

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8621 HOUSE JUDICIARY

1 (B) that, on the recommendation of the city council or
2 traditional village council, would benefit persons within the city or village who
3 are elderly or disabled.

4 * Sec. 4. AS 47.10 is amended by adding a new section to read:

5 Sec. 47.10.267. COMMUNITY DISPUTE RESOLUTION CENTERS FOR
6 MATTERS INVOLVING MINORS. (a) An entity organized for the purpose of
7 providing community mediation services may establish and operate a community
8 dispute resolution center to resolve disputes between minors who are alleged to have
9 committed offenses and the victim of those offenses.

10 (b) The commissioner may recognize an entity organized for the purpose of
11 providing community mediation services as a community dispute resolution center to
12 serve as a center to resolve disputes between minors and victims. Before extending
13 recognition under this subsection, the commissioner shall determine that the bylaws of
14 the entity set out standards and procedures

15 (1) for filing requests for dispute resolution services with the center and
16 for scheduling mediation sessions participated in by the parties to the dispute;

17 (2) to ensure that each dispute mediated meets the criteria for
18 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

19 (3) for giving notice of time, place, and nature of the mediation session
20 to the parties, and for conducting mediation sessions that comply with the provisions
21 of this section;

22 (4) to ensure that participation by all parties is voluntary;

23 (5) for obtaining referrals from public and private bodies;

24 (6) for providing mediators who, during the dispute resolution process,
25 may not make decisions or determinations of the issues involved, but who shall
26 facilitate negotiations by the participants themselves to achieve a voluntary resolution
27 of the issues; and

28 (7) for informing and educating the community about the community
29 dispute resolution center and encouraging the use of the center's services in appropriate
30 cases.

31 (c) A center established under this section shall provide dispute resolution

1 services between a minor who has committed an offense and who, because of the
2 commission of the offense, may be alleged to be a delinquent minor under
3 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall
4 provide dispute resolution services either without charge to a participant or for a fee
5 that is based on the participant's ability to pay.

6 (d) In conducting a dispute resolution process under this section, a center shall
7 require that

8 (1) the minor and the victim enter into a written agreement that
9 expresses the method by which they shall attempt to resolve the issues in dispute; and

10 (2) at the conclusion of the dispute resolution process, the minor and
11 the victim enter into a written agreement that sets out the settlement of the issues and
12 the future responsibilities, if any, of each party.

13 (e) All memoranda, work notes or products, or case files of centers established
14 under this section are confidential and privileged and are not subject to disclosure in
15 any judicial or administrative proceeding unless the court or administrative tribunal
16 determines that the materials were submitted by a participant to the center for the
17 purpose of avoiding discovery of the material in a subsequent proceeding. Any
18 communication relating to the subject matter of the resolution made during the
19 resolution process by a participant, mediator, or another person is a privileged
20 communication and is not subject to disclosure in a judicial or administrative
21 proceeding unless all parties to the communication waive the privilege. However,
22 privilege and limitation on evidentiary use set out in this subsection do not apply to
23 a communication of a threat that injury or damage may be inflicted on a person or on
24 the property of a party to the dispute to the extent the communication may be relevant
25 evidence in a criminal matter.

26 (f) A minor or a victim who voluntarily enters a dispute resolution process at
27 a center established under this chapter may revoke consent, withdraw from dispute
28 resolution, and seek judicial or administrative redress before reaching a written
29 resolution agreement. The withdrawal shall be in writing. If a minor or a victim
30 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be
31 imposed upon the person for that withdrawal.

1 (g) A center established under this section may seek and accept contributions
2 and any other available money and may expend the money to carry out the purposes
3 of this section.

4 (h) A member of the board of directors of a community dispute resolution
5 center is immune from suit in a civil action based upon a proceeding or other official
6 act performed in good faith as a member of the board. Employees and volunteers of
7 a community dispute resolution center are immune from suit in a civil action based on
8 a proceeding or other official act performed in their capacity as employees or
9 volunteers, except in cases of wilful or wanton misconduct. A center is immune from
10 suit in a civil action based on a proceeding or other official act performed by its
11 employees, volunteers, or members or its board of directors, except in cases of wilful
12 or wanton misconduct by its employees or volunteers or in cases of official acts
13 performed in bad faith by members of the board.

14 (i) In this section, "center" means a community dispute resolution center.

9-LS1423\F
Chenoweth
1/15/96

CS FOR HOUSE BILL NO. 379()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE PORTER

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing establishment of community dispute resolution centers to
2 foster the resolution of disputes between juvenile offenders and their victims."

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

4 * Section 1. AS 47.10.020(a) is amended to read:

5 (a) Whenever circumstances subject a minor to the jurisdiction of
6 AS 47.10.010 - 47.10.142, the court shall

7 (1) provide, under procedures adopted by court rule, that, for a minor
8 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall
9 make a preliminary inquiry to determine if any action is appropriate and may take
10 appropriate action to adjust or dispose of the matter without a court hearing; if, under
11 this paragraph.

12 (A) the state agency makes a preliminary inquiry and takes
13 appropriate action to adjust or dispose of the matter without a court hearing,
14 the minor may not be detained or taken into custody as a condition of the

1 adjustment or disposition and, subject to (d) of this section, the matter shall be
2 closed by the agency if the minor successfully completes all that is required of
3 the minor by the agency in the adjustment or disposition; in a municipality or
4 municipalities in which a youth court has been established under AS 47.10.265,
5 adjustment or disposition of the matter under this paragraph may include
6 referral to the youth court; if a community dispute resolution center has
7 been established under AS 47.10.267, adjustment or disposition of the
8 matter under this paragraph may include use of the services of the
9 community dispute resolution center;

10 (B) the agency concludes that the matter may not be adjusted
11 or disposed of without a court hearing, the agency may file a petition under (2)
12 of this subsection setting out the facts; or

13 (2) appoint a competent person or agency to make a preliminary inquiry
14 and report for the information of the court to determine whether the interests of the
15 public or of the minor require that further action be taken; if, under this paragraph, the
16 court appoints a person or agency to make a preliminary inquiry and to report to it,
17 then upon the receipt of the report, the court may informally adjust or dispose of the
18 matter without a hearing, or it may authorize the person having knowledge of the facts
19 of the case to file with the court a petition setting out the facts; if the court informally
20 adjusts or disposes of the matter, the minor may not be detained or taken into the
21 custody of the court as a condition of the adjustment or disposition, and the matter
22 shall be closed by the court upon adjustment or disposition.

23 * Sec. 2. AS 47.10.080(b) is amended to read:

24 (b) If the court finds that the minor is delinquent, it shall

25 (1) order the minor committed to the department for a period of time
26 not to exceed two years or in any event extend past the day the minor becomes 19,
27 except that the department may petition for and the court may grant in a hearing (A)
28 two-year extensions of commitment that do not extend beyond the child's 19th
29 birthday if the extension is in the best interests of the minor and the public; and (B)
30 an additional one-year period of supervision past age 19 if continued supervision is in
31 the best interests of the person and the person consents to it; the department shall place

1 the minor in the juvenile facility that the department considers appropriate and that
2 may include a juvenile correctional school, juvenile work camp, treatment facility,
3 detention home, or detention facility; the minor may be released from placement or
4 detention and placed on probation on order of the court and may also be released by
5 the department, in its discretion, under AS 47.10.200;

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

12 (A) two-year extensions of supervision that do not extend
13 beyond the child's 19th birthday if the extension is in the best interests of the
14 minor and the public; and

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

18 (3) order the minor committed to the department and placed on
19 probation, to be supervised by the department, and released to the minor's parents,
20 guardian, other suitable person, or suitable nondetention setting such as a family home,
21 group care facility, or child care facility, whichever the department considers
22 appropriate to implement the treatment plan of the predisposition report; if the court
23 orders the minor placed on probation, it may specify the terms and conditions of
24 probation; the department may transfer the minor, in the minor's best interests, from
25 one of the probationary placement settings listed in this paragraph to another, and the
26 minor, the minor's parents or guardian, and the minor's attorney are entitled to
27 reasonable notice of the transfer; the probation may be for a period of time, not to
28 exceed two years and in no event extend past the day the minor becomes 19, except
29 that the department may petition for and the court may grant in a hearing

30 (A) two-year extensions of commitment that do not extend
31 beyond the child's 19th birthday if the extension is in the best interests of the

1 minor and the public; and

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

5 (4) order the minor to make suitable restitution in lieu of or in addition
6 to the court's order under (1) - (3) [(1), (2), OR (3)] of this subsection; the court may
7 not refuse to make an order of restitution under this paragraph to benefit the victim of
8 the act of the minor that is the basis of the delinquency adjudication; the court may
9 require the minor to use the services of a community dispute resolution center
10 that has been recognized by the commissioner under AS 47.10.267 to resolve any
11 dispute between the minor and the victim of the minor's offense as to the amount
12 of or manner of payment of restitution;

13 (5) order the minor committed to the department for placement in an
14 adventure based education program established under AS 47.21.020 with conditions
15 the court considers appropriate concerning release upon satisfactory completion of the
16 program or commitment under (1) of this subsection if the program is not satisfactorily
17 completed; or

18 (6) in addition to an order under (1) - (5) of this subsection, if the
19 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
20 11.71.040(a)(4), order the minor to perform 50 hours of community service: for
21 purposes of this paragraph. "community service" includes work

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

23 (B) that, on the recommendation of the city council or
24 traditional village council, would benefit persons within the city or village who
25 are elderly or disabled.

26 * Sec. 3. AS 47.10 is amended by adding a new section to read:

27 Sec. 47.10.267. COMMUNITY DISPUTE RESOLUTION CENTERS FOR
28 MATTERS INVOLVING MINORS. (a) An entity organized for the purpose of
29 providing community mediation services may establish and operate a community
30 dispute resolution center to resolve disputes between minors who are alleged to have
31 committed offenses and the victim of those offenses.

1 (b) The commissioner may recognize an entity organized for the purpose of
2 providing community mediation services as a community dispute resolution center to
3 serve as a center to resolve disputes between minors and victims. Before extending
4 recognition under this subsection, the commissioner shall determine that the bylaws of
5 the entity set out standards and procedures

6 (1) for filing requests for dispute resolution services with the center and
7 for scheduling mediation sessions participated in by the parties to the dispute;

8 (2) to ensure that each dispute mediated meets the criteria for
9 appropriateness for mediation and for rejecting disputes that do not meet the criteria;

10 (3) for giving notice of time, place, and nature of the mediation session
11 to the parties, and for conducting mediation sessions that comply with the provisions
12 of this section;

13 (4) to ensure that participation by all parties is voluntary;

14 (5) for obtaining referrals from public and private bodies;

15 (6) for providing mediators who, during the dispute resolution process,
16 may not make decisions or determinations of the issues involved, but who shall
17 facilitate negotiations by the participants themselves to achieve a voluntary resolution
18 of the issues; and

19 (7) for informing and educating the community about the community
20 dispute resolution center and encouraging the use of the center's services in appropriate
21 cases.

22 (c) A center established under this section shall provide dispute resolution
23 services between a minor who has committed an offense and who, because of the
24 commission of the offense, may be alleged to be a delinquent minor under
25 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall
26 provide dispute resolution services either without charge to a participant or for a fee
27 that is based on the participant's ability to pay.

28 (d) In conducting a dispute resolution process under this section, a center shall
29 require that

30 (1) the minor and the victim enter into a written agreement that
31 expresses the method by which they shall attempt to resolve the issues in dispute; and

1 (2) at the conclusion of the dispute resolution process, the minor and
2 the victim enter into a written agreement that sets out the settlement of the issues and
3 the future responsibilities, if any, of each party.

4 (e) All memoranda, work notes or products, or case files of centers established
5 under this section are confidential and privileged and are not subject to disclosure in
6 any judicial or administrative proceeding unless the court or administrative tribunal
7 determines that the materials were submitted by a participant to the center for the
8 purpose of avoiding discovery of the material in a subsequent proceeding. Any
9 communication relating to the subject matter of the resolution made during the
10 resolution process by a participant, mediator, or another person is a privileged
11 communication and is not subject to disclosure in a judicial or administrative
12 proceeding unless all parties to the communication waive the privilege. However,
13 privilege and limitation on evidentiary use set out in this subsection do not apply to
14 a communication of a threat that injury or damage may be inflicted on a person or on
15 the property of a party to the dispute to the extent the communication may be relevant
16 evidence in a criminal matter.

17 (f) A minor or a victim who voluntarily enters a dispute resolution process at
18 a center established under this chapter may revoke consent, withdraw from dispute
19 resolution, and seek judicial or administrative redress before reaching a written
20 resolution agreement. The withdrawal shall be in writing. If a minor or a victim
21 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be
22 imposed upon the person for that withdrawal.

23 (g) A center established under this section may seek and accept contributions
24 and any other available money and may expend the money to carry out the purposes
25 of this section.

26 (h) A member of the board of directors of a community dispute resolution
27 center is immune from suit in a civil action based upon a proceeding or other official
28 act performed in good faith as a member of the board. Employees and volunteers of
29 a community dispute resolution center are immune from suit in a civil action based on
30 a proceeding or other official act performed in their capacity as employees or
31 volunteers, except in cases of wilful or wanton misconduct. A center is immune from

1 suit in a civil action based on a proceeding or other official act performed by its
2 employees, volunteers, or members or its board of directors, except in cases of wilful
3 or wanton misconduct by its employees or volunteers or in cases of official acts
4 performed in bad faith by members of the board.

5 (i) In this section, "center" means a community dispute resolution center.

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing establishment of ^{er - dispute} ~~alternative~~ dispute resolution centers to foster
2 the resolution of disputes between juvenile offenders and their victims."

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

4 * Section 1. AS 47.10.020(a) is amended to read:

5 (a) Whenever circumstances subject a minor to the jurisdiction of
6 AS 47.10.010 - 47.10.142, the court shall

7 (1) provide, under procedures adopted by court rule, that, for a minor
8 who is alleged to be a delinquent minor under AS 47.10.010(a)(1), a state agency shall
9 make a preliminary inquiry to determine if any action is appropriate and may take
10 appropriate action to adjust or dispose of the matter without a court hearing; if, under
11 this paragraph,

12 (A) the state agency makes a preliminary inquiry and takes
13 appropriate action to adjust or dispose of the matter without a court hearing,
14 the minor may not be detained or taken into custody as a condition of the

1 adjustment or disposition and, subject to (d) of this section, the matter shall be
 2 closed by the agency if the minor successfully completes all that is required of
 3 the minor by the agency in the adjustment or disposition; in a municipality or
 4 municipalities in which a youth court has been established under AS 47.10.265,
 5 adjustment or disposition of the matter under this paragraph may include
 6 referral to the youth court; if an alternative dispute resolution center has
 7 been established under AS 47.10.267, adjustment or disposition of the
 8 matter under this paragraph may include use of the services of the
 9 comm. alternative dispute resolution center;

10 (B) the agency concludes that the matter may not be adjusted
 11 or disposed of without a court hearing, the agency may file a petition under (2)
 12 of this subsection setting out the facts; or

13 (2) appoint a competent person or agency to make a preliminary inquiry
 14 and report for the information of the court to determine whether the interests of the
 15 public or of the minor require that further action be taken; if, under this paragraph, the
 16 court appoints a person or agency to make a preliminary inquiry and to report to it,
 17 then upon the receipt of the report, the court may informally adjust or dispose of the
 18 matter without a hearing, or it may authorize the person having knowledge of the facts
 19 of the case to file with the court a petition setting out the facts; if the court informally
 20 adjusts or disposes of the matter, the minor may not be detained or taken into the
 21 custody of the court as a condition of the adjustment or disposition, and the matter
 22 shall be closed by the court upon adjustment or disposition.

23 * Sec. 2. AS 47.10 is amended by adding a new section to read:

24 Sec. 47.10.267. ~~ALTERNATIVE DISPUTE RESOLUTION FOR MATTERS~~
 25 INVOLVING MINORS. (a) ~~A municipality or a~~ ^{An entity} nonprofit corporation organized
 26 ~~exclusively for~~ ^{FOR THE PURPOSE OF PROVIDING COMMUNITY MEDIATION SERVICES} the resolution of disputes between minors who are alleged to have
 27 committed offenses and the victim of those offenses may establish and operate an
 28 ~~alternative~~ ^{comm.} dispute resolution center; ~~delete.~~

29 (b) A center may not begin operation under this section until a plan for
 30 establishing a center for the mediation and settlement of disputes has been approved
 31 by the assembly or council of the municipality establishing the center or, in the case

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

of a center operated by a nonprofit corporation, by the assembly or council of the municipality within which the center will be located. A plan for a ^{A formal dispute} ~~dispute~~ resolution center may not be approved and the center may not begin operation until the assembly or council finds that the plan adequately prescribes procedures ^{be reviewed by the ... as a ... The bylaws of the ...}

(1) for filing requests for dispute resolution services with the center and for scheduling mediation sessions participated in by the parties to the dispute;

(2) to ensure that each dispute mediated by the center meets the criteria for appropriateness for mediation set by the ^{legislative authority} ~~assembly or council~~ and for rejecting disputes that do not meet the criteria;

(3) for giving notice of time, place, and nature of the mediation session to the parties, and for conducting mediation sessions that comply with the provisions of this section;

(4) to ensure that participation by all parties is voluntary;

(5) for obtaining referrals from public and private bodies;

^{to etc} (6) for meeting the particular needs of the participants, including providing services at times convenient to the participants, in sign language, and in languages other than English;

(7) for providing ^{delete} ~~trained~~ mediators who, during the dispute resolution process, may not make decisions or determinations of the issues involved, but who shall facilitate negotiations by the participants themselves to achieve a voluntary resolution of the issues; and

(8) for informing and educating the community about the dispute resolution center and encouraging the use of the center's services in appropriate cases.

(c) A center established under this section annually shall provide to the administrative director of the Alaska ~~Court~~ System the data regarding its operation as the administrative director requires. The administrative director shall report annually to the supreme court, the legislature, and the governor regarding the operation of centers established under this chapter.

(d) A center established under this section shall provide dispute resolution services between a minor who has committed an offense and who, because of the commission of the offense, may be alleged to be a delinquent minor under

1 AS 47.10.010(a)(1), and a person who was a victim of that offense. The center shall
2 provide dispute resolution services either without charge to a participant or for a fee
3 that is based on the participant's ability to pay.

4 (e) In conducting a dispute resolution process under this section, a center shall
5 require that

6 (1) the minor and the victim enter into a written agreement that
7 expresses the method by which they shall attempt to resolve the issues in dispute; and

8 (2) at the conclusion of the dispute resolution process, the minor and
9 the victim enter into a written agreement that sets out the settlement of the issues and
10 the future responsibilities, if any, of each party.

11 (f) All memoranda, work notes or products, or case files of centers established
12 under this section are confidential and privileged and are not subject to disclosure in
13 any judicial or administrative proceeding unless the court or administrative tribunal
14 determines that the materials were submitted by a participant to the center for the
15 purpose of avoiding discovery of the material in a subsequent proceeding. Any
16 communication relating to the subject matter of the resolution made during the
17 resolution process by a participant, mediator, or another person is a privileged
18 communication and is not subject to disclosure in a judicial or administrative
19 proceeding unless all parties to the communication waive the privilege. However,
20 privilege and limitation on evidentiary use set out in this subsection do not apply to
21 a communication of a threat that injury or damage may be inflicted on a person or on
22 the property of a party to the dispute to the extent the communication may be relevant
23 evidence in a criminal matter.

24 (g) A minor or a victim who voluntarily enters a dispute resolution process at
25 a center established under this chapter may revoke consent, withdraw from dispute
26 resolution, and seek judicial or administrative redress before reaching a written
27 resolution agreement. The withdrawal shall be in writing. If a minor or a victim
28 withdraws from dispute resolution, a legal penalty, sanction, or restraint may not be
29 imposed upon the person for that withdrawal.

30 (h) A center established under this section may seek and accept contributions
31 and any other available money and may expend the money to carry out the purposes

1 of this section.

2 (i) A member of the board of directors of a dispute resolution center is
3 immune from suit in a civil action based upon a proceeding or other official act
4 performed in good faith as a member of the board. Employees and volunteers of a
5 dispute resolution center are immune from suit in a civil action based on a proceeding
6 or other official act performed in their capacity as employees or volunteers, except in
7 cases of wilful or wanton misconduct. A center is immune from suit in a civil action
8 based on a proceeding or other official act performed by its employees, volunteers, or
9 members or its board of directors, except in cases of wilful or wanton misconduct by
10 its employees or volunteers or in cases of official acts performed in bad faith by
11 members of the board.

12 (j) In this section, "center" means an ~~alternative~~ ^{alternative} dispute resolution center.

HB

386

REPRESENTATIVE
BEN GRUSSENDORF
1221 HALIBUT POINT ROAD
SITKA, ALASKA 99836
(907) 747-8458

FINANCE COMMITTEE

DISTRICT 2
KUPREANOF
PETERSBURG
SITKA
WRANGELL

Alaska State Legislature



WHILE IN JUNEAU
STATE CAPITOL
JUNEAU, ALASKA 99801-1102
(907) 465-3824

House of Representatives

MEMORANDUM

TO: Representative Brian Porter
Chair, House Judiciary Committee

FROM: Representative Ben Grussendorf

DATE: February 15, 1996

RE: CS House Bill 386 (Res). "An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

I would appreciate your consideration in scheduling a hearing for CSHB 386 (Res) in your committee. This bill was introduced in response to concerns regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language, which reads "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence." CSHB 386 offers prosecutors a more workable statute.

CSHB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. CSHB 386 does not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

Thank you for your consideration in scheduling a hearing for this bill.

Mr. Chairman --
This is my one and only bill!

Ben

Sec. 11.81.620. Effect of ignorance or mistake upon liability.

NOTES TO DECISIONS

Applied in *Russell v. State*, 793 P.2d 1085 (Alaska Ct. App. 1990).

Quoted in *De Nardo v. State*, 819 P.2d 903 (Alaska Ct. App. 1991).

Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.

NOTES TO DECISIONS

Cited in *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992).

Article 6. Definitions.**Section
900. Definitions**

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

Sec. 11.61.140. Cruelty to animals. (a) A person commits the crime of cruelty to animals if the person

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) recklessly neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe pain or suffering to the animal; or

(3) kills an animal by the use of a decompression chamber.

(b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant

(1) conformed to accepted veterinary practice;

(2) was part of scientific research governed by accepted standards; or

(3) was necessarily incident to lawful hunting or trapping activities.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Cruelty to animals is a class A misdemeanor. (§ 7 ch 166 SLA 1978; am § 1 ch 78 SLA 1980; am § 20 ch 59 SLA 1982)

Editor's notes. — The provisions of paragraphs (2) and (3) of subsection (a) as it existed prior to the 1980 amendment may now be found in AS 11.61.145.

Collateral references. — 4 Am. Jur. 2d, Animals, §§ 27-30.

3A C.J.S., Animals, §§ 99-112.

Cruelty in trapping animals, 79 ALR 1308.

What constitutes statutory offense of cruelty, 82 ALR2d 794.

Article 3. Additional Powers.

Section

200. First class borough powers

210. Second class borough powers

Sec. 29.35.200. First class borough powers. (a) A first class borough may exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law.

(b) A first class borough may by ordinance exercise the following powers on an areawide basis:

- (1) provide transportation systems;
- (2) provide water pollution control;
- (3) provide air pollution control in accordance with AS 46.14.400;
- (4) license day care facilities;
- (5) license, impound, and dispose of animals.

(c) In addition to powers conferred by (b) of this section, a first class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300.

(d) A first class borough that exercises power necessary to contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09 shall exercise its authority in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210. (§ 10 ch 74 SLA 1985; am § 4 ch 83 SLA 1991; am § 7 ch 74 SLA 1993)

Effect of amendments. — The 1993 amendment, effective June 26, 1993, made a section reference substitution in paragraph (b)(3).

NOTES TO DECISIONS

Cited in *Keane v. Local Boundary Comm'n*, 893 P.2d 1239 (Alaska 1995).

Sec. 29.35.210. Second class borough powers. (a) A second class borough may by ordinance exercise the following powers on a nonareawide basis:

- (1) provide transportation systems;
- (2) regulate the offering for sale, exposure for sale, sale, use, or explosion of fireworks;
- (3) license, impound, and dispose of animals;
- (4) subject to AS 29.35.050, provide garbage, solid waste, and septic waste collection and disposal;
- (5) provide air pollution control under AS 46.14.400;
- (6) provide water pollution control;
- (7) participate in federal or state loan programs for housing rehabilitation and improvement for energy conservation;
- (8) provide for economic development;
- (9) provide for the acquisition and construction of local service roads and trails under AS 19.30.111 — 19.30.251;

--continued

(10) establish an emergency services communication center under AS 29.35.130;

(11) subject to AS 28.01.010, regulate the licensing and operation of motor vehicles and operators;

(12) engage in activities authorized under AS 29.47.460;

(13) contain, clean up, or prevent a release or threatened release of oil or a hazardous substance, and exercise a power granted to a municipality under AS 46.04, AS 46.08, or AS 46.09; the borough shall exercise its authority under this paragraph in a manner that is consistent with a regional master plan prepared by the Department of Environmental Conservation under AS 46.04.210.

(b) A second class borough may by ordinance exercise the following powers on an areawide basis:

(1) provide transportation systems;

(2) license, impound, and dispose of animals;

(3) provide air pollution control under AS 46.14.400;

(4) provide water pollution control;

(5) license day care facilities.

(c) In addition to powers conferred by (a) of this section, a second class borough may, on a nonareawide basis, exercise a power not otherwise prohibited by law if the exercise of the power has been approved at an election by a majority of voters living in the borough but outside all cities in the borough.

(d) In addition to powers conferred by (b) of this section, a second class borough may, on an areawide basis, exercise a power not otherwise prohibited by law if the power has been acquired in accordance with AS 29.35.300. (§ 10 ch 74 SLA 1985; am § 1 ch 118 SLA 1988; am § 39 ch 21 SLA 1991; am § 5 ch 83 SLA 1991; am §§ 8, 9 ch 74 SLA 1993)

Effect of amendments. — The 1993 amendment, effective June 26, 1993, made section reference substitutions in paragraphs (a)(5) and (b)(3).

NOTES TO DECISIONS

Cited in *Keane v. Local Boundary*
Comm'n, 893 P.2d 1239 (Alaska 1995).

ORGANIZED BOROUGHs - UNIFIED MUNICIPALITIES

	<u>Classification</u>
* <u>Aleutians East Borough</u>	Second Class
Municipality of Anchorage	Unified Home Rule
* <u>Bristol Bay Borough</u>	Second Class
Denali Borough	Home Rule
* <u>Fairbanks North Star Borough</u>	Second Class
Haines Borough	Third Class
City and Borough of Juneau	Unified Home Rule
* <u>Kenai Peninsula Borough</u>	Second Class
* <u>Ketchikan Gateway Borough</u>	Second Class
* <u>Kodiak Island Borough</u>	Second Class
Lake and Peninsula Borough	Home Rule
* <u>Matanuska-Susitna Borough</u>	Second Class
North Slope Borough	Home Rule
Northwest Arctic Borough	Home Rule
City and Borough of Sitka	Unified Home Rule
City and Borough of Yakutat	Home Rule

Borough of Yakutat. Each of the other home rule boroughs have cities within their boundaries.

* *First class boroughs* gain their powers from State laws; they have no charters. Alaska has no first class boroughs. That may be largely due to voter preferences with respect to the substantial authority of the assembly of a first class borough to assume nonareawide powers and service area powers.

State law permits a first class borough to exercise by ordinance on a nonareawide basis any power not otherwise prohibited by law. [AS 29.35.200] Further, the assembly of a first class borough may by ordinance establish, operate, alter or abolish a service area to exercise any power granted a first class city or any power that a first class borough can exercise on a nonareawide basis. [AS 29.35.480] As is the case for first class cities, most of the laws governing first class boroughs are codified in Title 29 of the Alaska Statutes.

* *Second class boroughs* are distinguished from first class boroughs principally in that voter approval is required to assume many nonareawide powers. Voter approval is also required for a second class borough to assume any power on a service area basis, except if the service area is uninhabited. In that case, all real property owners must consent to the assumption of the service area power.

Seven of Alaska's 16 organized boroughs are second class boroughs. They include the Bristol Bay Borough, which was incorporated in 1962 as Alaska's first organized borough. The Bristol Bay Bor-

ough, like the City and Borough of Yakutat, has no cities within its boundaries. However, it is technically possible for one of the three communities within the Bristol Bay Borough to form a city.

Five of the seven second class boroughs were formed directly or indirectly under the 1963 Mandatory Borough Act. Those five are: the Matanuska-Susitna Borough, Kodiak Island Borough, Ketchikan Gateway Borough, Kenai Peninsula Borough and Fairbanks North Star Borough.⁵

The Aleutians East Borough is the other second class borough. It was formed in 1987.

Third class boroughs are distinguished from other organized boroughs in a number of ways. First, State law limits the areawide powers of a third class borough to education, and assessment and collection of

taxes. [AS 29.35.220] While planning, platting and land use regulation are required areawide functions for all other organized boroughs, they are not required (or even permitted on an areawide basis) for a third class borough.



Haines Borough, Alaska's only third class borough

⁵ Three other boroughs were formed under the Mandatory Borough Act. These were the Greater Anchorage Area Borough, the Greater Sitka Borough and the Greater Juneau Borough.

'It was like a case out of Auschwitz'

Officials seize 11 sickly dogs from home

By KATE RIPLEY
Staff Writer

Borough animal control officials have seized 11 dogs from the home of a Fairbanks man they say starved one dog to death and caused the others to suffer without adequate water, food and veterinary care.

Officials are awaiting a final necropsy report on the dead dog before deciding whether to charge the man, Steve Ferraro, with violating the borough's animal cruelty law. The husky mix dogs were taken from Ferraro's home off the Elliott Highway earlier this month.

Ferraro said he's innocent and would not allow his dogs to suffer. In explaining the dead dog, he said he shot it in the head because it had parvo, a condition that attacks the intestines.

"They can't say I'm starving them to death. I'm not an animal criminal here," Ferraro said Monday. "My dogs never suffered one bit. Never one bit."

But Dr. R.W. Van Pelt, the veterinarian who examined all the dogs for the borough, said there was no evidence of a bullet wound anywhere on the dead dog's body.

"I know what parvo looks like, and it doesn't look like this," Van Pelt said. "This dog starved to death."

Van Pelt said he could nearly count every bone in the dog's body without opening it up.

"He had literally digested his own tissues. It was like a case out of Auschwitz," Van Pelt said. "It was one of the worst cases I've seen, and I've seen a lot of them."

Indeed, a week after the dogs were seized, three of the adults still looked skeletal and acted listless Friday at the borough animal shelter, off Peger Road. Their ribs protruded from their sides and their hip bones jutted out sharply.

Four other adults were thin but in better shape. Most of the

dogs were infested with lice. All were severely dehydrated.

The dogs were seized from Ferraro's trailer, at about 9 Mile Elliott Highway, Feb. 15. They've been under the care of the borough since and are slowly improving.

Animal control officer Vicki Adkins said the dogs were taken into custody just in time. One mother and her 6-week-old pup weren't moving and had to be pulled out of their house. She was wobbly when Adkins stood her up.

"I think she would have died that night. She was dying," Adkins said of the shy cream-colored mother. The pup, found curled on top of its mother trying to stay warm, was hypothermic and full of worms.

Van Pelt also discovered two older pups, ages 4K and 5K months, have rickets, a bone disease caused by lack of vitamin D and calcium. The pups' front legs

See DOGS, Page B-2



Hara Grumel/News-Miner

ABUSED—Animal control officer Vicki Adkins holds one of the huskies that were removed from a home off the Elliott Highway. The dogs were all underweight and dehydrated.

DOGS: Owner may face cruelty charges

Continued from Page B-1
The pups seemed not to know of their health problems as they played in a large cage at the shelter Friday. They wagged their tails and walked around on their funny legs, happy to see visitors.

Ferraro admitted his dogs had worms, and he contends that's why they're so skinny. He said he was feeding them worm medication but found out later it was the wrong kind.

"It's my fault for not taking them to the vet, but I don't have

the money to take them to the vet," said Ferraro, who said he lost his latest job and doesn't own a vehicle that runs.

Ferraro said he has been mushing dogs for two years but is getting out of the sport because it's too expensive. He said he hasn't run his dogs much this winter.

Rather than get into a legal fight, Ferraro said he wants to work something out with the borough and have his dogs assigned to a friend.

It was a neighbor's complaint that led Adkins and Colleen Thompson, another animal control officer, to Ferraro's place Feb. 8. They could see the

mother and pup in front of the trailer and suspected other dogs were chained out back. The dead dog was stashed in an open shed in front of the trailer.

"That gave us probable cause to believe others would die," Adkins said.

Adkins wanted to get a search warrant right away, but an attorney wasn't available to help. She and Thompson made one more visit before obtaining the search warrant six days later.

People may be cited under the borough's animal cruelty law if they intentionally or negligently fail to provide dogs with adequate food, water, shelter or veterinary care to prevent physical suffering. The charge is a misdemeanor punishable by a \$500 maximum fine and up to 30 days in jail.

Adkins said that in her 16 years as an animal control officer she can remember the borough obtaining search warrants for similar cases only three times.

That's because many cruelty cases are borderline and difficult to prove, Adkins said. It's even more difficult in areas outside the borough, which falls under state jurisdiction.

Critics say the state law is vague and nearly requires an animal to die before authorities can act. Two bills in the Legislature would give those laws more teeth, but one, Senate Bill 238, has bogged down in the Senate Judiciary Committee while another, House Bill 386, is slowly working its way through the House.

Will Forsberg, of the educational group Mush with PRIDE, said animal cruelty laws must be strengthened.

"Authorities are at the scene, yet they don't have good enough statutes to go in and protect these animals until it's so extreme," Forsberg said. "That's what we've got to address."

Alaska State Legislature

REPRESENTATIVE
BEN GRUSSENDORF
1921 HALIBUT POINT ROAD
SITKA, ALASKA 99838
(907) 747-8458

FINANCE COMMITTEE

DISTRICT 2
KUPRIANOF
PETERSBURG
SITKA
WHANGELL



WILEY IN JOURNAL
STATE CAPITOL
JOURNAL ALASKA BUREAU 1182
(907) 485-3824

House of Representatives

SPONSOR STATEMENT CSHB 386 (RES)

"An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

This bill was introduced in response to concerns expressed by constituents regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence."

CSHB 386 offers prosecutors a more workable statute. Changing "intentionally" to "knowingly" lowers the state of mind the state must prove in prosecuting a case. Changing the wording, which describes the animal's level of suffering, offers more options under which to prosecute and lowers the difficult standard which exists.

In order to prove cruelty through neglect, current law requires that the accused acted "recklessly" which means "a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur..." Criminal negligence is defined in our law to mean:

"A person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation for the standard of care that a reasonable person would observe in the situation."

Criminal negligence is a lower state of mind than recklessness.

CSHB 386 (RES) *continued*

CSHB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate."

Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. The proposed changes do not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

Existing law designates that cruelty to animals is a class A misdemeanor. This remains unchanged.

CS FOR HOUSE BILL NO. 386(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRUSSENDORF, Finkelstein, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to cruelty to animals and to the power of first and second
2 class boroughs to prohibit cruelty to animals."

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

4 * Section 1. AS 11.61.140(a) is amended to read:

5 (a) A person commits the crime of cruelty to animals if the person

6 (1) knowingly [INTENTIONALLY] inflicts severe [AND
7 PROLONGED] physical pain or prolonged suffering on an animal;

8 (2) with criminal negligence, [RECKLESSLY] neglects an animal and,
9 as a result of that neglect, causes the death of the animal or causes severe physical
10 pain or prolonged suffering to the animal; or

11 (3) kills an animal by the use of a decompression chamber.

12 * Sec. 2. AS 29.35.200(b) is amended to read:

13 (b) A first class borough may by ordinance exercise the following powers on an
14 areawide basis:

- 1 (1) provide transportation systems;
- 2 (2) provide water pollution control;
- 3 (3) provide air pollution control in accordance with AS 46.14.400;
- 4 (4) license day care facilities;
- 5 (5) license, impound, prohibit cruelty to, and dispose of animals.

6 * Sec. 3. AS 29.35.210(a)(3) is amended to read:

- 7 (3) license, impound, prohibit cruelty to, and dispose of animals;

8 * Sec. 4. AS 29.35.210(b) is amended to read:

9 (b) A second class borough may by ordinance exercise the following powers on
10 an areawide basis:

- 11 (1) provide transportation systems;
- 12 (2) license, impound, prohibit cruelty to, and dispose of animals;
- 13 (3) provide air pollution control under AS 46.14.400;
- 14 (4) provide water pollution control;
- 15 (5) license day care facilities.

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 19, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/28/96

The JUDICIARY Committee considered:

HB 386

HOUSE BILL NO. 386

CRUELTY TO ANIMALS

"An Act relating to cruelty to animals and the provision of food and water to confined or impounded animals."

recommends it be replaced with the following committee substitute CSHB 386 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) DPS (2/19/96)

zero fiscal note(s) _____ zero fiscal note(s) DCRA (2/19/96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>and Finckelstein</i>	X			
<i>Debbie Dam</i>	X			
<i>Scott [unclear]</i>	✓			
<i>Michael A. Porter</i>	✓			
<i>C. M. B. [unclear]</i>	✓			

CHAIR'S SIGNATURE *Michael A. Porter*

Date Referred to Committee: January 8, 1996

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2/14/96

The RESOURCES Committee considered:

HB 386

HOUSE BILL NO. 386

CRUELTY TO ANIMALS

"An Act relating to cruelty to animals and the provision of food and water to confined or impounded animals."

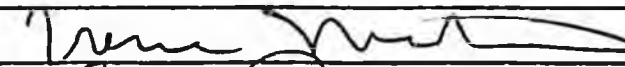
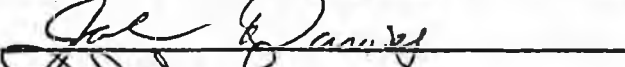
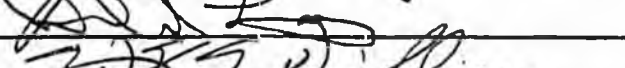
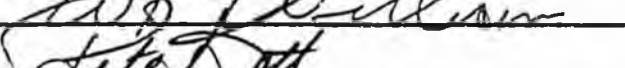
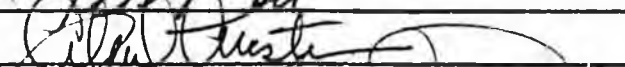

recommends it be replaced with the following committee substitute CSHB 386(Res) the same title a new title

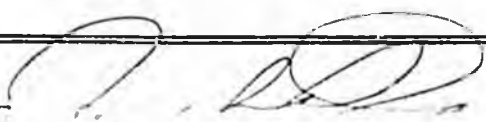
additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) DPS fiscal note(s) _____

zero fiscal note(s) DCRA zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
 Nicholia DAVIES			X	
 Long	X		X	
 Williams				X
 Kott			X	
 Austerman	X			
 Green				
	(2)		(4)	(1)

CHAIR'S SIGNATURE 

FISCAL NOTE

STATE OF ALASKA

BILL NO: CSHB 386(RES)

1996 LEGISLATIVE SESSION

Revision Date: February 20, 1996

Dept. Affected: Public Safety

Title: Cruelty to Animals

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Representative Grussendorf

Requestor: _____

COMPONENT SERIAL NO. 0799

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden

Phone: 465-5505

Division: Alaska State Troopers

Date: February 20, 1996

Approved by Commissioner: 

Date: 2/22/96

Agency: Ronald L. Otte, Department of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO:

Bill Version: CSHB 386(RES)

(H) Publish Date: 2/19/96

Revision Date: 2/13/96

Dept. Affected: Community & Regional Affairs

Title: An Act relating to cruelty to animals and the provision of food and water to confined...

BRU: none

Component: none

Sponsor: Rep. Grussendorf

Requestor: Rep. Grussendorf

COMPONENT SERIAL NO. _____

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHT/A						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 95) impact \$ none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708
 Division: Director, Administrative Services Date: 2/13/96

Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 2/13/96
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

Please note this fiscal note is for the work draft. The new fiscal note is on its way.

Work Draft
2/1/96
BILL NO. CSHB 386 ()

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...cruelty to animals and the provision of food and water to confined or impounded animals." BRU: Criminal Division
 Component: Criminal Division
 Sponsor: Representative Grussendorf
 Requester: Representative Grussendorf COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill amends Alaska laws relating to cruelty to animals in two ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical pain or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact.

Second, the bill amends AS 29.35 to authorize first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern.

Richard I. Pegues

Prepared by: Richard I. Pegues, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 2/7/96
 Date: 2/7/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office



Fairbanks North Star Borough

Assembly

809 Pioneer Road

P.O. Box 71267

Fairbanks, Alaska 99707-1267

907/459-1000

Fax 907/459-1224

February 13, 1996

The Honorable Ben Grussendorf
Alaska State House Of Representatives

Dear Representative Grussendorf,

This letter concerns the proposed committee substitute for House Bill 386, relating to "Cruelty to Animals" which you pre-filed for the Second Session of the Nineteenth Legislature.

* (On October 12, 1995, the Fairbanks North Star Borough Assembly adopted Resolution 95-052; "A Resolution Relating To Cruelty To Animals." The resolution requests a member (s) of the Legislature to "introduce legislation which would allow municipalities, by ordinance, to exercise the power of preventing cruelty to animals and to be able to prosecute those guilty of animal cruelty." Your legislation satisfies that request and I sincerely appreciate the introduction of the bill.

I'm sure you are aware of the resistance by municipalities throughout the state to have mandated responsibilities without state monetary assistance. I know that I normally would not be in favor of such legislation. This matter is different! A municipality does not have to accept this responsibility except by ordinance. Other provisions in the bill help clarify the definition of animal cruelty.

The prevention of cruelty to animals is important to the Fairbanks North Star Borough. It had been enforcing animal cruelty prevention powers and punishment for violations until the summer of 1995 when the court determined that the borough only had the power to practice the prevention of canine cruelty. The borough has trained staff and equipment in place which would allow it to exercise the broader animal cruelty prevention powers at little or no additional cost to our taxpayers.

The extent of legal animal control powers that the Fairbanks North Star Borough has exercised in recent years is varied. Attached, you will find a memo from the borough's legal department detailing the changes over the years.

In closing, I applaud your introduction of HB 386 and I believe it is the best vehicle to fulfill the Fairbanks North Star Borough's needs in this area. If there is any way I can assist in the passage of the bill, please let me know.

Sincerely,


Dan LaSota

Fairbanks North Star Borough Assembly Member



THE ALASKA SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC.

SPCA State Headquarters and Spay Clinic • 549 W. International Airport Road • Anchorage, Alaska 99518
Phone: 562-2999

Representative Grussendorf;

The Alaska SPCA (Society for the Prevention of Cruelty to Animals) is in strong support of CSHB 386, enacting stronger legislation for cases of animal cruelty and abuse.

* During the past years a very evident need for clarified statutes was and is obvious. There have been cases in the past that took as long as one and one-half (1 1/2) years to prosecute because the District Attorneys did not have laws to base their obvious abuse cases upon. This type of legislation is the tool needed to help stop cruelty.

Statistics have shown a strong link between animal abuse and child/spousal abuse. Perhaps this bill can work twofold in ending cruelty with in the home.

Again, we strongly urge the committee to look very seriously at signing the very important piece of legislation.

Sincerely,

Diane Zarfoss, SPCA

THE HUMANE SOCIETY OF CARROLL COUNTY, INC.

ANIMAL CONTROL AND SHELTER DIVISIONS

2517 LITTLESTOWN PIKE
WESTMINSTER, MARYLAND 21158
848-4810 875-5379

February 13, 1996

Representative Ben Grussendorf
State Capital Building
Juneau, Alaska 99801

Dear Rep. Grussendorf,

I have reviewed House Bill #386 and your amendments seem to accomplish two things.

First and maybe more importantly, the new wording continues to protect those who might inadvertently cause physical pain or prolonged suffering to an animal. It also clarifies the law and makes those who would deliberately be cruel to an animal more easily answerable to a society which deplores such actions.

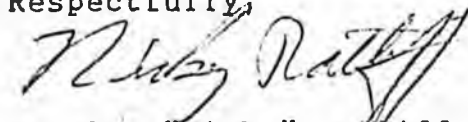
I should think these amendments would easily be passed into law especially in light of the fact that your existing law is probably one of the most reasonable state animal cruelty laws I've seen. (Our Maryland law is enclosed.)

The amendments that address first and second class boroughs is of course much needed since any attempt to weaken the state law would be unconscionable to say the least.

It is nice to know that in spite of all the overwhelming issues facing our elected officials today, we still manage to elect men and women who can understand the plight of those not able to cast a vote.

Thank you for the opportunity to assist you in your efforts.

Respectfully,



Carolyn "Nicky" Ratliff
Executive Director

Enclosures
CNR/cik

ALASKA ANIMAL CONTROL ASSOCIATION

February 26, 1996

Representative Ben Grussendorf
State Capitol Building
Juneau, Alaska 99801

Dear Representative Grussendorf:

On behalf of the Alaska Animal Control Association (AACA) we would like to go on record as being in support of CS House Bill 386 with one concern however regarding the language in Sec. 3 line 8 and Sec. 6 line 22.

changed


...may not enact an ordinance prohibiting cruelty to animals that is inconsistent with state laws prohibiting cruelty to animals.

If inconsistent is referring to the fine/penalties we support the sections as written but feel it needs to be clarified.

This will enable first and second class boroughs to adopt an ordinance to prohibit cruelty to animals and handle such cases in the borough. They currently do not have the authority to handle these cases and must rely on state troopers who consider them a low priority.

* The current language in law AS 11.61.140 is very difficult to prove and courts have been unable to prosecute a number of neglect and cruelty cases. Bill 386 will improve the language in AS 11.61.140 and enable prosecutors to convict those that have participated in obvious acts of neglect and cruelty.

Sincerely,


Linda M. Blegen
President

HB

387

HOUSE COMMITTEE REPORT

referred to Committee: March 8, 1996

FURTHER REFERRALS:

Finance

of Committee Action: 3/20/96

JUDICIARY Committee considered:

SSHB 387

SUBSTITUTE FOR HOUSE BILL NO. 387

JUVENILE CODE REVISION

act relating to minors and to offenses committed by minors, and to programs relating to minors; relating to the citations for offenses when the offenses are committed by minors, and authorizing disposition of those offenses that require performance of community service in lieu of a court appearance; establishing a curfew for minors, and authorizing municipalities to establish curfews by ordinance; relating to the detention of minors, defining the conduct by minors as violations, and amending the criminal jurisdiction of the district court to provide for the citation of certain offenses involving minors; and amending Rules 3(b) and 23(d), Alaska Delinquency Rules."

recommends it be replaced by the following committee substitute CSHB 387 (JUD) the same title a new title

additional referral to _____ Committee attached amendment(s)

OPTIONS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

_____ fiscal note(s) _____ fiscal note(s)

zero fiscal note(s) P.S. zero fiscal note(s) Corrections 3/8/96
MISS 3/8/96

SIGNING WITH RECOMMENDATIONS

	DP	DNP	NR	AM
<u>Brian Foster</u>	✓			
<u>Alley</u>	✓			
<u>Barry Davis</u>	✓			
<u>Joseph King</u>	✓			
<u>Don Bunde</u>	✓			
<u>Steve J. [unclear]</u>	✓			
<u>David Imhoff</u>			X	

CHAIR'S SIGNATURE

Brian Foster

9-LS1276\W.
Chenoweth
3/19/96

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 387()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES KELLY AND THERRIAULT, Rokeberg, Kohring

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children in need of aid and delinquent minors and to
2 offenses committed by minors, and to institutions, facilities, and programs relating
3 to minors; authorizing municipalities to establish curfews for minors by ordinance;
4 and relating to enforcement of the compulsory school attendance law; and
5 amending Rule 23(d), Alaska Delinquency Rules."

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

7 * Section 1. AS 10.06.961(a) is amended to read:

8 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the
9 property of the minor under AS 47.10.010(c), when a minor who is in the custody of
10 this state under AS 47.10 or AS 47.12 [AS 47.10.010(a)(2)] or of another state under
11 a provision similar to AS 47.10 or AS 47.12 [AS 47.10.010(a)(2)] becomes entitled
12 to receive dividends or other distributions resulting from the ownership of stock or a
13 membership in a corporation organized under this chapter and under 43 U.S.C. 1601 -

1 1641 (Alaska Native Claims Settlement Act), the corporation paying the dividends or
2 making the other distributions shall retain the dividends and other distributions in an
3 interest bearing account for the benefit of the minor during the state custody.

4 * Sec. 2. AS 12.62.900(11) is amended to read:

5 (11) "criminal justice information" means any of the following, other
6 than a court record, a record of traffic offenses maintained for the purpose of
7 regulating drivers' licenses, or a record of a juvenile subject to the jurisdiction of a
8 [THE JUVENILE] court under AS 47.12 [AS 47.10]:

9 (A) criminal history record information;

10 (B) nonconviction information;

11 (C) correctional treatment information;

12 (D) information relating to a person to be located, whether or
13 not that person is wanted in connection with the commission of a crime;

14 * Sec. 3. AS 14.30.030 is repealed and reenacted to read:

15 Sec. 14.30.030. PREVENTION AND REDUCTION OF TRUANCY. The
16 governing body of a school district, including a regional educational attendance area,
17 shall establish procedures to prevent and reduce truancy.

18 * Sec. 4. AS 22.07.020(a) is amended to read:

19 (a) The court of appeals has appellate jurisdiction in actions and proceedings
20 commenced in the superior court involving:

21 (1) criminal prosecution;

22 (2) post-conviction relief;

23 (3) [CHILDREN'S COURT] matters under AS 47.12
24 [AS 47.10.010(a)(1)], including waiver of [CHILDREN'S COURT] jurisdiction over
25 a minor under AS 47.12.100 [AS 47.10];

26 (4) extradition;

27 (5) habeas corpus;

28 (6) probation and parole; and

29 (7) bail.

30 * Sec. 5. AS 22.15.100 is amended to read:

31 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND

1 MAGISTRATE. Each district judge and magistrate has the power

2 (1) to issue writs of habeas corpus for the purpose of inquiring into the
3 cause of restraint of liberty, returnable before a judge of the superior court, and the
4 same proceedings shall be had on the writ as if it had been granted by the superior
5 court judge under the laws of the state in such cases;

6 (2) of a notary public;

7 (3) to issue marriage licenses and to solemnize marriages;

8 (4) to issue warrants of arrest, summons, and search warrants according
9 to manner and procedure prescribed by law and the supreme court;

10 (5) to act as an examining judge or magistrate in preliminary
11 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
12 release of defendants under bail;

13 (6) to act as a referee in matters and actions referred to the judge or
14 magistrate by the superior court, with all powers conferred upon referees by laws;

15 (7) of the superior court in all respects including but not limited to
16 contempts, attendance of witnesses, and bench warrants;

17 (8) to order the temporary detention of a minor, or take other action
18 authorized by law or rules of procedure, in cases arising under AS 47.10.010 -
19 47.10.142 or AS 47.12 [AS 47.10], when the minor is in a condition or surrounding
20 dangerous or injurious to the welfare of the minor or others that requires immediate
21 action; the action may be continued in effect until reviewed by the superior court in
22 accordance with rules of procedure governing these cases;

23 (9) to issue a temporary order for injunctive relief in cases involving
24 domestic violence as provided in AS 25.35.010 and 25.35.020;

25 (10) to review an administrative revocation of a person's driver's license
26 or nonresident privilege to drive, and an administrative refusal to issue an original
27 license, when designated as a hearing officer by the commissioner of public safety and
28 with the consent of the administrative director of the state court system.

29 * Sec. 6. AS 25.27.125(b) is amended to read:

30 (b) The annual estimated balance in the account maintained by the
31 commissioner of administration under AS 37.05.142 may be used by the legislature to

1 make appropriations to the Department of Health and Social Services to carry out the
2 purposes of AS 47.14.100 - 47.14.130 [AS 47.10.230 - 47.10.260] and AS 47.25.310 -
3 47.25.420.

4 * Sec. 7. AS 29.35 is amended by adding a new section to read:

5 Sec. 29.35.085. CURFEW. A municipality may, by ordinance, provide for a
6 curfew for persons under 18 years of age for whom the disabilities of minority have
7 not been removed for general purposes under AS 09.55.590 and who have not arrived
8 at the age of majority under AS 25.20.020.

9 * Sec. 8. AS 36.30.850(b)(11) is amended to read:

10 (11) agreements with providers of services under AS 44.47.250;
11 AS 47.07; AS 47.08; AS 47.10; AS 47.12; AS 47.14; AS 47.17; AS 47.24;
12 AS 47.25.195, and 47.25.310;

13 * Sec. 9. AS 43.23.065(b) is amended to read:

14 (b) An exemption is not available under this section for permanent fund
15 dividends taken to satisfy

16 (1) child support obligations required by court order or decision of the
17 child support enforcement agency under AS 25.27.140 - 25.27.220;

18 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,
19 or AS 47.12.120(b)(4) [AS 47.10.080(b)(4)];

20 (3) claims on defaulted scholarship loans under AS 43.23.067;

21 (4) court ordered fines;

22 (5) writs of execution under AS 09.35 of a judgment that is entered

23 (A) against a minor in a civil action to recover damages and
24 court costs;

25 (B) under AS 34.50.020 against the parent, parents, or legal
26 guardian of an unemancipated minor;

27 (6) a debt owed by an eligible individual to an agency of the state,
28 unless the debt is contested and an appeal is pending, or the time limit for filing an
29 appeal has not expired.

30 * Sec. 10. AS 44.21.410(a) is amended to read:

31 (a) The office of public advocacy shall

- 1 (1) perform the duties of the public guardian under AS 13.26.360 -
2 13.26.410;
- 3 (2) provide visitors and experts in guardianship proceedings under
4 AS 13.26.131;
- 5 (3) provide guardian ad litem services to children in child protection
6 actions under AS 47.17.030(e) and to wards and respondents in guardianship
7 proceedings who will suffer financial hardship or become dependent upon a
8 government agency or a private person or agency if the services are not provided at
9 state expense under AS 13.26.112;
- 10 (4) provide legal representation in guardianship proceedings to
11 respondents who are financially unable to employ attorneys under AS 13.26.106(b),
12 to indigent parties in cases involving child custody in which the opposing party is
13 represented by counsel provided by a public agency, to indigent parents or guardians
14 of a minor respondent in a commitment proceeding concerning the minor under
15 AS 47.30.775;
- 16 (5) provide legal representation and guardian ad litem services under
17 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
18 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
19 petitions for the termination of parental rights on grounds set out in
20 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
21 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
22 AS 47.12.090(a) or (b); and in cases involving indigent persons who are entitled to
23 representation under AS 18.85.100 and who cannot be represented by the public
24 defender agency because of a conflict of interests;
- 25 (6) develop and coordinate a program to recruit, select, train, assign,
26 and supervise volunteer guardians ad litem from local communities to aid in delivering
27 services in cases in which the office of public advocacy is appointed as guardian ad
28 litem;
- 29 (7) provide guardian ad litem services in proceedings under
30 AS 12.45.046;
- 31 (8) establish a fee schedule and collect fees for services provided by

1 the office, except as provided in AS 18.85.120 or when imposition or collection of a
2 fee is not in the public interest as defined under regulations adopted by the
3 commissioner of administration;

4 (9) provide visitors and guardians ad litem in proceedings under
5 AS 47.30.839;

6 (10) provide legal representation to indigent parents under
7 AS 14.30.195(e).

8 * Sec. 11. AS 44.29.022(a) is amended to read:

9 (a) The commissioner of health and social services may establish by regulation
10 a schedule of reasonable fees for services provided by the Department of Health and
11 Social Services under AS 44.29.020(a)(1) - (8), AS 47.10, AS 47.12. AS 47.14.
12 AS 47.30.655 - 47.30.910, and AS 47.80.100 - 47.80.170. The fee established for a
13 service may not exceed the actual cost of providing the service. The commissioner
14 may define or establish the "actual cost of providing a service" by regulation. The
15 Department of Health and Social Services shall charge and collect the fees established
16 under this subsection. The department may waive collection of a fee upon a finding
17 that collection is not economically feasible or in the public interest.

18 * Sec. 12. AS 44.41.025(c) is amended to read:

19 (c) The department may enter into the Alaska automated fingerprint
20 identification system the fingerprints of a minor whose fingerprints are taken under
21 AS 47.12.210 [AS 47.10.097].

22 * Sec. 13. AS 44.47.200 is amended to read:

23 Sec. 44.47.200. LEGAL ASSISTANCE AND JUVENILE JUSTICE GRANT
24 FUND. There is created in the department the legal assistance and juvenile justice
25 grant fund. From legislative appropriations to the fund, the department shall make
26 grants

27 (1) to eligible communities and regions for the purpose of enabling
28 them to obtain legal assistance; and

29 (2) to a nonprofit corporation established under AS 47.12.400
30 [AS 47.10.265] to operate as a youth court.

31 * Sec. 14. AS 44.47.210(b) is amended to read:

1 (b) Nonprofit corporations proposing to establish and operate youth courts
2 under AS 47.12.400 [AS 47.10.265] may apply to the department for an organizational
3 grant under AS 44.47.200(2). A grant under this subsection must be matched on a
4 dollar-for-dollar basis by the grantee in cash or in kind. The commissioner may waive
5 the match required under this subsection on a showing satisfactory to the commissioner
6 by the prospective applicant that matching funds are not available.

7 * Sec. 15. AS 44.47.220(b) is amended to read:

8 (b) Grants made under AS 44.47.200(2) shall be used to defray the costs of
9 organization of youth courts under AS 47.12.400 [AS 47.10.265]. The department
10 shall assure that the grant is spent for necessary organizational assistance and that
11 appropriate accounting procedures are maintained. Grants made under
12 AS 44.47.200(2) and this subsection may not exceed \$5,000. Only one grant may be
13 made to a grantee under authority of this subsection.

14 * Sec. 16. AS 44.66.010(a)(17) is amended to read:

15 (17) Citizens' Review Panel for Permanency Planning under
16 AS 47.14.200 [AS 47.10.400] -- June 30, 1997;

17 * Sec. 17. AS 47.10.010(a) is amended to read:

18 (a) Proceedings relating to a minor under 18 years of age residing or found in
19 the state are governed by AS 47.10.010 - 47.10.142 [THIS CHAPTER], except as
20 otherwise provided in AS 47.10.010 - 47.10.142 [THIS CHAPTER], when the court
21 finds the minor

22 [(1) TO BE A DELINQUENT MINOR AS A RESULT OF
23 VIOLATING A CRIMINAL LAW OF THE STATE OR A MUNICIPALITY OF THE
24 STATE; OR

25 (2)] to be a child in need of aid as a result of

26 (1) [(A)] the child being habitually absent from home or refusing to
27 accept available care, or having no parent, guardian, custodian, or relative caring or
28 willing to provide care, including physical abandonment by

29 (A) [(i)] both parents,

30 (B) [(ii)] the surviving parent, or

31 (C) [(iii)] one parent if the other parent's rights and

1 responsibilities have been terminated under AS 25.23.180(c) or AS 47.10.080
2 or voluntarily relinquished;

3 (2) [(B)] the child being in need of medical treatment to cure,
4 alleviate, or prevent substantial physical harm, or in need of treatment for mental harm
5 as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward
6 aggressive behavior or hostility toward others, and the child's parent, guardian, or
7 custodian has knowingly failed to provide the treatment;

8 (3) [(C)] the child having suffered substantial physical harm or if there
9 is an imminent and substantial risk that the child will suffer such harm as a result of
10 the actions done by or conditions created by the child's parent, guardian, or custodian
11 or the failure of the parent, guardian, or custodian adequately to supervise the child;

12 (4) [(D)] the child having been, or being in imminent and substantial
13 danger of being, sexually abused either by the child's parent, guardian, or custodian,
14 or as a result of conditions created by the child's parent, guardian, or custodian, or by
15 the failure of the parent, guardian, or custodian adequately to supervise the child;

16 (5) [(E)] the child committing delinquent acts as a result of pressure,
17 guidance, or approval from the child's parents, guardian, or custodian;

18 (6) [(F)] the child having suffered substantial physical abuse or neglect
19 as a result of conditions created by the child's parent, guardian, or custodian.

20 * Sec. 18. AS 47.10.020(a) is amended to read:

21 (a) Whenever circumstances subject a minor to the jurisdiction of
22 AS 47.10.010 - 47.10.142, the court shall

23 [(1) PROVIDE, UNDER PROCEDURES ADOPTED BY COURT
24 RULE, THAT, FOR A MINOR WHO IS ALLEGED TO BE A DELINQUENT
25 MINOR UNDER AS 47.10.010(a)(1), A STATE AGENCY SHALL MAKE A
26 PRELIMINARY INQUIRY TO DETERMINE IF ANY ACTION IS APPROPRIATE
27 AND MAY TAKE APPROPRIATE ACTION TO ADJUST OR DISPOSE OF THE
28 MATTER WITHOUT A COURT HEARING; IF, UNDER THIS PARAGRAPH,

29 (A) THE STATE AGENCY MAKES A PRELIMINARY
30 INQUIRY AND TAKES APPROPRIATE ACTION TO ADJUST OR
31 DISPOSE OF THE MATTER WITHOUT A COURT HEARING, THE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

MINOR MAY NOT BE DETAINED OR TAKEN INTO CUSTODY AS A
CONDITION OF THE ADJUSTMENT OR DISPOSITION AND, SUBJECT
TO (d) OF THIS SECTION, THE MATTER SHALL BE CLOSED BY THE
AGENCY IF THE MINOR SUCCESSFULLY COMPLETES ALL THAT IS
REQUIRED OF THE MINOR BY THE AGENCY IN THE ADJUSTMENT
OR DISPOSITION; IN A MUNICIPALITY OR MUNICIPALITIES IN
WHICH A YOUTH COURT HAS BEEN ESTABLISHED UNDER
AS 47.10.265, ADJUSTMENT OR DISPOSITION OF THE MATTER
UNDER THIS PARAGRAPH MAY INCLUDE REFERRAL TO THE YOUTH
COURT;

(B) THE AGENCY CONCLUDES THAT THE MATTER
MAY NOT BE ADJUSTED OR DISPOSED OF WITHOUT A COURT
HEARING, THE AGENCY MAY FILE A PETITION UNDER (2) OF THIS
SUBSECTION SETTING OUT THE FACTS; OR

(2)] appoint a competent person or agency to make a preliminary
inquiry and report for the information of the court to determine whether the interests
of the public or of the minor require that further action be taken; if, under this
subsection [PARAGRAPH], the court appoints a person or agency to make a
preliminary inquiry and to report to it, then upon the receipt of the report, the court
may informally adjust [OR DISPOSE OF] the matter without a hearing, or it may
authorize the person having knowledge of the facts of the case to file with the court
a petition setting out the facts; if the court informally adjusts [OR DISPOSES OF] the
matter, the minor may not be detained or taken into the custody of the court as a
condition of the adjustment [OR DISPOSITION], and the matter shall be closed by the
court upon adjustment [OR DISPOSITION].

* Sec. 19. AS 47.10.020(b) is amended to read:

(b) The petition and all subsequent pleadings shall be styled as follows: "In
the matter of, a minor under 18 years of age." The
petition may be executed upon the petitioner's information and belief, and must be
verified. It must include the following information:

(1) the name, address, and occupation of the petitioner, together with

1 the petitioner's relationship to the minor, and the petitioner's interest in the matter;

2 (2) the name, age, and address of the minor;

3 (3) a brief statement of the facts that bring the minor within

4 AS 47.10.010 - 47.10.142 [THIS CHAPTER];

5 (4) the names and addresses of the minor's parents;

6 (5) the name and address of the minor's guardian, or of the person
7 having control or custody of the minor.

8 * Sec. 20. AS 47.10.030(b) is amended to read:

9 (b) In all cases under AS 47.10.010 - 47.10.142, [THIS CHAPTER] the minor,
10 each parent of the minor, and the guardian of the minor shall be given notice adequate
11 to give actual notice of the proceedings and the possibility of termination of parental
12 rights and responsibilities, taking into account education and language differences that
13 are known or reasonably ascertainable by the petitioner or the department. The notice
14 of the hearing must contain all names by which the minor has been identified. Notice
15 shall be given in the manner appropriate under rules of civil procedure for the service
16 of process in a civil action under Alaska law or in any manner the court by order
17 directs. Proof of the giving of the notice shall be filed with the court before the
18 petition is heard. The court may also subpoena the parent of the minor, or any other
19 person whose testimony may be necessary at the hearing. A subpoena or other process
20 may be served by a person authorized by law to make the service, and where personal
21 service cannot be made, the court may direct that service of process be in a manner
22 appropriate under rules of civil procedure for the service of process in a civil action
23 under Alaska law or in any manner the court directs.

24 * Sec. 21. AS 47.10.050(a) is amended to read:

25 (a) Whenever in the course of proceedings instituted under AS 47.10.010 -
26 47.10.142 [THIS CHAPTER] it appears to the court that the welfare of a minor will
27 be promoted by the appointment of an attorney to represent the minor or an attorney
28 or other person to serve as guardian ad litem, the court may make the appointment.
29 Appointment of a guardian ad litem or attorney shall be made under the terms of
30 AS 25.24.310.

31 * Sec. 22. AS 47.10.070(a) is amended to read:

1 (a) The court may conduct the hearing on the petition in an informal manner
2 in the courtroom or in chambers. [A HEARING MAY BE HELD BEFORE A
3 YOUNG ADULT ADVISORY PANEL IN ACCORDANCE WITH AS 47.10.075.]
4 The court shall give notice of the hearing to the department and it may send a
5 representative to the hearing. The court shall also transmit a copy of the petition to
6 the department. The representative of the department may also be heard at the hearing.
7 The public shall be excluded from the hearing, but the court, in its discretion, may
8 permit individuals to attend a hearing [,] if their attendance is compatible with the best
9 interests of the minor. [NOTHING IN THIS SECTION MAY BE APPLIED IN
10 SUCH A WAY AS TO DENY A CHILD'S RIGHTS TO A PUBLIC TRIAL AND TO
11 A TRIAL BY JURY.]

12 * Sec. 23. AS 47.10.080(a) is amended to read:

13 (a) The court, at the conclusion of the hearing, or thereafter as the
14 circumstances of the case may require, shall find and enter a judgment that the minor
15 is or is not [DELINQUENT OR] a child in need of aid.

16 * Sec. 24. AS 47.10.080(c) is amended to read:

17 (c) If the court finds that the minor is a child in need of aid, it shall

18 (1) order the minor committed to the department for placement in an
19 appropriate setting for a period of time not to exceed two years or in any event past
20 the date the minor becomes 19 years of age, except that the department may petition
21 for and the court may grant in a hearing (A) two-year extensions of commitment that
22 do not extend beyond the minor's 19th birthday if the extension is in the best interests
23 of the minor [AND THE PUBLIC]; and (B) an additional one-year period of
24 supervision past age 19 if the continued supervision is in the best interests of the
25 person and the person consents to it; the department may transfer the minor, in the
26 minor's best interests, from one placement setting to another, and the minor, the
27 minor's parents or guardian, and the minor's attorney are entitled to reasonable notice
28 of the transfer;

29 (2) order the minor released to the minor's parents, guardian, or some
30 other suitable person, and, in appropriate cases, order the parents, guardian, or other
31 person to provide medical or other care and treatment; if the court releases the minor,

1 it shall direct the department to supervise the care and treatment given to the minor,
2 but the court may dispense with the department's supervision if the court finds that the
3 adult to whom the minor is released will adequately care for the minor without
4 supervision; the department's supervision may not exceed two years or in any event
5 extend past the date the minor reaches age 19, except that the department may petition
6 for and the court may grant in a hearing

7 (A) two-year extensions of supervision that do not extend
8 beyond the minor's 19th birthday if the extension is in the best interests of the
9 minor and the public; and

10 (B) an additional one-year period of supervision past age 19 if
11 the continued supervision is in the best interests of the person and the person
12 consents to it; or

13 (3) by order, upon a showing in the adjudication by clear and
14 convincing evidence that there is a child in need of aid under AS 47.10.010(a)
15 [AS 47.10.010(a)(2)] as a result of parental conduct and upon a showing in the
16 disposition by clear and convincing evidence that the parental conduct is likely to
17 continue to exist if there is no termination of parental rights, terminate parental rights
18 and responsibilities of one or both parents and commit the child to the department or
19 to a legally appointed guardian of the person of the child, and the department or
20 guardian shall report annually to the court on efforts being made to find a permanent
21 placement for the child.

22 * Sec. 25. AS 47.10.080(e) is amended to read:

23 (e) If the court finds that the minor is not [DELINQUENT OR] a child in need
24 of aid, it shall immediately order the minor released from the department's custody and
25 returned to the minor's parents, guardian, or custodian, and dismiss the case.

26 * Sec. 26. AS 47.10.080(f) is amended to read:

27 (f) A minor found to be [DELINQUENT OR] a child in need of aid is a ward
28 of the state while committed to the department or the department has the power to
29 supervise the minor's actions. The court shall review an order made under [(b) OR]
30 (c)(1) or (2) of this section annually, and may review the order more frequently to
31 determine if continued placement [, PROBATION,] or supervision, as it is being

1 provided, is in the best interest of the minor [AND THE PUBLIC]. If annual review
2 under this subsection would arise within 90 days of the hearing required under (l) of
3 this section, the court may postpone review under this subsection until the time set for
4 the hearing. The department, the minor, the minor's parents, guardian, or custodian are
5 entitled, when good cause is shown, to a review on application. If the application is
6 granted, the court shall afford these parties and their counsel reasonable notice in
7 advance of the review and hold a hearing where these parties and their counsel shall
8 be afforded an opportunity to be heard. The minor shall be afforded the opportunity
9 to be present at the review.

10 * Sec. 27. AS 47.10.080(i) is amended to read:

11 (i) A minor, the minor's parents or guardian acting on the minor's behalf, or
12 the department may appeal a judgment or order, or the stay, modification, setting aside,
13 revocation, or enlargement of a judgment or order issued by the court under
14 AS 47.10.010 - 47.10.142 [THIS CHAPTER].

15 * Sec. 28. AS 47.10.080(l) is amended to read:

16 (l) Within 18 months after the date a child is initially removed from the
17 child's home [TAKEN INTO CUSTODY] by the department under AS 47.10.142(c)
18 or committed to the custody of the department under [(b)(3),] (c)(1) [,] or [(c)] (3) of
19 this section [,] or AS 47.14.100(c) [AS 47.10.230(c)], the court shall hold a hearing
20 to review the placement and services provided and to determine the future status of the
21 minor. The court shall make appropriate written findings, including findings related
22 to the following:

23 (1) whether the child should be returned to the parent;

24 (2) whether the child should remain in out-of-home care for a specified
25 period;

26 (3) whether the child should remain in out-of-home care on a
27 permanent or long-term basis because of special needs or circumstances;

28 (4) whether the child should be placed for adoption or legal
29 guardianship.

30 * Sec. 29. AS 47.10.080(m) is amended to read:

31 (m) Within 60 days after the date a child is removed from the child's home

1 by the department, the department shall notify the appropriate local citizen out-of-home
2 care review panel established under AS 47.14.220 [AS 47.10.420].

3 * Sec. 30. AS 47.10.080(n) is amended to read:

4 (n) Within 60 days after a court orders a child committed to the department
5 under (c) of this section and at a review under (f) or (l) of this section, the department
6 shall inform the parties about the local citizen out-of-home care review panel
7 established under AS 47.14.220 [AS 47.10.420].

8 * Sec. 31. AS 47.10.082 is amended to read:

9 Sec. 47.10.082. BEST INTERESTS OF CHILD AND OTHER
10 CONSIDERATIONS. [IN MAKING ITS DISPOSITIONAL ORDER UNDER
11 AS 47.10.080(b) THE COURT SHALL CONSIDER THE BEST INTERESTS OF
12 THE CHILD AND THE PUBLIC.] In making its dispositional order under
13 AS 47.10.080(c), the court shall consider

14 (1) the best interests of the child; and

15 (2) [IN EITHER CASE THE COURT SHALL CONSIDER ALSO]
16 the ability of the state to take custody and to care for the child to protect the child's
17 best interests under AS 47.10.010 - 47.10.142.

18 * Sec. 32. AS 47.10.084(a) is amended to read:

19 (a) When a child is committed under AS 47.10.080(c)(1) [AS 47.10.080(b)(1)
20 OR (c)(1)] to the department, [OR] released under AS 47.10.080(c)(2)
21 [AS 47.10.080(b)(2) OR (3) OR (c)(2)] to the child's parents, guardian, or other
22 suitable person, or committed to the department or to a legally appointed guardian
23 of the person of the child under AS 47.10.080(c)(3), a relationship of legal custody
24 exists. This relationship imposes on the department and its authorized agents or the
25 parents, guardian, or other suitable person the responsibility of physical care and
26 control of the child, the determination of where and with whom the child shall live,
27 the right and duty to protect, train, and discipline the child, and the duty of providing
28 the child with food, shelter, education, and medical care. These obligations are subject
29 to any residual parental rights and responsibilities and rights and responsibilities of a
30 guardian if one has been appointed. When a child is committed to the department and
31 the department places the child with the child's parent, the parent has the responsibility

1 to provide and pay for food, shelter, education, and medical care for the child. When
2 parental rights have been terminated, or there are no living parents and no guardian has
3 been appointed, the responsibilities of legal custody include those in (b) and (c) of this
4 section. The department or person having legal custody of the child may delegate any
5 of the responsibilities under this section, except authority to consent to marriage,
6 adoption, and military enlistment may not be delegated. For purposes of AS 47.10.010
7 - 47.10.142, [THIS CHAPTER] a person in charge of a placement setting is an agent
8 of the department.

9 * Sec. 33. AS 47.10.090(c) is amended to read:

10 (c) Within 30 days of the date of a minor's 18th birthday or, if the court
11 retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the
12 date on which the court releases jurisdiction over the minor, the court shall order all
13 the court's official records pertaining to that minor in a proceeding under
14 AS 47.10.010 - 47.10.142 sealed [, AS WELL AS RECORDS OF ALL DRIVER'S
15 LICENSE PROCEEDINGS UNDER AS 28.15.185, CRIMINAL PROCEEDINGS
16 AGAINST THE MINOR, AND PUNISHMENTS ASSESSED AGAINST THE
17 MINOR]. A person may not use these sealed records for any purpose except that the
18 court may order their use for good cause shown [OR MAY ORDER THEIR USE BY
19 AN OFFICER OF THE COURT IN MAKING A PRESENTENCING REPORT FOR
20 THE COURT. THE PROVISIONS OF THIS SUBSECTION RELATING TO THE
21 SEALING OF RECORDS DO NOT APPLY TO RECORDS OF TRAFFIC
22 OFFENSES].

23 * Sec. 34. AS 47.10.090(d) is amended to read:

24 (d) The name or picture of a minor under the jurisdiction of the court may not
25 be made public in connection with the minor's status as a [DELINQUENT CHILD OR
26 A] child in need of aid unless authorized by order of the court.

27 * Sec. 35. AS 47.10.090(e) is amended to read:

28 (e) The court's official records under AS 47.10.010 - 47.10.142 [THIS
29 CHAPTER] may be inspected only with the court's permission and only by persons
30 having a legitimate interest in them. [A PERSON WITH A LEGITIMATE
31 INTEREST IN THE INSPECTION OF AN OFFICIAL RECORD MAINTAINED BY

1 THE COURT INCLUDES A VICTIM WHO SUFFERED PHYSICAL INJURY OR
2 WHOSE REAL OR PERSONAL PROPERTY WAS DAMAGED AS A RESULT OF
3 AN OFFENSE THAT WAS THE BASIS OF AN ADJUDICATION OR
4 MODIFICATION OF DISPOSITION. IF THE VICTIM KNOWS THE IDENTITY
5 OF THE MINOR, IDENTIFIES THE MINOR OR THE OFFENSE TO THE COURT,
6 AND CERTIFIES THAT THE INFORMATION IS BEING SOUGHT TO CONSIDER
7 OR SUPPORT A CIVIL ACTION AGAINST THE MINOR OR AGAINST THE
8 MINOR'S PARENTS OR GUARDIANS UNDER AS 34.50.020, THE COURT
9 SHALL, SUBJECT TO AS 12.61.110 AND 12.61.140, ALLOW THE VICTIM TO
10 INSPECT AND USE THE FOLLOWING RECORDS AND INFORMATION IN
11 CONNECTION WITH THE CIVIL ACTION:

12 (1) A PETITION FILED UNDER AS 47.10.010(a)(1) SEEKING TO
13 HAVE THE COURT DECLARE THE MINOR A DELINQUENT;

14 (2) A PETITION FILED UNDER AS 47.10.080 SEEKING TO HAVE
15 THE COURT MODIFY OR REVOKE THE MINOR'S PROBATION;

16 (3) A PETITION FILED UNDER AS 47.10.060 REQUESTING THE
17 COURT TO FIND THAT A MINOR IS NOT AMENABLE TO TREATMENT
18 UNDER THIS CHAPTER AND THAT RESULTS IN CLOSURE OF A CASE
19 UNDER AS 47.10.060(a); AND

20 (4) A COURT JUDGMENT OR ORDER ENTERED UNDER
21 AS 47.10.010 - 47.10.142 THAT DISPOSES OF A PETITION IDENTIFIED IN (1) -
22 (3) OF THIS SUBSECTION.]

23 * Sec. 36. AS 47.10.093(a) is amended to read:

24 (a) Except as specified in AS 47.10.092 and (b) - (g) [(b) - (f) AND (h)] of
25 this section, all information and social records pertaining to a minor who is subject to
26 AS 47.10.010 - 47.10.142 [THIS CHAPTER] or AS 47.17 prepared by or in the
27 possession of a federal, state, or municipal agency or employee in the discharge of the
28 agency's or employee's official duty [, INCLUDING DRIVER'S LICENSE ACTIONS
29 UNDER AS 28.15.185,] are privileged and may not be disclosed directly or indirectly
30 to anyone without a court order.

31 * Sec. 37. AS 47.10.093(b) is amended to read:

1 (b) A state or municipal agency or employee may disclose information
2 regarding a case to

3 (1) a guardian ad litem appointed by the court or to a citizen review
4 panel for permanency planning authorized by AS 47.14.200 or 47.14.220
5 [AS 47.10.400 or 47.10.420];

6 (2) a person or an agency requested to provide consultation or services
7 for a minor who is subject to the jurisdiction of the court under AS 47.10.010;

8 (3) school officials as may be necessary to protect the safety of school
9 students and staff;

10 (4) a governmental agency as may be necessary to obtain that agency's
11 assistance for the department in its investigation or to obtain physical custody of a
12 child;

13 (5) a state or municipal law enforcement agency as may be necessary
14 for a specific investigation being conducted by that agency or for disclosures by that
15 agency to protect the public safety; and

16 (6) a victim as may be necessary to inform the victim about the
17 disposition or resolution of a case involving a minor.

18 * Sec. 38. AS 47.10.093(g) is amended to read:

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

24 * Sec. 39. AS 47.10.100(b) is amended to read:

25 (b) If the court determines at a hearing authorized by (a) of this section
26 [REHEARING] that it is for the best interests of the minor to be released to the care
27 or custody of the minor's parent, guardian, or custodian, it may enter an order to that
28 effect and the minor is discharged from the control of the department.

29 * Sec. 40. AS 47.10.100(c) is amended to read:

30 (c) If a minor is adjudicated [A DELINQUENT OR] a child in need of aid
31 before the minor's 18th birthday, the court may retain jurisdiction over the minor after

1 the minor's 18th birthday for the purpose of supervising the minor [MINOR'S
2 REHABILITATION], but the court's jurisdiction over the minor under this chapter
3 never extends beyond the minor's 19th birthday, except that the department may apply
4 for and the court may grant an additional one-year period of supervision past age 19
5 if continued supervision is in the best interests of the person and the person consents
6 to it. The department may retain jurisdiction over a child between the child's 18th and
7 19th birthdays for the purpose of supervising the child [CHILD'S
8 REHABILITATION], if the child has been placed under the supervision of the
9 department before the child's 18th birthday, except that the department may apply for
10 and the court may grant an additional one-year period of supervision past age 19 if
11 continued supervision is in the best interests of the person and the person consents to
12 it.

13 * Sec. 41. AS 47.10.110 is amended to read:

14 Sec. 47.10.110. APPOINTMENT OF GUARDIAN OR CUSTODIAN. When,
15 in the course of a proceeding under AS 47.10.010 - 47.10.142 [THIS CHAPTER], it
16 appears to the court that the welfare of a minor will be promoted by the appointment
17 of a guardian or custodian of the minor's person, the court may make the appointment.
18 The court shall have a summons issued and served upon the parents of the minor, if
19 they can be found, in a manner and within a time before the hearing that the court
20 considers reasonable. The court may determine whether the father, mother, another
21 suitable person, or the department shall have the custody and control of the minor.
22 If the minor is of sufficient age and intelligence to state desires, the court shall
23 consider them.

24 * Sec. 42. AS 47.10.120(a) is amended to read:

25 (a) When a child in need of aid [OR A DELINQUENT MINOR] is committed
26 under AS 47.10.010 - 47.10.142 [THIS CHAPTER], the court shall, after giving the
27 parent [OR LEGAL GUARDIAN] a reasonable opportunity to be heard, adjudge that
28 the parent [OR GUARDIAN] pay to the department in a manner that the court directs
29 a sum [THAT IS BASED ON THE FEE SCHEDULE ADOPTED UNDER
30 AS 44.29.022] to cover in full or in part the maintenance and care of the child. The
31 support obligation shall be calculated under Rule 90.3(i) of the Alaska Rules of

1 Civil Procedure [OR MINOR].

2 * Sec. 43. AS 47.10.141(b) is amended to read:

3 (b) A peace officer shall take into protective custody a minor described in (a)
4 of this section if the minor is not otherwise subject to arrest or detention. Unless (c)
5 of this section applies, when a peace officer takes a minor into protective custody
6 under this subsection,7 (1) the peace officer shall exercise the officer's discretion and shall8 (A) [AND (1)] return the minor to the minor's parent or
9 guardian [LEGAL CUSTODIAN] if the minor and the minor's parent or
10 guardian consent [LEGAL CUSTODIAN CONSENTS] to the return, except
11 that the officer may not use this option if the officer has reasonable cause to
12 suspect that the minor has experienced physical or sexual abuse in the parent's
13 or guardian's [LEGAL CUSTODIAN'S] household;14 (B) [(2)] take the minor to a nearby location agreed to by the
15 minor and the minor's parent or guardian [LEGAL CUSTODIAN]; or

16 (C) [(3)] take the minor to

17 (i) an office specified by the Department of Health and
18 Social Services;19 (ii) [,] a program for runaway minors licensed by the
20 department under AS 47.10.310;21 (iii) [,] a shelter for runaways that has a permit from the
22 department under AS 47.35.085 that agrees to shelter the minor;23 (iv) [, OR] a facility or contract agency of the
24 department; or25 (v) another suitable location and promptly notify the
26 department, if [. IF] an office specified by the department, a licensed
27 program for runaway minors, a shelter for runaways that will accept the
28 minor, or a facility or contract agency of the department does not exist
29 in the community;30 (2) a [, THE OFFICER SHALL TAKE THE MINOR TO ANOTHER
31 SUITABLE LOCATION AND PROMPTLY NOTIFY THE DEPARTMENT. A]

1 minor under protective custody may not be housed in a jail or other detention facility;
2 (3) the peace officer, immediately [. IMMEDIATELY] upon taking
3 a minor into protective custody, [THE OFFICER] shall

4 (A) advise the minor orally and in writing of the right to social
5 services under AS 47.10.142(b); [,] and

6 (B) [,] if the identity of the minor's parent or guardian is
7 known, [THE OFFICER SHALL] advise the minor's parent or guardian
8 [LEGAL CUSTODIAN] that the minor has been taken into protective custody
9 and that counseling services for the minor's parent or guardian
10 [CUSTODIAN] and the minor's household may be available under
11 AS 47.10.142(b).

12 * Sec. 44. AS 47.10.141(c) is amended to read:

13 (c) A minor may be taken into emergency protective custody by a peace
14 officer and placed into temporary detention in a juvenile detention home in the local
15 community if there has been an order issued by a court under a finding of probable
16 cause that (1) the minor is a runaway in wilful violation of a valid court order issued
17 under AS 47.10.080(c)(1), 47.10.142(f), AS 47.12.120(b)(1) or (3), or
18 AS 47.12.250(d) [AS 47.10.080 OR 47.10.142(f)], (2) the minor's current situation
19 poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable
20 placement alternative exists within the community. For the purposes of this
21 subsection, a risk may not be considered severe and imminent solely because of the
22 general conditions for runaway minors in the community, but shall be assessed in view
23 of the specific behavior and situation of the minor. A minor detained under this
24 subsection shall be brought before a court on the day the minor is detained, or if that
25 is not possible, within 24 hours after the detention for a hearing to determine the most
26 appropriate placement in the best interests of the minor. A minor taken into
27 emergency protective custody under this subsection may not be detained for more than
28 24 hours, except as provided under AS 47.12.250 [AS 47.10.140]. Emergency
29 protective custody may not include placement of a minor in a jail or secure facility
30 other than a juvenile detention home, nor may an order for protective custody be
31 enforced against a minor who is residing in a licensed program for runaway minors,

1 as defined in AS 47.10.390.

2 * Sec. 45. AS 47.10.142(a) is amended to read:

3 (a) The Department of Health and Social Services may take emergency
4 custody of a minor upon discovering any of the following circumstances:

5 (1) the minor has been abandoned;

6 (2) the minor has been grossly neglected by the minor's parents or
7 guardian, as "neglect" is defined in AS 47.17.290, and the department determines that
8 immediate removal from the minor's surroundings is necessary to protect the minor's
9 life or provide immediate necessary medical attention;

10 (3) the minor has been subjected to child abuse or neglect by a person
11 responsible for the minor's welfare, as "child abuse or neglect" is defined in
12 AS 47.17.290, and the department determines that immediate removal from the minor's
13 surroundings is necessary to protect the minor's life or that immediate medical
14 attention is necessary; or

15 (4) the minor has been sexually abused under circumstances listed in
16 AS 47.10.010(a)(4) [AS 47.10.010(a)(2)(D)].

17 * Sec. 46. AS 47.10.142(g) is amended to read:

18 (g) Within 60 days after a court orders a child committed to the department
19 under this section, the department shall inform the parties about the local citizen out-
20 of-home care review panel established under AS 47.14.220 [AS 47.10.420].

21 * Sec. 47. AS 47.10.390(2) is amended to read:

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

23 (A) is habitually absent from home; or

24 (B) refuses to accept available care [;

25 (C) HAS NO PARENT, GUARDIAN, CUSTODIAN, OR
26 RELATIVE ABLE OR WILLING TO PROVIDE CARE; OR

27 (D) HAS BEEN PHYSICALLY ABANDONED BY

28 (i) BOTH PARENTS;

29 (ii) THE SURVIVING PARENT; OR

30 (iii) ONE PARENT IF THE OTHER PARENT'S
31 RIGHTS AND RESPONSIBILITIES HAVE BEEN TERMINATED

1 UNDER AS 25.23.180(c) OR AS 47.10.080 OR VOLUNTARILY
2 RELINQUISHED].

3 * Sec. 48. AS 47.10 is amended by adding a new section to read:

4 Sec. 47.10.980. GRANTS-IN-AID. The department may accept grants-in-aid
5 from the federal government or private foundations and may accept other gifts
6 consistent with the purposes of this chapter.

7 * Sec. 49. AS 47.10.990 is amended to read:

8 Sec. 47.10.990. DEFINITIONS. In this chapter, unless the context otherwise
9 requires,

10 (1) "care" or "caring" under AS 47.10.010(a)(1)
11 [AS 47.10.010(a)(2)(A)], 47.10.120(a), and 47.10.230(c) [,] means to provide for the
12 physical, emotional, mental, and social needs of the child;

13 (2) "child in need of aid" means a minor found to be within the
14 jurisdiction of the court under AS 47.10.010(a) [AS 47.10.010(a)(2)];

15 (3) "court" means the superior court of the state;

16 (4) ["CRIME AGAINST A PERSON" MEANS AN OFFENSE SET
17 OUT IN AS 11.41;

18 (5) "DELINQUENT MINOR" MEANS A MINOR FOUND TO BE
19 WITHIN THE JURISDICTION OF THE COURT UNDER AS 47.10.010(a)(1);

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

21 (5) [(7) "JUVENILE DETENTION FACILITY" MEANS SEPARATE
22 QUARTERS WITHIN A CITY JAIL USED FOR THE DETENTION OF
23 DELINQUENT MINORS;

24 (8) "juvenile detention home" [OR "DETENTION HOME"] is a
25 separate establishment, exclusively devoted to the detention of minors on a short-term
26 basis and not a part of an adult jail;

27 (6) [(9) "JUVENILE WORK CAMP" MEANS A SEPARATE
28 RESIDENTIAL ESTABLISHMENT, EXCLUSIVELY DEVOTED TO THE
29 DETENTION OF MINORS, IN WHICH THE MINORS WHO ARE 16 YEARS OF
30 AGE OR OLDER AND COMMITTED TO THE CUSTODY OF THE
31 DEPARTMENT AND PLACED IN THE FACILITY MAY BE REQUIRED TO

1 LABOR ON THE BUILDINGS AND GROUNDS OR PERFORM ANY OTHER
 2 WORK OR ENGAGE IN ANY ACTIVITIES THAT DO NOT CONFLICT WITH
 3 REGULATIONS ADOPTED BY THE DEPARTMENT OF HEALTH AND SOCIAL
 4 SERVICES UNDER THIS CHAPTER FOR THE CARE, REHABILITATION,
 5 EDUCATION, AND DISCIPLINE OF MINORS IN DETENTION;

6 (10) "minor" means [IS] a person under 18 years of age [;

7 (11) "TREATMENT FACILITY" MEANS A HOSPITAL, CLINIC,
 8 INSTITUTION, CENTER, OR OTHER HEALTH CARE FACILITY THAT HAS
 9 BEEN DESIGNATED BY THE DEPARTMENT FOR THE TREATMENT OF
 10 JUVENILES;

11 (12) "VICTIM" HAS THE MEANING GIVEN IN AS 12.55.185].

12 * Sec. 50. AS 47 is amended by adding a new chapter to read:

13 CHAPTER 12. DELINQUENT MINORS.

14 ARTICLE 1. JUVENILE DELINQUENCY.

15 Sec. 47.12.010. PURPOSE OF CHAPTER. The purposes of this chapter are

16 (1) to protect the public and to reform juvenile offenders;

17 (2) to provide that, for the most common offenses committed by
 18 minors, those punishable as misdemeanors, resolution should require some form of
 19 sanction, that the form of the sanction should be certain, that the imposition of the
 20 sanction should be swift, and that the sanction may take the form of a reasonable claim
 21 on the time and talents of the minor who has committed the offense; and

22 (3) to provide that counseling provided to the minor should, if
 23 appropriate, include the minor's family or guardian, that the minor's family or guardian
 24 has the right to offer suggestions and make recommendations for the correction of the
 25 minor's behavior, and that the minor's family or guardian may be asked to participate
 26 in supervision of the minor's treatment.

27 Sec. 47.12.020. JURISDICTION. Proceedings relating to a minor under 18
 28 years of age residing or found in the state are governed by this chapter, except as
 29 otherwise provided in this chapter, when the minor is alleged to be or may be
 30 determined by a court to be a delinquent minor as a result of violating a criminal law
 31 of the state or a municipality of the state.

1 Sec. 47.12.030. PROVISIONS INAPPLICABLE. (a) When a minor who was
2 at least 16 years of age at the time of the offense is arraigned on a charge for an
3 offense specified in this subsection, this chapter and the Alaska Delinquency Rules do
4 not apply to the offense for which the minor is arraigned or to any additional offenses
5 joinable to it under the applicable rules of court governing criminal procedure. The
6 minor shall be charged, prosecuted, and sentenced in the superior court in the same
7 manner as an adult unless the minor is convicted of some offense other than an offense
8 specified in this subsection, in which event the minor may attempt to prove, by a
9 preponderance of the evidence, that the minor is amenable to treatment under this
10 chapter. If the court finds that the minor is amenable to treatment under this chapter,
11 the minor shall be treated as though the charges had been heard under this chapter, and
12 the court shall order disposition of the charges of which the minor is convicted under
13 AS 47.12.120(b). The provisions of this subsection apply when the minor is arraigned
14 on a charge

15 (1) that is an unclassified felony or a class A felony and the felony is
16 a crime against a person; or

17 (2) of arson in the first degree.

18 (b) When a minor is accused of violating a statute specified in this subsection,
19 other than a statute the violation of which is a felony, this chapter and the Alaska
20 Delinquency Rules do not apply and the minor accused of the offense shall be charged,
21 prosecuted, and sentenced in the district court in the same manner as an adult; if a
22 minor is charged, prosecuted, and sentenced for an offense under this subsection, the
23 minor's parent, guardian, or legal custodian shall be present at all proceedings; the
24 provisions of this paragraph apply when a minor is accused of violating

25 (1) a traffic statute or regulation, or a traffic ordinance or regulation of
26 a municipality;

27 (2) AS 11.76.105, relating to the possession of tobacco by a person
28 under 19 years of age;

29 (3) a fish and game statute or regulation under AS 16;

30 (4) a parks and recreational facilities statute or regulation under
31 AS 41.21; and

1 (5) AS 04.16.050, relating to possession, control, or consumption of
2 alcohol.

3 (c) The provisions of AS 47.12.010 - 47.12.260 and the Alaska Delinquency
4 Rules do not apply to driver's license proceedings under AS 28.15.185; the court shall
5 impose a driver's license revocation under AS 28.15.185 in the same manner as adult
6 driver's license revocations, except that a parent or legal guardian shall be present at
7 all proceedings.

8 Sec. 47.12.040. INVESTIGATION AND PETITION. (a) Whenever
9 circumstances subject a minor to the jurisdiction of this chapter, the court shall

10 (1) provide, under procedures adopted by court rule, that, for a minor
11 who is alleged to be a delinquent minor under AS 47.12.020, a state agency shall make
12 a preliminary inquiry to determine if any action is appropriate and may take
13 appropriate action to adjust the matter without a court hearing; if, under this paragraph,

14 (A) the state agency makes a preliminary inquiry and takes
15 appropriate action to adjust the matter without a court hearing, the minor may
16 not be detained or taken into custody as a condition of the adjustment and,
17 subject to AS 47.12.060, the matter shall be closed by the agency if the minor
18 successfully completes all that is required of the minor by the agency in the
19 adjustment; in a municipality or municipalities in which a youth court has been
20 established under AS 47.12.400, adjustment of the matter under this paragraph
21 may include referral to the youth court;

22 (B) the agency concludes that the matter may not be adjusted
23 without a court hearing, the agency may file a petition under (2) of this
24 subsection setting out the facts; or

25 (2) appoint a competent person or agency to make a preliminary inquiry
26 and report for the information of the court to determine whether the interests of the
27 public or of the minor require that further action be taken; if, under this paragraph, the
28 court appoints a person or agency to make a preliminary inquiry and to report to it,
29 then upon the receipt of the report, the court may informally adjust the matter without
30 a hearing, or it may authorize the person having knowledge of the facts of the case to
31 file with the court a petition setting out the facts; if the court informally adjusts the

1 matter, the minor may not be detained or taken into the custody of the court as a
2 condition of the adjustment, and the matter shall be closed by the court upon
3 adjustment.

4 (b) The petition and all subsequent pleadings shall be styled as follows: "In
5 the matter of, a minor under 18 years of age." The
6 petition may be executed upon the petitioner's information and belief, and must be
7 verified. It must include the following information:

8 (1) the name, address and occupation of the petitioner, together with
9 the petitioner's relationship to the minor, and the petitioner's interest in the matter;

10 (2) the name, age and address of the minor;

11 (3) a brief statement of the facts that bring the minor within this
12 chapter;

13 (4) the names and addresses of the minor's parents;

14 (5) the name and address of the minor's guardian, or of the person
15 having control or custody of the minor.

16 (c) If the petitioner does not know a fact required in this section, the petitioner
17 shall so state in the petition.

18 Sec. 47.12.050. NOTICE TO AND INVOLVEMENT OF PARENT OR
19 GUARDIAN. (a) Except as may be otherwise specifically provided, in all cases
20 under this chapter, the minor, each parent of the minor, and the guardian of the minor
21 are entitled to notice adequate to give actual notice of the proceedings, taking into
22 account education and language differences that are known or reasonably ascertainable
23 by the party giving the notice. The notice must contain all names by which the minor
24 has been identified.

25 (b) Notice shall be given in the manner appropriate under the Alaska Rules of
26 Civil Procedure for the service of process in a civil action under state law or in any
27 manner the court by order directs. Proof of giving of the notice shall be filed with the
28 court before the petition is heard or other proceeding commenced.

29 (c) The court may subpoena the parent or guardian of the minor, or any other
30 person whose testimony may be necessary at the hearing. A subpoena or other process
31 may be served by a person authorized by law to make the service. If personal service

1 cannot be made, the court may direct that service of process be in the manner
2 appropriate under the Alaska Rules of Civil Procedure for the service of process in a
3 civil action under state law or in any manner the court directs.

4 (d) In any proceeding under this chapter, the presence of the minor's parent or
5 guardian is preferred.

6 Sec. 47.12.060. INFORMAL ACTION BY DEPARTMENT TO ADJUST
7 MATTER. (a) The provisions of this section apply to a minor who is alleged to be
8 a delinquent minor under AS 47.12.020 and for whom an agency has, under applicable
9 court rule, made a preliminary inquiry before taking appropriate action as authorized
10 by AS 47.12.040(a). Following the preliminary inquiry, unless the agency determines
11 that the matter should be dismissed, the agency may take informal action to adjust the
12 matter.

13 (b) When the agency decides that an informal adjustment of a matter should
14 be made, that informal adjustment may not be made without the agreement or consent
15 of the minor and the minor's parents or guardians to the terms and conditions of the
16 adjustment. An informal action to adjust a matter is not successfully completed unless,
17 among other factors that the agency considers, as to the victim of the act of the minor
18 that is the basis of the delinquency allegation, the minor pays restitution in the amount
19 set by the agency or agrees as a term or condition set by the agency to pay the
20 restitution.

21 Sec. 47.12.070. SUMMONS AND CUSTODY OF MINOR. After a petition
22 is filed and after further investigation that the court directs, if the minor has not
23 appeared voluntarily, the court shall issue a summons that

24 (1) recites briefly the substance of the petition;

25 (2) directs the person having custody or control of the minor to appear
26 personally in court with the minor at the place and at the time set forth in the
27 summons.

28 Sec. 47.12.080. RELEASE OF MINOR. A minor who is taken into custody
29 may, in the discretion of the court and upon the written promise of the parent,
30 guardian, or custodian to bring the minor before the court at a time specified by the
31 court, be released to the care and custody of the parent, guardian, or custodian. The

1 minor, if not released, shall be detained as provided by AS 47.12.240. The court may
2 determine whether the father or mother or another person shall have the custody and
3 control of the minor for the duration of the proceedings. If the minor is of sufficient
4 age and intelligence to state desires, the court shall give consideration to the minor's
5 desires.

6 Sec. 47.12.090. APPOINTMENT OF ATTORNEY, GUARDIAN AD LITEM,
7 OR GUARDIAN. (a) In all proceedings initiated under a petition for delinquency,
8 a minor shall have the right to be represented by counsel and, if indigent, have counsel
9 appointed by the court. The court shall appoint counsel in such cases unless it makes
10 a finding on the record that the minor has made a voluntary, knowing, and intelligent
11 waiver of the right to counsel and a parent or guardian with whom the minor resides
12 or resided before the filing of the petition concurs with the waiver. In cases in which
13 it has been alleged that the minor has committed an act that would be a felony if
14 committed by an adult, waiver of counsel may not be accepted unless the court is
15 satisfied that the minor has consulted with an attorney before the waiver of counsel.

16 (b) Whenever in the course of proceedings instituted under this chapter it
17 appears to the court that the welfare of a minor will be promoted by the appointment
18 of an attorney to represent the minor or an attorney or other person to serve as
19 guardian ad litem, the court may make the appointment. Appointment of a guardian
20 ad litem or attorney shall be made under the terms of AS 25.24.310.

21 Sec. 47.12.100. WAIVER OF JURISDICTION. (a) If the court finds at a
22 hearing on a petition that there is probable cause for believing that a minor is
23 delinquent and finds that the minor is not amenable to treatment under this chapter, it
24 shall order the case closed. After a case is closed under this subsection, the minor
25 may be prosecuted as an adult.

26 (b) A minor is unamenable to treatment under this chapter if the minor
27 probably cannot be rehabilitated by treatment under this chapter before reaching 20
28 years of age. In determining whether a minor is unamenable to treatment, the court
29 may consider the seriousness of the offense the minor is alleged to have committed,
30 the minor's history of delinquency, the probable cause of the minor's delinquent
31 behavior, and the facilities available to the department for treating the minor.

1 (c) For purposes of making a determination under this section,

2 (1) the standard of proof is by a preponderance of the evidence; and

3 (2) the burden of proof that a minor is not amenable to treatment under
4 this chapter is on the state; however, if the petition filed under AS 47.12.040 seeking
5 to have the court declare a minor a delinquent is based on the minor's alleged
6 commission of an offense that is an unclassified felony or class A felony and that is
7 a crime against a person, the minor

8 (A) is rebuttably presumed not to be amenable to treatment
9 under this chapter; and

10 (B) has the burden of proof of showing that the minor is
11 amenable to treatment under this chapter.

12 Sec. 47.12.110. HEARINGS. (a) The court shall conduct a hearing on the
13 petition. The court shall give notice of the hearing to the department, and the
14 department shall send a representative to the hearing. The representative of the
15 department may also be heard at the hearing. The public shall be excluded from the
16 hearing, but the court, in its discretion, may permit individuals to attend a hearing, if
17 their attendance is compatible with the best interests of the minor. Nothing in this
18 section may be applied in such a way as to deny a minor's rights to a public trial and
19 to a trial by jury.

20 (b) Notwithstanding (a) of this section, the victim of an offense that a minor
21 is alleged to have committed, or the designee of the victim, has a right to be present
22 at all hearings held under this section. If the minor is found to have committed the
23 offense, the victim may at the disposition hearing give sworn testimony or make an
24 unsworn oral presentation concerning the offense and its effect on the victim. If there
25 are numerous victims of a minor's offense, the court may limit the number of victims
26 who may give sworn testimony or make an unsworn oral presentation, but the court
27 may not limit the right of a victim to attend a hearing.

28 (c) Unless the minor objects, the court may select a young adult advisory panel
29 to hear the case and advise the court of a recommended judgment and order. The
30 court may consider any of the panel recommendations in making its judgment and
31 order in the case. For purposes of this subsection,

1 (1) the principal of each high school shall submit annually to the court
2 a list of the students enrolled in grades 10, 11, and 12, and the court shall determine
3 the method of selecting the members of each panel; and

4 (2) a student

5 (A) shall be excused from attending school while serving as a
6 panel member;

7 (B) may not serve more than once each year on a panel; and

8 (C) shall be excused from service as a panel member if the
9 student submits a written request to the court indicating the reason for not
10 wishing to serve.

11 Sec. 47.12.120. JUDGMENTS AND ORDERS. (a) The court, at the
12 conclusion of the hearing, or thereafter as the circumstances of the case may require,
13 shall find and enter a judgment that the minor is or is not delinquent.

14 (b) If the court finds that the minor is delinquent, it shall

15 (1) order the minor committed to the department for a period of time
16 not to exceed two years or in any event extend past the day the minor becomes 19
17 years of age, except that the department may petition for and the court may grant in
18 a hearing (A) two-year extensions of commitment that do not extend beyond the
19 minor's 19th birthday if the extension is in the best interests of the minor and the
20 public; and (B) an additional one-year period of supervision past age 19 if continued
21 supervision is in the best interests of the person and the person consents to it; the
22 department shall place the minor in the juvenile facility that the department considers
23 appropriate and that may include a juvenile correctional school, juvenile work camp,
24 treatment facility, detention home, or detention facility; the minor may be released
25 from placement or detention and placed on probation on order of the court and may
26 also be released by the department, in its discretion, under AS 47.12.260;

27 (2) order the minor placed on probation, to be supervised by the
28 department, and released to the minor's parents, guardian, or a suitable person; if the
29 court orders the minor placed on probation, it may specify the terms and conditions
30 of probation; the probation may be for a period of time not to exceed four years and
31 in no event to extend past the day the minor becomes 19 years of age, except that the

1 department may petition for and the court may grant in a hearing

2 (A) two-year extensions of supervision that do not extend
3 beyond the minor's 19th birthday if the extension is in the best interests of the
4 minor and the public; and

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

8 (3) order the minor committed to the custody of the department and
9 placed on probation, to be supervised by the department, and released to the minor's
10 parents, guardian, other suitable person, or suitable nondetention setting such as a
11 family home, group care facility, or child care facility, whichever the department
12 considers appropriate to implement the treatment plan of the predisposition report; if
13 the court orders the minor placed on probation, it may specify the terms and conditions
14 of probation; the department may transfer the minor, in the minor's best interests, from
15 one of the probationary placement settings listed in this paragraph to another, and the
16 minor, the minor's parents or guardian, and the minor's attorney are entitled to
17 reasonable notice of the transfer; the probation may be for a period of time not to
18 exceed four years and in no event to extend past the day the minor becomes 19 years
19 of age, except that the department may petition for and the court may grant in a
20 hearing

21 (A) two-year extensions of commitment that do not extend
22 beyond the minor's 19th birthday if the extension is in the best interests of the
23 minor and the public; and

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

27 (4) order the minor to make suitable restitution in lieu of or in addition
28 to the court's order under (1), (2), or (3) of this subsection; the court may not refuse
29 to make an order of restitution under this paragraph to benefit the victim of the act of
30 the minor that is the basis of the delinquency adjudication;

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

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

5 (6) in addition to an order under (1) - (5) of this subsection, if the
6 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
7 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
8 purposes of this paragraph, "community service" includes work

9 (A) on a project identified in AS 33.30.901; or

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

13 (c) If the court finds that the minor is not delinquent, it shall immediately
14 order the minor released from the department's custody and returned to the minor's
15 parents, guardian, or custodian, and dismiss the case.

16 (d) A minor found to be delinquent is a ward of the state while committed to
17 the department or the department has the power to supervise the minor's actions. The
18 court shall review an order made under (b) of this section annually, and may review
19 the order more frequently to determine if continued placement, probation, or
20 supervision, as it is being provided, is in the best interest of the minor and the public.
21 If annual review under this subsection would arise within 90 days of the hearing
22 required under (g) of this section, the court may postpone review under this subsection
23 until the time set for the hearing. The department, the minor, the minor's parents,
24 guardian, or custodian are entitled, when good cause is shown, to a review on
25 application. If the application is granted, the court shall afford these parties and their
26 counsel reasonable notice in advance of the review and hold a hearing where these
27 parties and their counsel shall be afforded an opportunity to be heard. The minor shall
28 be afforded the opportunity to be present at the review.

29 (e) The department shall pay all court costs incurred in all proceedings in
30 connection with the adjudication of delinquency under this chapter, including hearings
31 that result in the release of the minor.

1 (f) A minor, the minor's parents or guardian acting on the minor's behalf, or
2 the department may appeal a judgment or order, or the stay, modification, setting aside,
3 revocation, or enlargement of a judgment or order issued by the court under this
4 chapter.

5 (g) Within 18 months after the date a minor is committed to the custody of the
6 department under (b)(3) of this section, the court shall hold a hearing to review the
7 placement and services provided and to determine the future status of the minor. The
8 court shall make appropriate written findings, including findings related to the
9 following:

10 (1) whether the minor should be returned to the parent;

11 (2) whether the minor should remain in out-of-home care for a
12 specified period;

13 (3) whether the minor should remain in out-of-home care on a
14 permanent or long-term basis because of special needs or circumstances;

15 (4) whether the minor should be placed for adoption or legal
16 guardianship.

17 (h) Within 60 days after the date a minor is removed from the minor's home
18 by the department, the department shall notify the appropriate local citizen out-of-home
19 care review panel established under AS 47.14.220.

20 Sec. 47.12.130. PREDISPOSITION HEARING REPORTS. (a) Before the
21 disposition hearing of a delinquent minor, the department shall submit a predisposition
22 report with a recommended plan of treatment to aid the court in its selection of a
23 disposition, a victim impact statement reporting the information set out in
24 AS 12.55.022, and any further information that the court may request. In preparing
25 the predisposition report, the department shall contact the victim of the minor's offense.

26 (b) The court shall inform the minor, the minor's parents, and the attorneys
27 representing the parties and the guardian ad litem that the predisposition report will be
28 available to them not less than 10 days before the disposition hearing.

29 (c) In this section, "parents" means the natural or adoptive parents, and any
30 legal guardian, relative, or other adult person with whom the minor has resided and
31 who has acted as a parent in providing for the minor for a continuous period of time

1 before this action.

2 Sec. 47.12.140. COURT DISPOSITIONAL ORDER. (a) In making its
3 dispositional order under AS 47.12.120(b)(1) - (3) and (5), the court shall

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

6 (A) the seriousness of the minor's delinquent act, and the
7 attitude of the minor and the minor's parents toward that act;

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

10 (C) the age of the minor;

11 (D) the minor's prior criminal or juvenile record, and the
12 success or failure of any previous orders, dispositions, or placements imposed
13 on the minor;

14 (E) the effect of the dispositional order to be imposed in
15 deterring the child from committing other delinquent acts;

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

19 (G) the interest of the public in securing the minor's
20 rehabilitation; and

21 (H) the ability of the state to take custody of and to care for the
22 minor; and

23 (2) order the least restrictive alternative disposition for the minor; for
24 purposes of this paragraph, the "least restrictive alternative disposition" means that
25 disposition that is no more restrictive than is, in the judgment of the court, most
26 conducive to the minor's rehabilitation taking into consideration the interests of the
27 public.

28 Sec. 47.12.150. LEGAL CUSTODY, GUARDIANSHIP, AND RESIDUAL
29 PARENTAL RIGHTS AND RESPONSIBILITIES. (a) When a minor is committed
30 under AS 47.12.120(b)(1) or (3) to the department or released under
31 AS 47.12.120(b)(2) to the minor's parents, guardian, or other suitable person, a

1 relationship of legal custody exists. This relationship imposes on the department and
2 its authorized agents or the parents, guardian, or other suitable person the responsibility
3 of physical care and control of the minor, the determination of where and with whom
4 the minor shall live, the right and duty to protect, train, and discipline the minor, and
5 the duty of providing the minor with food, shelter, education, and medical care. These
6 obligations are subject to any residual parental rights and responsibilities and rights and
7 responsibilities of a guardian if one has been appointed. When a minor is committed
8 to the department and the department places the minor with the minor's parent, the
9 parent has the responsibility to provide and pay for food, shelter, education, and
10 medical care for the minor. When parental rights have been terminated, or there are
11 no living parents and a guardian has not been appointed, the responsibilities of legal
12 custody include those in (b) and (c) of this section. The department or person having
13 legal custody of the minor may delegate any of the responsibilities under this section,
14 except authority to consent to marriage, adoption, and military enlistment may not be
15 delegated. For purposes of this chapter, a person in charge of a placement setting is
16 an agent of the department.

17 (b) When a guardian is appointed for the minor, the court shall specify in its
18 order the rights and responsibilities of the guardian. The guardian may be removed
19 only by court order. The rights and responsibilities may include, but are not limited
20 to, having the right and responsibility of reasonable visitation, consenting to marriage,
21 consenting to military enlistment, consenting to major medical treatment, obtaining
22 representation for the minor in legal actions, and making decisions of legal or financial
23 significance concerning the minor.

24 (c) When there has been transfer of legal custody or appointment of a guardian
25 and parental rights have not been terminated by court decree, the parents shall have
26 residual rights and responsibilities. These residual rights and responsibilities of the
27 parent include the right and responsibility of reasonable visitation, consent to adoption,
28 consent to marriage, consent to military enlistment, consent to major medical treatment
29 except in cases of emergency or cases falling under AS 25.20.025, and the
30 responsibility for support, except if by court order any residual right and responsibility
31 has been delegated to a guardian under (b) of this section.

1 Sec. 47.12.160. RETENTION OF JURISDICTION OVER MINOR. (a) The
2 court retains jurisdiction over the case and may at any time stay execution, modify, set
3 aside, revoke, or enlarge a judgment or order, or grant a new hearing, in the exercise
4 of its power of protection over the minor and for the minor's best interest, for a period
5 of time not to exceed the maximum period otherwise permitted by law or in any event
6 extend past the day the minor becomes 19, unless sooner discharged by the court,
7 except that the department may apply for and the court may grant an additional one-
8 year period of supervision past age 19 if continued supervision is in the best interests
9 of the person and the person consents to it. An application for any of these purposes
10 may be made by the parent, guardian, or custodian acting in behalf of the minor, or
11 the court may, on its own motion, and after reasonable notice to interested parties and
12 the appropriate department, take action that it considers appropriate.

13 (b) If the court determines at a hearing authorized by (a) of this section that
14 it is for the best interests of the minor to be released to the care or custody of the
15 minor's parent, guardian, or custodian, it may enter an order to that effect and the
16 minor is discharged from the control of the department.

17 (c) If a minor is adjudicated a delinquent before the minor's 18th birthday, the
18 court may retain jurisdiction over the minor after the minor's 18th birthday for the
19 purpose of supervising the minor's rehabilitation, but the court's jurisdiction over the
20 minor under this chapter never extends beyond the minor's 19th birthday, except that
21 the department may apply for and the court may grant an additional one-year period
22 of supervision past age 19 if continued supervision is in the best interests of the person
23 and the person consents to it. The department may retain jurisdiction over the person
24 between the person's 18th and 19th birthdays for the purpose of supervising the
25 person's rehabilitation, if the person has been placed under the supervision of the
26 department before the person's 18th birthday, except that the department may apply for
27 and the court may grant an additional one-year period of supervision past age 19 if
28 continued supervision is in the best interests of the person and the person consents to
29 it.

30 Sec. 47.12.170. ENFORCEMENT OF RESTITUTION. When restitution is
31 ordered under AS 47.12.120(b)(4), the restitution recipient may enforce payment of the

1 restitution order against the minor under AS 09.35 as if the order were a civil
2 judgment enforceable by execution. This section does not limit the authority of the
3 court to enforce orders of restitution to victims.

4 Sec. 47.12.180. EFFECT OF ADJUDICATION. (a) Except as provided by
5 AS 47.12.170, an adjudication under this chapter upon the status of a minor

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

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

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

13 (b) The commitment and placement of a minor and evidence given in the court
14 are not admissible as evidence against the minor in a subsequent case or proceedings
15 in any other court, nor does the commitment and placement or evidence operate to
16 disqualify a minor in a future civil service examination or appointment in the state.

17 Sec. 47.12.200. ARREST OF A MINOR. The arrest of a minor other than for
18 a traffic offense is not considered an arrest for any purpose except for the purpose of
19 the disposition of a proceeding arising out of that arrest.

20 Sec. 47.12.210. FINGERPRINTING OF MINORS. (a) A peace officer may
21 fingerprint a minor under the same circumstances as an adult may be fingerprinted.

22 (b) Fingerprint records taken under this section are not subject to
23 AS 47.12.310.

24 Sec. 47.12.220. APPOINTMENT OF GUARDIAN OR CUSTODIAN. When,
25 in the course of a proceeding under this chapter, it appears to the court that the welfare
26 of a minor will be promoted by the appointment of a guardian or custodian of the
27 minor's person or property, the court may make the appointment. The court shall have
28 a summons issued and served upon the parents of the minor, if they can be found, in
29 a manner and within a time before the hearing that the court considers reasonable.
30 The court may determine whether the father, mother, or the department shall have the
31 custody and control of the minor. If the minor is of sufficient age and intelligence to

1 state desires, the court shall consider them. The court may order either or both parents
2 to pay support for the minor's care to the guardian, custodian, or department.

3 Sec. 47.12.230. SUPPORT OF MINOR. (a) When a delinquent minor is
4 committed under this chapter, the court shall, after giving the parent a reasonable
5 opportunity to be heard, adjudge that the parent pay to the department in a manner that
6 the court directs a sum to cover in full or in part the maintenance and care of the
7 minor. The support obligation shall be calculated under Rule 90.3(i) of the Alaska
8 Rules of Civil Procedure.

9 (b) If a parent wilfully fails or refuses to pay the sum fixed, the parent may
10 be proceeded against as provided by law in cases of family desertion and nonsupport.

11 (c) The sum collected from a parent under this section shall be directly
12 credited to the general fund of the state.

13 Sec. 47.12.240. DETENTION OF MINORS. (a) When the court commits a
14 minor to the custody of the department, the department shall arrange to place the
15 minor in a detention home, work camp, or another suitable place that the department
16 designates for that purpose. Except when detention in a correctional facility is
17 authorized by (c) of this section, the minor may not be incarcerated in a correctional
18 facility that houses adult prisoners.

19 (b) When a minor is detained under this chapter, the person having
20 responsibility for the facility in which the minor is detained shall immediately make
21 reasonable attempts to notify the minor's parent, guardian, or custodian of the minor's
22 detention.

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

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

29 (A) six hours; or

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

1 (2) if, in response to a petition of delinquency filed under this chapter,
2 the court has entered an order closing the case under AS 47.12.100(a), allowing the
3 minor to be prosecuted as an adult; or

4 (3) if the incarceration constitutes a protective custody detention of the
5 minor that is authorized by AS 47.37.170(b).

6 (d) When a minor is detained under (c)(1) or (3) of this section and
7 incarcerated in a correctional facility, the minor shall be

8 (1) assigned to quarters in the correctional facility that are separate
9 from quarters used to house adult prisoners so that the minor cannot communicate with
10 or view adults who are in official detention;

11 (2) provided admission, health care, hygiene, and food services and
12 recreation and visitation opportunities separate from services and opportunities
13 provided to adults who are in official detention.

14 (e) Notwithstanding the limitation on detention set out in (c)(1) of this section,
15 a minor whose detention is authorized by (c)(1) of this section may be detained in a
16 correctional facility for more than six hours if transportation to a juvenile detention
17 home or comparable facility for the detention of minors is not available. The minor's
18 detention for more than six hours is authorized by this subsection only if the person
19 having responsibility for the facility in which the minor is detained

20 (1) documents the reason that transportation of the minor to a juvenile
21 detention home or comparable facility is not available; and

22 (2) during the minor's detention, after learning that transportation is not
23 available, promptly notifies the appropriate officials or employees of the department
24 and the Alaska Court System of the lack of available transportation.

25 (f) A detention authorized by (e) of this section may not exceed the time
26 necessary to satisfy the requirement of (c)(1)(B) of this section.

27 (g) The provisions of AS 47.37.170(i) apply to a minor incarcerated in a
28 correctional facility when authorized by (c)(3) of this section.

29 (h) In this section,

30 (1) "correctional facility" has the meaning given in AS 33.30.901
31 whether the facility is operated by the state, a municipality, a village, or another entity;

1 (2) "official detention" has the meaning given in AS 11.81.900.

2 Sec. 47.12.250. TEMPORARY DETENTION AND DETENTION HEARING.

3 (a) A peace officer may arrest a minor who violates a law or ordinance in the peace
4 officer's presence, or whom the peace officer reasonably believes is a fugitive from
5 justice. A peace officer may continue a lawful arrest made by a citizen. The peace
6 officer may have the minor detained in a juvenile detention facility if in the opinion
7 of the peace officer making or continuing the arrest it is necessary to do so to protect
8 the minor or the community.

9 (b) A peace officer who has a minor detained under (a) of this section shall
10 immediately, and in no event more than 12 hours later, notify the court and make
11 reasonable efforts to notify the minor's parents or guardian and the department of the
12 officer's action. The department may file with the court a petition alleging delinquency
13 before the detention hearing.

14 (c) The court shall immediately, and in no event more than 48 hours later, hold
15 a hearing at which the minor and the minor's parents or guardian if they can be found
16 shall be present. The court shall determine whether probable cause exists for believing
17 the minor to be delinquent. The court shall inform the minor of the reasons alleged
18 to constitute probable cause and the reasons alleged to authorize the minor's detention.
19 The minor is entitled to counsel and to confrontation of adverse witnesses.

20 (d) If the court finds that probable cause exists, it shall determine whether the
21 minor should be detained pending the hearing on the petition or released. It may
22 either order the minor held in detention or released to the custody of a suitable person
23 pending the hearing on the petition. If the court finds no probable cause, it shall order
24 the minor released and close the case.

25 (e) Except for temporary detention pending a detention hearing, a minor may
26 be detained only by court order.

27 Sec. 47.12.260. RELEASING MINORS AFTER COMMITMENT. A minor
28 found to be a juvenile delinquent who by conduct gives sufficient evidence of having
29 reformed may be released at any time under the conditions and regulations that the
30 department considers proper, if it appears to the satisfaction of the department that
31 there is a reasonable probability that the minor will remain at liberty without violating

1 the law.

2 Sec. 47.12.270. YOUTH COUNSELORS. The department may employ youth
3 counselors. Youth counselors shall exercise the duties of probation officers and shall
4 prepare preliminary investigations for the information of the court. They shall also
5 carry out other duties in the care and treatment of minors that are consistent with the
6 intent of this chapter. Youth counselors have the powers of a peace officer with
7 respect to the service of process, the making of arrests of minors who violate state or
8 municipal law, and the execution of orders of the court relating to juveniles, and shall
9 assist and advise the courts in the furtherance of the welfare and control of minors
10 under the court's jurisdiction.

11 ARTICLE 2. INFORMATION AND RECORDS.

12 Sec. 47.12.300. COURT RECORDS. (a) The court shall make and keep
13 records of all cases brought before it.

14 (b) The court shall forward a record of adjudication of a violation of an
15 offense listed in AS 28.15.185(a) to the Department of Public Safety if the court
16 imposes a license revocation under AS 28.15.185.

17 (c) The name or picture of a minor under the jurisdiction of the court may not
18 be made public in connection with the minor's status as a delinquent unless authorized
19 by order of the court.

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

30 (e) The court's official records under this chapter may be inspected only with
31 the court's permission and only by persons having a legitimate interest in them. A

1 person with a legitimate interest in the inspection of an official record maintained by
2 the court includes a victim who suffered physical injury or whose real or personal
3 property was damaged as a result of an offense that was the basis of an adjudication
4 or modification of disposition. If the victim knows the identity of the minor, identifies
5 the minor or the offense to the court, and certifies that the information is being sought
6 to consider or support a civil action against the minor or against the minor's parents
7 or guardians under AS 34.50.020, the court shall, subject to AS 12.61.110 and
8 12.61.140, allow the victim to inspect and use the following records and information
9 in connection with the civil action:

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

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

14 (3) a petition filed under AS 47.12.100 requesting the court to find that
15 a minor is not amenable to treatment under this chapter and that results in closure of
16 a case under AS 47.12.100(a); and

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

19 (f) A person who has been tried as an adult under AS 47.12.100(a), or the
20 department on the person's behalf, may petition the superior court to seal the records
21 of all criminal proceedings, except traffic offenses, initiated against the person, and all
22 punishments assessed against the person, while the person was a minor. A petition
23 under this subsection may not be filed until five years after the completion of the
24 sentence imposed for the offense for which the person was tried as an adult. If the
25 superior court finds that its order has had its intended rehabilitative effect and further
26 finds that the person has fulfilled all orders of the court entered under AS 47.12.120,
27 the superior court shall order the record of proceedings and the record of punishments
28 sealed. Sealing the records restores civil rights removed because of a conviction. A
29 person may not use these sealed records for any purpose except that the court may
30 order their use for good cause shown or may order their use by an officer of the court
31 in making a presentencing report for the court. The court may not, under this

1 subsection, seal records of a criminal proceeding

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

4 (2) commenced under AS 47.12.030(a) unless the minor has been
5 acquitted of all offenses with which the minor was charged or unless the most serious
6 offense of which the minor was convicted was not an offense specified in
7 AS 47.12.030(a).

8 Sec. 47.12.310. AGENCY RECORDS. (a) Except as specified in
9 AS 47.12.320 and (b) - (g) of this section, all information and social records pertaining
10 to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession
11 of a federal, state, or municipal agency or employee in the discharge of the agency's
12 or employee's official duty, including driver's license actions under AS 28.15.185, are
13 privileged and may not be disclosed directly or indirectly to anyone without a court
14 order.

15 (b) A state or municipal agency or employee may disclose information
16 regarding a case to

17 (1) a guardian ad litem appointed by the court or to a citizen review
18 panel for permanency planning authorized by AS 47.14.200 - 47.14.220;

19 (2) a person or an agency requested to provide consultation or services
20 for a minor who is subject to the jurisdiction of the court under this chapter;

21 (3) school officials as may be necessary to protect the safety of school
22 students and staff;

23 (4) a governmental agency as may be necessary to obtain that agency's
24 assistance for the department in its investigation or to obtain physical custody of a
25 minor;

26 (5) a state or municipal law enforcement agency as may be necessary
27 for a specific investigation being conducted by that agency or for disclosures by that
28 agency to protect the public safety; and

29 (6) a victim as may be necessary to inform the victim about the
30 disposition or resolution of a case involving a minor.

31 (c) A state or municipal law enforcement agency

1 (1) shall disclose information regarding a case that is needed by the
2 person or agency charged with making a preliminary investigation for the information
3 of the court under this chapter;

4 (2) may disclose to the public information regarding a criminal offense
5 in which a minor is a suspect, victim, or witness if the minor is not identified by the
6 disclosure;

7 (3) may disclose to school officials information regarding a case as may
8 be necessary to protect the safety of school students and staff;

9 (4) may disclose to the public information regarding a case as may be
10 necessary to protect the safety of the public; and

11 (5) may disclose to a victim information, including copies of reports,
12 as necessary for civil litigation or insurance claims pursued by or against the victim.

13 (d) Upon request of a victim, the department shall make every reasonable
14 effort to notify the victim as soon as practicable in writing when a delinquent minor
15 is to be released from placement in a juvenile facility under AS 47.12.120(b)(1). The
16 notice under this subsection must include the expected date of the delinquent minor's
17 release, the geographic area in which the delinquent minor is required to reside, and
18 other pertinent information concerning the delinquent minor's conditions of release that
19 may affect the victim.

20 (e) A person may authorize the department to release information to the
21 military or to a prospective employer about the existence of a delinquency adjudication
22 against that person under this chapter and the offense on which it was based.

23 (f) The department may release to a person with a legitimate interest
24 information relating to minors not subject to the jurisdiction of the court under this
25 chapter. The department shall adopt regulations governing the release of information
26 and identifying a sufficient legitimate interest.

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

1 (h) Notwithstanding (c)(3) of this section, a state or municipal law enforcement
2 agency is not required to notify the appropriate school official of a school district or
3 school under (c) of this section if the agency determines that notice would jeopardize
4 an ongoing investigation.

5 (i) In this section, "school" means a public or private elementary or secondary
6 school.

7 (j) A person who discloses confidential information in violation of this section
8 is guilty of a class B misdemeanor.

9 Sec. 47.12.320. PARENTAL RIGHT TO DISCLOSE INFORMATION. (a)
10 Notwithstanding AS 47.12.300 and 47.12.310, a parent or legal guardian of a minor
11 subject to a proceeding under this chapter may disclose confidential or privileged
12 information about the minor, including information that has been lawfully obtained
13 from agency or court files, to the governor, the lieutenant governor, a legislator, the
14 ombudsman appointed under AS 24.55, the attorney general, and the commissioners
15 of health and social services, administration, or public safety, or an employee of these
16 persons, for review or use in their official capacities. A person to whom disclosure
17 is made under this section may not disclose confidential or privileged information
18 about the minor to a person not authorized to receive it.

19 (b) The disclosure right under (a) of this section is in addition to, and not in
20 derogation of, the rights of a parent or legal guardian of a minor.

21 (c) A person who violates a provision of this section is guilty of a
22 misdemeanor and upon conviction is punishable for the violation in the manner
23 authorized under AS 12.55 for a class B misdemeanor.

24 ARTICLE 3. YOUTH COURTS.

25 Sec. 47.12.400. YOUTH COURTS. (a) The department may use youth courts
26 to hear, determine, and dispose of cases involving a minor whose alleged act that
27 brings the minor within the jurisdiction of AS 47.12.010 - 47.12.260 constitutes a
28 violation of a state law that is a misdemeanor or a violation or that constitutes a
29 violation of a municipal ordinance that prescribes a penalty not exceeding the penalties
30 for a class A misdemeanor under state law.

31 (b) Unless otherwise directed by the commissioner, the jurisdiction of a youth