

CS FOR HOUSE BILL NO. 363(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 5/1/24

Referred: Rules

Sponsor(s): REPRESENTATIVES GRAY, Fields, Armstrong

A BILL

FOR AN ACT ENTITLED

"An Act relating to the placement of foster children in psychiatric hospitals; relating to the care of children in state custody placed in residential facilities outside the state; and amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure."

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

*** Section 1.** AS 47.10.087(b) is amended to read:

(b) A court shall review a placement made under (a) of this section at least once every 90 days. The court may authorize the department to continue the placement of the child in a secure residential psychiatric treatment center if the court finds, based on the testimony of a mental health professional, that the conditions or symptoms that resulted in the initial order have not ameliorated to such an extent that the child's needs can be met in a less restrictive setting and that the child's mental condition could be improved by the course of treatment or would deteriorate if untreated.

*** Sec. 2.** AS 47.10.087(d) is amended to read:

(d) In this section,

1 **(1) "acute psychiatric hospital" means a hospital or part of a**
 2 **hospital that primarily provides diagnosis and short-term treatment of mental,**
 3 **emotional, and behavioral disorders;**

4 **(2) "contemporaneous two-way video conference" means a**
 5 **conference among people at different places by means of transmitted audio and**
 6 **visual signals, using any communication technology that allows people at two or**
 7 **more places to interact simultaneously by way of two-way video and audio**
 8 **transmission;**

9 **(3) "likely to cause serious harm" has the meaning given in**
 10 **AS 47.30.915.**

11 * **Sec. 3.** AS 47.10.087 is amended by adding new subsections to read:

12 (e) The department may place a child who is in the custody of the department
 13 under AS 47.10.080(c)(1) or (3) or 47.10.142 in an acute psychiatric hospital if it is
 14 the least restrictive placement available and the person in charge of admittance to the
 15 facility finds that

16 (1) the child is gravely disabled or suffering from a mental illness and,
 17 as a result, is likely to cause serious harm to the child or another person; and

18 (2) there is reason to believe that the child's mental condition could be
 19 improved by the course of treatment or would deteriorate further if left untreated.

20 (f) Within 24 hours after placing a child in an acute psychiatric hospital under
 21 (e) of this section, the department shall notify the court, the child's parents, and any
 22 other parties to an ongoing child-in-need-of-aid case involving the child of the
 23 placement. Upon making the placement, the department shall immediately begin to
 24 search for a less restrictive placement for the child.

25 (g) A court shall review a placement made under (e) of this section within 48
 26 hours after receiving notification of the child's placement in an acute psychiatric
 27 hospital. The court shall notify the child, the child's attorney, the child's parents, the
 28 department, and any parties to a child-in-need-of-aid case involving the child of the
 29 time and place of the hearing once the hearing is scheduled. Computation of the 48-
 30 hour period at an acute psychiatric hospital does not include Saturdays, Sundays, and
 31 legal holidays, except that if the exclusion of Saturdays, Sundays, and legal holidays

1 from the computation of the 48-hour period would result in the child being held for
 2 longer than 48 hours, the 48-hour period ends at 5:00 pm on the next day that is not a
 3 Saturday, Sunday, or legal holiday. The court may grant one request to continue the
 4 hearing for up to two business days if necessary to secure the attendance of the child, a
 5 party, or a material witness. The hearing shall be held at the acute psychiatric hospital
 6 in person, by contemporaneous two-way video conference, or by teleconference,
 7 absent extraordinary circumstances. If a hearing is held by contemporaneous two-way
 8 video conference, only the court may record the hearing. The court may authorize the
 9 department to continue the placement of the child in an acute psychiatric hospital if
 10 the court finds by clear and convincing evidence, based on the testimony of a mental
 11 health professional, that the conditions or symptoms that resulted in the initial
 12 placement under (e) of this section have not ameliorated to such an extent that the
 13 child's needs can be met in a less restrictive setting and that the child's mental
 14 condition could be improved by the course of treatment or would deteriorate if
 15 untreated.

16 (h) The court shall review a placement approved under (g) of this section

17 (1) at least once every 30 days; and

18 (2) when requested by the child or another party, upon a showing of
 19 good cause.

20 * **Sec. 4.** AS 47.14.112(d) is amended to read:

21 (d) The division of the department with responsibility over the custody of
 22 children shall prepare and make available to the legislature an annual report on
 23 employee recruitment and retention, including a five-year plan, for the division. Not
 24 later than November 15 of each year, the department shall deliver the report to the
 25 senate secretary and the chief clerk of the house of representatives and notify the
 26 legislature that the report is available. The report prepared under this subsection is
 27 separate from the annual report to the legislature required under AS 18.05.020 and
 28 must include, for the previous 12 months,

29 (1) the number of frontline social workers employed by the division,
 30 the annual average turnover rate of the workers, and the average caseload of the
 31 workers on January 1 and July 1 of that year;

(2) the number of children removed from their homes;

(3) the achievement of success measured by the following:

(A) rate of family reunification;

(B) average length of time children spent in custody of the department;

(C) rate of placement with an adult family member or family friend;

(D) number of children placed in a permanent living arrangement with a guardian or biological or adoptive parent;

(E) number of children released from the custody of the department;

(4) if the department has met or exceeded the caseload standards under this chapter and, if the standards were exceeded, the number of caseworker positions in the division that could be eliminated and the amount of funding that could be reduced while continuing to meet but not routinely exceed the caseload standards;

(5) the performance of the department on federal benchmarks focused on the safety, well-being, and permanent placements of foster children compared with the previous five years;

(6) the number of children placed in residential facilities providing care for children outside the state.

* **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to read:

DIRECT COURT RULE AMENDMENT. Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure, is amended to read:

(b) Appointment Types.

(1) Mandatory Appointments.

(A) The court shall appoint an attorney for a child who is 10 years of age or older in any of the following circumstances:

(i) [(A)] The child does not consent to placement in a [PSYCHIATRIC HOSPITAL OR] residential treatment center;

(ii) [(B)] The child does not consent to administration

1 of psychotropic medication;

2 (iii) [(C)] The child objects to disclosure of
3 psychotherapy information or records under CINA Rule 9(b);

4 (iv) [(D)] A request for a court order authorizing
5 emergency protective custody has been made under AS 47.10.141(c);
6 or

7 (v) [(E)] The child is pregnant or has custody of a minor
8 child; **and**

9 **(B) The court shall appoint an attorney for a child who has**
10 **been placed in an acute psychiatric hospital as defined in AS 47.10.087.**

11 (2) **Discretionary Appointments.** The court may appoint an attorney
12 in other circumstances including, but not limited to:

13 (A) The child's and guardian ad litem's positions are not
14 aligned on placement, family or sibling contact, permanency goal, case plan, or
15 another important issue in the case;

16 (B) The child would benefit from a confidential relationship
17 with an attorney; or

18 (C) The child is not residing in the designated placement.