

HB 36 -- Redline

HB 36 to Enrolled -- An Act relating to treatment foster homes; relating to the placement of foster children in hospitals and residential psychiatric treatment centers for psychiatric care; relating to the duties of the Department of Family and Community Services; relating to the care of children in state custody placed in psychiatric residential treatment facilities outside the state; amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure; and providing for an effective date.

Deletions ~~struck~~ · Insertions underlined

~~34-LS0358\NLAWS HOUSEOF BILLALASKA NO.~~Source Chapter No.

~~36SCS INHB THE36(FIN) LEGISLATURE OFAN THEACT STATE~~Relating to ALASKA~~treatment THIRTY-FOURTHfoster LEGISLATUREhomes;~~ ~~SECOND SESSION BY REPRESENTATIVES GRAY, Fields, Burke, Jimmie, Foster, Story, Mina, Eischeid, Bynum, Calvin, Hannan, Josephson, Stutes, Ruffridge, Schrage, Costello, Mears, Saddler SENATORS Morricks, Kawasaki, Giessel, Gray-Jackson, Stedman, Dunbar, Claman Referred:~~

~~Health and Social Services, Finance A BILL FOR AN ACT ENTITLED "An Act relating to the placement of foster children in hospitals and residential psychiatric hospitals;treatment centers for psychiatric care;~~

~~relating to the careduties of childrenthe inDepartment stateof custodyFamily placedand inCommunity residentialServices; facilities outside the state;~~

~~andrelating amendingto Rulethe 12.1(b),care Alaskaof Childchildren in Needstate ofcustody Aidplaced Rulesin ofpsychiatric Procedure-"residential BEtreatment ITfacilities ENACTEDoutside BYthe THEstate;. LEGISLATURE OF THE STATE OF ALASKA:~~

~~*amending SectionRule 1-12.1(b), Alaska Child in Need of Aid Rules of Procedure;~~

~~ASand 47.10.087(b)providing isfor amendedan toeffective read:date.~~

~~(b)._____ ABE courtIT shallENACTED reviewBY aTHE placementLEGISLATURE madeOF underTHE (a)STATE ofOF thisALASKA:-section at least once every 90 days.~~

~~TheTHE courtACT mayFOLLOWS authorizeON thePAGE department1 toEnrolled continueHB the36 placementAN ofACT theRelating 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 orfoster wouldhomes;-deteriorate if untreated.~~

relating to the placement of foster children in hospitals and residential psychiatric treatment centers for psychiatric care;

relating to the duties of the Department of Family and Community Services;

relating to the care of children in state custody placed in psychiatric residential treatment facilities outside the state;

amending Rule 12.1(b), Alaska Child in Need of Aid Rules of Procedure;

and providing for an effective date.

* Section 1.

AS 12.62.400(a)(25) is amended to read:

(25) licensure, license renewal, certification, or certification renewal by the Department of Family and Community Services of an individual or entity, or payment from the Department of Family and Community Services to an individual or entity, subject to the requirements for a criminal history check under AS 47.05.310 for an entity [A FOSTER HOME, CHILD PLACEMENT AGENCY, AND RUNAWAY -1- Enrolled HB 36 SHELTER] listed in AS 47.32.010(c), including an owner, officer, director, member, partner, employee, volunteer, or contractor of an entity.

AS ~~47.10.087(d)~~47.07.020(b) is amended to read:

~~(d)(b) In thisaddition section,to HB0036athe -1-persons HBspecified 36in New(a) Textof Underlinedthis [DELETEDsection, TEXTthe BRACKETED]following 34-LS0358\Nooptional (1)groups "acute psychiatric hospital" means a hospital or part of apersons hospitalfor thatwhom primarilythe providesstate diagnosisandclaim short-termfederal treatmentfinancial ofparticipation mental,are emotional,eligible andfor behavioralmedical disorders;assistance:~~

~~(2)(1) "contemporaneouspersons two-wayeligible videofor conference"but meansnot areceiving conferenceassistance amongunder people at different places by means of transmitted audio and visual signals, using any communicationplan technology that allows people at two or more places to interact simultaneously by way of two-waythe videostate andapproved audiounder transmission;42 U.S.C.~~

~~(3)1381 "likely- to1383c cause(Title seriousXVI, harm"Social hasSecurity Act, Supplemental Security Income) or a federal program designated as the meaningsuccessor givento inthe ASaid 47.30.015-to families with dependent children program;~~

(2) persons in a general hospital, skilled nursing facility, or intermediate care facility, who, if they left the facility, would be eligible for assistance under one of the federal programs specified in (1) of this subsection;

(3) persons under 21 years of age who are under supervision of the department, for whom maintenance is being paid in whole or in part from public funds, and who are in foster homes, treatment foster homes, or private child-care institutions;

in this paragraph, "treatment foster home" has the meaning given in AS 47.32.900;

(4) aged, blind, or disabled persons, who, because they do not meet income and resources requirements, do not receive supplemental security income under 42 U.S.C.

1381 - 1383c (Title XVI, Social Security Act), and who do not receive a mandatory state supplement, but who are eligible, or would be eligible if they were not in a skilled nursing facility or intermediate care facility to receive an optional state supplementary payment;

(5) persons under 21 years of age who are in an institution designated as an intermediate care facility for persons with intellectual and developmental disabilities and who are financially eligible as determined by the standards of the federal program designated as the successor to the aid to families with dependent children program;

(6) persons in a medical or intermediate care facility whose income while in the facility does not exceed 300 percent of the supplemental security income benefit rate under 42 U.S.C.

1381 - 1383c (Title XVI, Social Security Act) but who would not be eligible for an optional state supplementary payment if they left the Enrolled HB 36 -2- hospital or other facility;

(7) persons under 21 years of age who are receiving active treatment in a psychiatric hospital and who are financially eligible as determined by the standards of the federal program designated as the successor to the aid to families with dependent children program;

(8) persons under 21 years of age and not covered under (a) of this section, who would be eligible for benefits under the federal program designated as the successor to the aid to families with dependent children program, except that they have the care and support of both their natural and adoptive parents;

(9) pregnant women not covered under (a) of this section and who meet the income and resource requirements of the federal program designated as the successor to the aid to families with dependent children program;

(10) persons under 21 years of age not covered under (a) of this section who the department has determined cannot be placed for adoption without medical assistance because of a special need for medical or rehabilitative care and who the department has determined are hard-to-place children eligible for subsidy under AS 25.23.190 - 25.23.210;

(11) persons who can be considered under 42 U.S.C.

1396a(e)(3) (Title XIX, Social Security Act, Medical Assistance) to be individuals with respect to whom a supplemental security income is being paid under 42 U.S.C.

1381 - 1383c (Title XVI, Social Security Act) because they meet all of the following criteria:

(A) they are 18 years of age or younger and qualify as disabled individuals under 42 U.S.C.

1382c(a) (Title XVI, Social Security Act);

(B) the department has determined that (i) they require a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with intellectual and developmental disabilities;

(ii) it is appropriate to provide their care outside of an institution;

and (iii) the estimated amount that would be spent for medical assistance for their individual care outside an institution is not -3- Enrolled HB 36 greater than the estimated amount that would otherwise be expended individually for medical assistance within an appropriate institution;

(C) if they were in a medical institution, they would be eligible for medical assistance under other provisions of this chapter;

and (D) home and community-based services under a waiver approved by the federal government are either not available to them under this chapter or would be inappropriate for them;

(12) disabled persons, as described in 42 U.S.C.

1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under applicable federal regulations or guidelines, is less than 250 percent of the official poverty line applicable to a family of that size according to the United States Department of Health and Human Services, and who, but for earnings in excess of the limit established under 42 U.S.C.

1396d(q)(2)(B), would be considered to be individuals with respect to whom a supplemental security income is being paid under 42 U.S.C.

1381 - 1383c;

a person eligible for assistance under this paragraph who is not eligible under another provision of this section shall pay a premium or other cost-sharing charges according to a sliding fee scale that is based on income as established by the department in regulations;

(13) persons under 19 years of age who are not covered under (a) of this section and whose household income does not exceed 175 percent of the federal poverty line as defined by the United States Department of Health and Human Services and revised under 42 U.S.C.

9902(2);

(14) pregnant women who are not covered under (a) of this section and whose household income does not exceed 225 percent of the federal poverty line as defined by the United States Department of Health and Human Services and revised under 42 U.S.C.

9902(2);

(15) persons who have been diagnosed with breast or cervical cancer and who are eligible for coverage under 42 U.S.C.

1396a(a)(10)(A)(ii)(XVIII).

AS 47.10.087 is amended ~~by adding new subsections to read:~~

~~(e) Sec. The department may place a child who is in the custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 in an acute psychiatric hospital if the hospital is the least restrictive placement available and the person in charge of admittance to the hospital finds that (1) the child is gravely disabled or suffering from a mental illness and, as a result, is likely to cause serious harm to the child or another person;~~

~~and 47.10.087. (2) there is reason to believe that the child's mental condition could be improved by the course of treatment or would deteriorate further if left untreated.~~

~~(f) Placement Within 24 hours after placing a child in an [SECURE] acute residential psychiatric hospital treatment under center. (e) of this section, the department shall notify the court, the child's parents, and any other parties to an ongoing child-in-need-of-aid case involving the child of the placement.~~

Upon (a) The court making may the authorize the department placement, to place a child who is in the custody Enrolled HB 36 -4- of the department shall under immediately AS begin 47.10.080(c)(1) to or search (3) for or 47.10.142 in a less [SECURE] restrictive residential placement psychiatric for treatment center if the child, court finds, based on the testimony of a mental health professional, that (1) the child is gravely disabled or is suffering from mental illness and, as a result, is likely to cause serious harm to the child or to another person;

~~(g) (2) A there court is shall no review reasonably a available, placement appropriate, made and under less (e) restrictive of alternative this for section the within child's seven treatment calendar or days that after less receiving restrictive notification alternatives of have the been child's tried placement and in have an failed; acute psychiatric hospital.~~

~~Once and a (3) hearing there is scheduled, reason the to court believe shall that notify the child, the child's attorney, mental the condition child's could parents, be the improved department, by and any parties to an ongoing child-in-need-of-aid case involving the child course of the treatment time or and would placed deteriorate of if the untreated. hearing.~~

~~The (b) A court may shall grant review one a request placement to made continue under the this hearing section for at up least to once seven every calendar 90 days days. if necessary to secure the attendance of the child, a party, or a material witness.~~

The HB court 36 may -2 authorize HB 0036 a the New department Text to Underlined continue [DELETED] the TEXT placement BRACKETED] of 34 LS 0358 \N the hearing child shall in be held [SECURE] at a residential psychiatric treatment center if the acute court psychiatric finds, hospital based in on person, the by testimony contemporaneous of two-way a video mental conference, 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 teleconference, the absent course extraordinary of circumstances, treatment or would deteriorate if untreated.

If (c) The department shall transfer a hearing child is from held a by [SECURE] contemporaneous residential two-way psychiatric video treatment conference, center only to another appropriate placement if the court mental may health record professional responsible for the hearing, child's treatment determines that the child would no longer benefit from the course of treatment or that the child's treatment needs could be met in a less restrictive setting.

~~The court may authorize the department to shall continue notify the placement child, of the child child's in parents an or acute guardian, psychiatric [AND] hospital if the court child's finds guardian by ad clear item, and convincing any evidence, other based parties on the testimony of a mental determination health and professional, transfer that made the conditions or symptoms that resulted in the initial placement under (e) of this section subsection. 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.~~

~~(h) (d) The In court this shall section, review (1) a "likely placement to approved cause under serious (g) harm" of has this the section meaning (1) given at in least AS once 47.30.915; every 30 days;~~

~~and (2) when "residential psychiatric treatment center" has the meaning given requested in by AS the 47.32.900.. child or another party, upon a showing of good cause.~~

AS 47.10 is amended by adding a new section to read:

Sec.

47.10.105.

Short-term psychiatric care.

(a) The department may seek -5- Enrolled HB 36 services for a child who is in the custody of the department under AS 47.10.080(c)(1) or (3) or 47.10.142 at a hospital that is not a residential psychiatric treatment center to receive psychiatric care if the person in charge of admittance to the hospital finds that (1) the child is suffering from a mental illness and, as a result, may cause serious harm to the child or another person;

and (2) there is no reasonably available, appropriate, and less restrictive alternative for the child to receive treatment.

(b) Within 24 hours after seeking services for a child at a hospital as authorized under (a) of this section, the department shall notify the court, the child, the child's parents or guardians, the child's guardian ad litem, and any other parties to an ongoing child-in-need-of-aid case involving the child of the placement.

Providing notification under this subsection does not relieve the department of the duty to promptly look to place the child in a less restrictive setting.

The department is not required to provide notice to the court under this subsection if the child is released from the hospital to a less restrictive placement within 23 hours after arriving at the hospital to seek services.

(c) A court shall review a placement made under (a) of this section within seven calendar days after the child's placement in a hospital.

The court may grant one request to continue the hearing for up to seven calendar days if necessary to secure the attendance of the child, a party, or a material witness.

The court may authorize the department to continue the placement of the child in a hospital if the court finds by clear and convincing evidence, based on the testimony of a mental health professional, and taking into account the length of time the child has been in the hospital, that the conditions or symptoms that resulted in the initial placement made under (a) of this section have not ameliorated to the 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.

If a court does not make the findings required under this subsection, the child shall be released from the hospital for placement in a less restrictive setting.

The court may vacate a hearing scheduled as required under this subsection if either (1) the child is released to a less restrictive setting before the scheduled hearing;

or Enrolled HB 36 -6- (2) all parties agree that the initial placement under (a) of this section was reasonable and necessary, the parties submit to the court a written stipulation that includes a treatment plan and timeline that will result in releasing the child to a less restrictive setting, and the court finds in writing that the treatment plan and timeline are reasonable and will result in releasing the child to a less restrictive setting.

(d) The court shall review a placement approved under (c) of this section (1) at least once every 30 days;

and (2) when requested by the child, the child's parent or guardian, the child's guardian ad litem, or any other party, upon a showing of good cause.

* Sec.

5.

AS 47.10.990(12) is amended to read:

(12) "foster care" means care provided by a person or household under a foster home license or treatment foster home license required under AS 47.32;

* Sec.

6.

AS 47.14.010 is amended to read:

Sec.

47.14.010.

General powers of department over juvenile facilities and institutions.

The department may (1) purchase, lease, or construct buildings or other facilities for the care, detention, rehabilitation, and education of children in need of aid or delinquent minors;

(2) adopt plans for construction of juvenile detention facilities, juvenile treatment facilities, and other juvenile institutions;

(3) adopt standards and regulations for the design, construction, repair, maintenance, and operation of all juvenile detention facilities, juvenile treatment facilities, and institutions;
(4) inspect periodically each juvenile detention facility, juvenile treatment facility, or other institution to ensure that the standards and regulations adopted are being maintained;
(5) reimburse municipalities maintaining and operating juvenile detention facilities;
(6) enter into contracts and arrangements with cities and state and federal agencies to carry out the purposes of AS 47.10, AS 47.12, and this chapter;
(7) do all acts necessary to carry out the purposes of AS 47.10, AS 47.12, and this chapter;
-7- Enrolled HB 36 (8) adopt the regulations necessary to carry out AS 47.10, AS 47.12, and this chapter;
(9) accept donations, gifts, or bequests of money or other property for use in construction of juvenile institutions, detention facilities, or juvenile treatment facilities;
(10) operate juvenile detention facilities when municipalities are unable to do so;
(11) receive, care for, and place in a juvenile detention facility, the minor's own home, a foster home, a treatment foster home, a juvenile treatment facility, or treatment institution all minors committed to its custody under AS 47.10, AS 47.12, and this chapter.

* Sec.

7.

AS 47.14.110(a) is amended to read:

(a) A representative of the department shall visit, as often as is considered necessary, every foster home, treatment foster home, or institution in which a child is placed, and, if not satisfied as to the care given, may remove the child from the foster home or institution and place the child elsewhere.

* Sec.

8.

Not later than November 15 of each year, the department shall deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.

The report prepared under this subsection is separate from the annual report to the legislature required under AS 18.05.020 and must include, for the previous 12 months, (1) the number of frontline ~~social case~~ [SOCIAL] workers employed by the division, the annual average turnover rate of the workers, and the average caseload of the workers on January 1 and July 1 of that year;

(A) rate of family ~~reunification~~ reunification with a biological parent;

Enrolled HB 36 -8- (B) average length of time children spent in custody of the department;

~~HB0036a -3- HB 36 New Text Underlined [DELETED TEXT BRACKETED] 34-LS0350\N~~ (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~~ [BIOLOGICAL] ~~or~~ OR adoptive parent;

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

~~5-9.~~

AS 47.14.115 is amended by adding a new subsection to read:

(c) The department shall require a foster parent who has a treatment foster home license under AS 47.32 to participate in ongoing training in providing trauma-informed care.

* Sec.

10.

AS 47.14.990 is amended by adding a new paragraph to read:

(13) "treatment foster home" has the meaning given in AS 47.32.900.

* Sec.

11.

AS 47.32.010(c) is amended to read:

(c) The following entities are subject to this chapter and regulations adopted under this chapter by the Department of Family and Community Services:

(1) child placement agencies;

(2) foster homes;

(3) runaway shelters;

(4) treatment foster homes.

* Sec.

12.

AS 47.32.032(b) is amended to read:

-9- Enrolled HB 36 (b) The department shall approve a variance of the applicable building code requirements for licensure of a foster care home or treatment foster home to the extent permitted by federal law if an applicant does not meet the requirements at the time of inspection and (1) the home design and construction is consistent with homes located in the community;
and (2) the home is otherwise a safe environment for a child.

* Sec.

13.

AS 47.32.032 is amended by adding a new subsection to read:

(d) A treatment foster home shall ensure that the treatment foster home meets the training requirements provided under AS 47.14.115(c).

* Sec.

14.

AS 47.32.900(3) is amended to read:

(3) "child placement agency" means an agency that arranges for placement of a child (A) in a foster home, treatment foster home, residential child care facility, or adoptive home;

or (B) for guardianship purposes;

* Sec.

15.

AS 47.32.900 is amended by adding new paragraphs to read:

(22) "specializedservices"includesmedicalcare, trauma-informedcare, and interventions for post-traumatic stress disorder, abuse-related trauma, depression, anxiety, suicidal ideation, and substance abuse;

(23) "treatment foster home" means a place where specialized services are provided on a 24-hour continuing basis to children who have a special behavioral, developmental, emotional, or medical need resulting from a condition determined by a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

* Sec.

16.

AS 47.10.990(31) is repealed.

* Sec.

17.

Enrolled HB 36 -10- (1) Mandatory Appointments.

~~HB 36 -4- HB0036a New Text Underlined [DELETED TEXT BRACKETED] 34-LS0350\N~~ or (v) [(E)] The child is pregnant or has custody of a minor child;

and (B) The court shall appoint an attorney for a child who has been placed in ~~an~~ acute psychiatric hospital as ~~defined~~ authorized in under AS ~~47.10.087~~ 47.10.105.

(B) ~~TheThechild childwouldbenefit would benefit~~ from ~~a~~ confidential-confidential relationship with an attorney;

~~HB0036a* -5-Sec.-HB 36 New Text Underlined [DELETED TEXT BRACKETED]~~

18.

The uncodified law of the State of Alaska is amended by adding a new section to read:

MEDICAID STATE PLAN;

WAIVERS.

The Department of Health shall, as necessary for federal approval by the United States Department of Health and Human Services, submit amendments to the state plan for medical assistance coverage or apply for any waivers necessary to implement sec.

2 of this Act.

* Sec.

19.

The uncodified law of the State of Alaska is amended by adding a new section to read:

-11- Enrolled HB 36 CONDITIONAL EFFECT;

NOTIFICATION.

(a) Section 2 of this Act takes effect only if, and to the extent that, the United States Department of Health and Human Services approves, on or before July 1, 2031, waivers or amendments to the state plan submitted under sec.

18 of this Act.

(b) The commissioner of health shall notify the revisor of statutes in writing within 30 days after the United States Department of Health and Human Services approves the waivers or amendments to the state

plan.

* Sec.

20.

If sec.

2 of this Act takes effect, it takes effect on the later of July 1, 2028, or the day after the date the United States Department of Health and Human Services approves the waivers or amendments to the state plan submitted under sec.

18 of this Act.

* Sec.

21.

Sections 1, 5 - 7, 9 - 15, 18, and 19 of this Act take effect July 1, 2028.

Enrolled HB 36 -12-