

**Tax.** Whenever the tax on real property shall not have been paid when due, the councils of municipal corporations may enforce the lien of such tax by the sale of the property assessed, such sale to be made under the special proceeding hereinafter set forth, by order of the superior court of the district wherein the property

assessed is situated. When the tax on a leasehold interest in tax exempt property is not paid when due, municipal corporations may enforce the tax by a personal action against the said delinquent taxpayer brought in the magistrate or superior court, in addition to other remedies available to them to enforce the lien.

Approved April 16, 1962

## CHAPTER 118

### AN ACT

**Relating to proceedings in juvenile cases.**

(C.S.H.B. 399)

**Be it enacted by the Legislature of the State of Alaska:**

Section 1. Sec. 9, Art. I, Ch. 145, SLA 1957, is repealed and re-enacted to read:

Sec. 9. **Waiver of Jurisdiction.** (1) If a district magistrate court finds at a hearing on a petition that there is probable cause for believing that a minor is delinquent and finds that the minor is not amenable to treatment under this Act, the court shall transfer the case and all papers and records relative to it to the superior court.

(2) When a case is transferred to the superior court under this section, the superior court shall immediately order a de novo hearing to determine whether or not there is probable cause and whether or not the minor is amenable to treatment under this Act.

(3) If the superior court finds at the hearing that there is no probable cause for believing that the minor is delinquent, it shall dismiss the petition. If the superior court finds that there is probable cause and that the minor is amenable to treatment under this Act, it shall return the case to the district magistrate court. If the superior court finds that there is probable cause and that the minor is not amenable to treatment under this Act, jurisdiction of the district magistrate court under this Act is waived and the minor may be prosecuted as if he were an adult.

(4) A minor is unamenable to treat-

ment under this Act if he probably cannot be rehabilitated by treatment under this Act before he reaches 21 years of age. In determining whether or not a minor is unamenable to treatment, the court may consider the seriousness of the offense the minor is alleged to have committed, the minor's history of delinquency, the probable cause of the minor's delinquent behavior, and the facilities available to the division of youth and adult authority for treating the minor.

(5) When a person who has been tried as an adult under this section has completed his sentence and after five years have elapsed, he may petition (or the Department of Health and Welfare may petition for him) the superior court to seal the records of all criminal proceedings against him and all punishments assessed against him, except for traffic offenses, while he was a minor. If the superior court finds that the punishment assessed against the person has had its intended rehabilitative effect, the superior court shall order the record of proceedings and the record of punishments sealed. Sealing the records restores civil rights removed because of a conviction. No person may ever use records so sealed for any purpose.

Sec. 2. Sec. 10(2), Art. I, Ch. 145, SLA 1957, as amended by Sec. 2, Ch. 110, SLA 1960, is repealed and re-enacted to read:

(2) **Judgments and Orders; Appeal.**

(a) The court, at the conclusion of the hearing, shall find and enter a

judgment that the minor is or is not a delinquent or dependent minor.

(b) If the court finds that the minor is delinquent, it shall make one of the following orders:

1. The court may order the minor committed to the Department of Health and Welfare for an indeterminate period of time not to extend past a specified date or in any event past the day the minor becomes 21, and may direct the minor's placement in a juvenile correctional school, detention home, or detention facility designated by the department. The minor may be released from placement or detention and placed on probation on order of the court.

2. The court may order the minor placed on probation, to be supervised by the department, and release him to his parents, guardian, or a suitable person. If the court orders the minor placed on probation, it may specify the terms and conditions of probation. The probation may be for an indeterminate period of time, not to extend past a specified date and in no event past the day the minor becomes 21.

(c) If the court finds that the minor is dependent, it shall make one of the following orders:

1. The court may order the minor committed to the department for an indeterminate period of time not to exceed the date the minor becomes 21 years of age.

2. The court may order the minor released to his parents, guardian, or some other suitable person. If the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor. The department's supervision may not extend past the date the minor becomes 21 years of age.

3. The court may, by order, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child; provided, that one of the following conditions exist:

(i) each parent, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights wishes to relinquish the child to the department or to a legally appointed guardian of the person of the child for adoptive purposes, and the relinquishment is in writing, signed and acknowledged before the court or duly authorized representative of the department and filed with the court; or

(ii) the child has been abandoned by both parents, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights for a period of not less than six months; or

(iii) each parent, or the surviving parent, or one parent if the other has been deprived of custody and visitation rights has been judicially determined to be of unsound mind and the disability has not been removed and the parents or said parent has been hospitalized for reasons of mental illness diagnosed as permanent or of long duration; or

(iv) each parent, or the surviving parent, or one parent if the other has been judicially deprived of custody and visitation rights has demonstrated by his conduct, proven by clear and convincing proof amounting to more than a preponderance of the evidence that he is unfit to continue to exercise his parental rights and responsibilities.

Such order shall authorize the commissioner of health and welfare or his designee or the guardian of the person of the child to consent to the adoption of the child.

(d) If the court finds that the minor is not delinquent or dependent, it shall immediately order his release from its custody and his return to his parents, guardian, or custodian, and close the case.

(e) A minor found to be delinquent or dependent is a ward of the court so long as he is committed to the department or the department has the power to supervise his actions. The

court shall review an order made under (b) or (c)(1) or (2) of this subsection annually, and may review the order more frequently to determine if continued placement, probation, or supervision is in the best interest of the minor and the public, and to determine if the minor is being treated fairly. The department or the minor's parents or guardian is entitled to a review on application. The minor need not be present at the review.

(f) No adjudication under this Act upon the status of any child shall operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor shall any minor be thereafter deemed a criminal by such adjudication, nor shall such adjudication be thereafter deemed a conviction, nor shall any minor be charged with or convicted of a crime in any court, except as provided in this Act. The commitment and placement of a child or any evidence given in the court shall not be admissible as evidence against the minor in any subsequent case or proceedings in any other court, nor shall such commitment and placement or evidence operate to disqualify a minor in any future civil service examination or appointment in the state.

(g) The department shall pay all court costs incurred in all proceedings in connection with the adjudication of delinquency under this Act, including hearings which result in the release of the minor.

(h) A minor, his parents or guardian acting on his behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this Act.

Sec. 3. Sec. 15, Art. I, Ch. 145, SLA 1957, is repealed and re-enacted to read:

**Sec. 15. Temporary Detention; Detention Hearing.** (1) A peace officer may arrest a minor who violates a law or ordinance in his presence, or whom he reasonably believes to be a fugitive from justice or to be evading the person having legal custody of him. A peace officer may continue a lawful arrest made by a citizen. He may have the minor detained in a juvenile detention facility if in his opinion it is necessary to do so to protect the minor or the community.

(2) A peace officer who has a minor detained under (1) of this section shall forthwith, and in no event more than 12 hours later, notify the court, the minor's parents or guardian, and the Department of Health and Welfare of his action. The department may file with the court a petition alleging delinquency before the detention hearing.

(3) The court shall forthwith, and in no event more than 48 hours later, hold a hearing at which the minor and his parents or guardian if they can be found shall be present. The court shall determine whether probable cause exists for believing the minor to be delinquent. The court shall inform the minor of the reasons alleged to constitute probable cause and the reasons alleged to authorize his detention. The minor is entitled to counsel and to confrontation of the witnesses against him.

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

(5) Except for temporary detention pending a detention hearing, no minor may be detained except by court order.

Approved April 16, 1962

## CHAPTER 119

### AN ACT

Relating to the superior courts of the State of Alaska; amending Sec. 25(1), Ch. 50, SLA 1959; and providing for an effective date.

(H.B. 403)