

CHAPTER 110

AN ACT

Relating to juveniles; amending Secs. 6 and 10(2), Art. I, Ch. 145, SLA 1957.

(C.S.H.B. 255)

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

Section 1. Sec. 6, Art. I, Ch. 145, SLA 1957 is amended to read as follows:

Sec. 6. Summons; Notice; Subpoenas; Custody of Minor. After a petition has been filed and after such further investigation as the court may direct, and if the person or persons having custody or control of the minor have not appeared voluntarily, the court shall issue a summons reciting briefly the substance of the petition and clearly stating that at the hearing it is possible that parental rights and responsibilities may be terminated forever and that the minor may at said hearing be committed to the Department of Health and Welfare for possible adoption and directing the person or persons having custody or control of the minor to appear personally in court with the minor at such place and at such time as may be set forth in the summons. If any person so summoned shall be other than the parent or guardian of the minor, the court shall also give the parent or guardian notice of the place, date and time of the hearing. The court may also subpoena the parent of the minor, or any other person whose testimony may be necessary at the hearing. A summons, subpoena or any other process may be served by any person authorized under Alaska law to make such service. Where personal service cannot be effected, the court may direct that service of process be made by registered mail.

If it appears that the minor is in such condition or surroundings that his welfare requires the immediate assumption of his custody by the court, the court may order, by endorsement upon the summons, that the officer serving the same shall at once take the minor into custody and make such temporary placement as the court may direct.

Sec. 2. Sec. 10(2), Art. I, Ch. 145, SLA 1957 is amended to read as follows:

(2) Judgments and Orders; Appeal.

The court, upon the conclusion of the hearing, shall make a determination and enter a judgment either finding that the minor does not fall within the purview of this Act, or that he falls within a provision or provisions of Section 4 of this Article. If the minor is found not to fall within the purview of this Act, the court shall forthwith order his release from its custody and his return to his parents, guardian or custodian, and the case shall thereafter be closed by the court. If the court shall find that the minor falls within the purview of this Act, the court may enter any one of the following orders:

(a) If the child is found by the court to be a "delinquent minor" as defined in Section 1(d) of this Article, the court may

1. commit the minor to the custody of the Department of Health and Welfare for a specified period, not to exceed three years, and direct his detention in such juvenile correctional school, detention home, or detention facility as the Department may designate; or

2. release the minor to the custody of his parents, guardian or any other suitable person; provided that said minor so released be subject to the general supervision of the Department of Health and Welfare.

(b) If the child is found by the court to be a "dependent minor" as defined in Section 1(e) of this Article, the court may

1. commit the child to the Department of Health and Welfare for a specified period not exceeding three years; or

2. release the minor to the custody of his parents, guardian or any other suitable person; provided

that said minor so released be subject to the general supervision of the Department of Health and Welfare; or

3. by order, terminate parental rights and responsibilities of one or both parents and commit the child to the Department of Health and Welfare or to a legally appointed guardian of the person of the child; provided that one of the following conditions exists:

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 of Health and Welfare 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 or the parents, or said parent, have 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 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.

Upon entering an order of commitment, the court shall transmit a copy of its information and findings, together with the order of commitment, to the appropriate state department. A report as to the disposition and progress of the case shall be made to the court committing the minor by the agency or person to whom the minor is committed, at such times as the court may require. The Department may petition the court for final release of a minor from its custody.

No adjudication 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.

The Department of Health and Welfare 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.

Appeal may be taken to the superior court from the judgments and orders entered pursuant to this section and hearing on appeal may be de novo in whole or in part in the discretion of the court.