. Waived juveniles represent a "swing" group, who may be placed with either adult offenders or other juveniles.

Deinstitutionalization of Status Offenders and Nonoffenders

The intent of the deinstitutionalization requirements is to remove all status and non-offenders from secure facilities. This not only includes removal from adult jails and lockups but from juvenile detention and correctional facilities as well. An exception to this requirement allows accused status offenders and nonoffenders to be held for no more than 24 hours for the purposes of identification, investigation, release to parents or transfer to a nonsecure program. In addition, an exception has been made for status offenders accused of violation of a valid court order or adjudicated for such.

STATE OF ALASKA

Executive Proclamation
by
Walter J. Hickel, Governor

Confining children in adult facilities such as jails and lock-ups is not in the best interest of Alaska's children or of the State of Alaska.

In 1990, as many as 135 youth were held in adult facilities. The State of Alaska recognizes this treatment does not provide the necessary attention, programming, and educational services to juveniles.

The federal Juvenile Justice Delinquency Prevention Act mandates:

separating youth from adults by sight and sound when both are detained in the same jail, lock-up, or other correctional facility;

eliminating the practice of detaining youth charged with status offenses; and,

eliminating the practice of detaining youth in any adult jail, lock-up, or correctional facility.

NOW, THEREFORE, I, Walter J. Hickel, Governor of the State of Alaska, do hereby direct the Department of Health and Social Services to work towards the elimination of the practice of placing juveniles in adult lock-up facilities and jails, the development of more appropriate placement, and elimination of the practice of holding status offenders in adult jails and lock-up facilities.

DATED: October 3, 1992

Done by —



Walter J. Hickel
Walter J. Hickel, Governor
who has also authorized the seal
of the State of Alaska
to be affixed to this proclamation.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
565 CAPITOL MALL, SUITE 465
SACRAMENTO, CA 95814
(916) 448-2465

March 16, 1993

The Honorable Steve Rieger, Chairman
Senate Committee on Health, Education
& Social Services
State Capitol, Room 516
Juneau, AK 99801

Dear Senator Rieger:

The purpose of this letter is to express the opposition of the National Rifle Association to Section 9, of Senate Bill 45. As amended, paragraph (3) of subdivision (a) of Section 11.61.220 could constitute a virtual gun ban for most persons under 21 years of age. Additionally, although it is vaguely drafted, paragraph 6 appears to be in clear conflict with federal law and also leads to a de facto gun ban for those under 21 years of age.

While we support the overall concept of SB 45, we would have to actively oppose the bill with the current amended language in Section 9. If we can be of further assistance, please feel free to call upon me.

Sincerely,

Brian Judy
State Liaison

BJ:add

Post-It™ brand fax transmittal memo 7671 # of pages: 1	
TO: HESS	From Anch
CC: TC	Co.
Dept.	Phone #
Fax #	Fax #



ALASKA

POSITION PAPER: Senate Bill 45
 By Senators: PHILLIPS, Halford, Kelly, Miller, Lemay, Sharp

Covenant House Alaska, a 40-bed runaway crisis center providing food, clothing, shelter, medical care, counseling and referral and advocacy for youth and families cannot support this bill. Covenant House Alaska feels there are fundamental flaws with this legislation, including the fact that miscellaneous laws relating to minors are being proposed in conflict with existing laws and regulations and that this legislation, as written, offers a vehicle for anyone to accept runaway youth into their home -- further placing hundreds of youth at risk for physical, sexual, mental and/or emotional abuse.

It is the position of Covenant House Alaska that:

1. the existing Runaway Statute adequately meets the needs of homeless and runaway youth without conflicting with existing laws;
2. a vehicle does exist for interested and qualified parties to operate a safe home, even in the most rural areas.

The vehicle -- regulations which accompanied the Runaway Legislation (AS 47.10) -- if the Dept. of Health and Social Services would approve and implement the regulations which have been in limbo since 1990, safe homes would be legal and more importantly, safe, for youth in every community.

3. In addition, the bill states no purpose for existence of the safe homes. The current act (47.10.310) for runaway shelters states that the program "(c) (2) attempt to determine why a minor in the program is a runaway;" and "(5) be operated with the goal of reuniting runaway minors with their families, except in cases in which reunification is clearly contrary to the best interest of the minor." At the very least, safe homes should be committed to and able to accomplish these goals.

Without the above stipulations, I fear that abuses of safe homes will occur.

Covenant House Alaska has identified the following specific concerns as the basis for the formation of our opinion.

March 5, 1993

Section 14. pg. 7. line 28. regarding social services and counseling.

If the Division of Family and Youth Services deems that the youth is not a child in need of aid, contrary to this legislation, there is no fiscal note which supports social services nor counseling services for the minor, the custodian and the minor's household. All supportive services, family mediation and family reunification and related costs are currently being borne by the runaway shelters without reimbursement.

Section 16. pg 8. line 16. regarding a person without a license or permit not conducting, for more than 90 days a boarding home, foster home . . .

Does this mean anyone can maintain and conduct a boarding home, foster home . . . for less than 90 days?

Obviously, there are fundamental problems with this legislation and any form of this bill is not in the best interest of youth, families or the community. Homeless and Runaway youth come with a maze of complex problems that are, most often, not the fault of their own. Admittedly runaway youth are a difficult population to work with and need special attention and services, but regulations which prevent family reunification and further destroy the youth's chances of re-entering society's mainstream are not the answer to the problem.

Covenant House Alaska continues to be willing to work in a collaborative effort on any legislation that is intended to better meet the needs of youth and their families. It is Covenant House Alaska's position that the original regulations must be adopted and that agencies and individuals work with the Dept. of Health and Social Services to offer an appropriate means for well prepared citizens to participate in sheltering homeless and runaway youth.

Section 1. pg 1. (a) line 9. regarding " . . . properly qualified private citizens . . . "

There is no definition of "properly qualified private citizens," nor any identification of who sets the qualifications. Covenant House Alaska works with Alaska's most troubled youth who are runaways and homeless -- based on experience, it is the position of Covenant House Alaska that individuals must have extensive training and/or intensive supervision when working with this challenging population.

Section 1. pg 1. (b) line 12. allows "interested non-profit corporations" to approve safe homes.

The burden of licensure turns to non-profits who may not be qualified. Recognizing that there are many types of non-profits and that allowing "any interested non-profit" who may or may not have experience in working with homeless/runaway youth places youth at the hands of well meaning but possibly ill-prepared organizations/people. A criteria, to include experience, expertise and appropriateness of the agency licensing, must be developed before non-profits are given green lights to approve "concerned citizens" as safe homes.

Section 1. (b) pg. 2. line 1. this legislation calls for "less regulation than is required for licensed programs for runaways under AS 47.10."

Why would we want or require any less for our youth because of where they live or the type of services they can access? It is the State's responsibility to ensure the safety of youth, not put them at further risk. It is the recommendation of Covenant House Alaska that the regulations for runaway shelters be adopted and that interested persons or agencies use the flexibility of the regulations to offer safe homes through an appropriate means. These regulations offer waivers for many of the requirements without jeopardizing the critical aspects of working with this population.

Sections 2-7 in general terms, allow parents to divorce their children.

It is the position of Covenant House Alaska that parents divorcing children will not help the situation of runaways, the broken family, nor the youth. It appears that the only purpose for this language is to remove the parents' financial responsibility for the actions of their youth. Covenant House Alaska does not believe this is in the best interest of youth since further abandonment contributes to the disintegration of youth's connectedness to mainstream society and places additional burden on the community.

Section 8 (a) pg. 3 (4) lines 23-26. Contradicts AS 47.10 and SB 45 and could be interpreted that existing runaway shelters and

safe homes are "aiding, inducing, causing, or encouraging" youth "to be absent from the custody of parents . . ." by offering food, clothing, shelter, etc.

The immunity from liability clause referenced on line 26 is currently being challenged in the State of Alaska Court and has not yet been upheld since the Dept. of Health & Social Services has failed to approve and implement the regulations which accompanied AS 47.10. If this bill were passed, no shelter nor safe home would be immune from liability based on the current challenge of the immunity clause.

Section 11. (f) pg 4. line 31. "a minor..." what age is this describing - under 21? If so, it seems unrealistic to expect a 20 year old to get written permission to work. This contradicts existing child labor laws and would place an unnecessary hardship on youth who are living independently, are self-sufficient, and are determined by the State of Alaska to be adults at age 18.

Section 13. pg 5 (b) line 27. This language holds the provider of a safe home to the same standard as a professional when reporting child abuse and neglect.

If the criteria defining a qualified provider do not hold the provider to a professional standard, how can we expect them to be educated in determining reasonable cause, etc.? Providers must have formal education, experience and supervision as earlier referenced.

Section 13. (c) pg 5 line 31 pg 6 line 2. AS 47.10 holds an agency to notifying youth's parents of their whereabouts within 48 hours.

SB 45 requires the safe home only make a "good faith effort . . . as soon as possible."

It is Covenant House Alaska experience that parents and youth are most responsive to family reunification efforts when notification is made within the first 24 hours after a youth has left home. No parent should have to suffer days of agonizing distress when their child has, in fact, been safe. The language of AS 47.10 is the most reasonable for notification purposes and Covenant House Alaska cannot support a relaxation of the reporting requirements.

Section 13. pg 6. line 19. immunity from liability

Again, immunity from liability has become a false sense of security for agencies since the Dept. of Health & Social Services has never implemented the regulations; therefore challengers have made a case that there is no immunity since there are no regulations. The Dept. of Health & Social Services must approve and implement regulations which accompany AS 47.10.