

SENATE BILL NO. 142

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR SHOWER

Introduced: 5/5/23

Referred: Health & Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to court orders authorizing an involuntary commitment; relating to the
2 burden of proof necessary to authorize an involuntary commitment; relating to patient
3 rights during an involuntary commitment; relating to the administration of
4 psychotropic medication; and amending Rules 4 and 5, Alaska Rules of Civil
5 Procedure."

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

7 * **Section 1.** AS 47.30.700(a) is amended to read:

8 (a) Upon petition of an adult who has reasonable suspicion based on
9 personal knowledge that another person is mentally ill and, as a result of that
10 condition, is gravely disabled or likely to cause serious harm [ANY ADULT], a
11 judge may [SHALL IMMEDIATELY] conduct an immediate [A] screening
12 investigation or direct a local mental health professional employed by the department
13 or by a local mental health program that receives money from the department under

1 AS 47.30.520 - 47.30.620 or another mental health professional designated by the
2 judge, to conduct an immediate [A] screening investigation of the person alleged to
3 be mentally ill and, as a result of that condition, alleged to be gravely disabled or to
4 present a likelihood of serious harm to self or others. Within 48 hours after the
5 completion of the screening investigation, a judge may issue an ex parte order orally
6 or in writing, stating that there is probable cause to believe the respondent is mentally
7 ill and that condition causes the respondent to be gravely disabled or to present a
8 likelihood of serious harm to self or others. The court shall provide findings on which
9 the conclusion is based, appoint an attorney to represent the respondent, and may
10 direct that a peace officer take the respondent into custody and deliver the respondent
11 to the nearest appropriate facility for emergency examination or treatment. The ex
12 parte order shall be provided to the respondent and made a part of the respondent's
13 clinical record. The court shall confirm an oral order in writing within 24 hours after it
14 is issued.

15 * **Sec. 2.** AS 47.30.700 is amended by adding a new subsection to read:

16 (d) A peace officer may take a respondent into custody under (a) of this
17 section only if the ex parte order authorizing the peace officer to take the respondent
18 into custody is transmitted to the peace officer through a distribution method that
19 permits the peace officer to verify that the order originated from a court. If the peace
20 officer receives an order through a distribution method that does not permit the peace
21 officer to verify that the order originated from a court, the peace officer shall contact
22 the court and request that the court transmit the order to the peace officer through a
23 suitable distribution method. The court shall immediately comply. A facsimile
24 transmission from a telephone number, or electronic mail from an electronic mail
25 address, known by the peace officer to belong to a court is sufficient to satisfy this
26 subsection.

27 * **Sec. 3.** AS 47.30.707(b) is amended to read:

28 (b) If the professional person in charge at the crisis stabilization center
29 determines that there is clear and convincing evidence [PROBABLE CAUSE] to
30 believe that the respondent has a mental illness and is suffering an acute behavioral
31 health crisis and, as a result, is likely to cause serious harm to self or others or is

1 gravely disabled, the respondent's acute behavioral health crisis will be resolved
 2 during admission to a crisis residential center or evaluation facility, and the respondent
 3 is not willing to voluntarily go to the crisis residential center or evaluation facility, a
 4 mental health professional may submit an ex parte application to the court under this
 5 section for detention at the crisis residential center or evaluation facility. Based on the
 6 application, if the court finds that **clear and convincing evidence** [PROBABLE
 7 CAUSE] exists to believe that the respondent has a mental illness and is suffering an
 8 acute behavioral health crisis and, as a result, is likely to cause serious harm to self or
 9 others or is gravely disabled and the respondent's acute behavioral health crisis will be
 10 resolved during admission to a crisis residential center or evaluation facility, and the
 11 respondent is not willing to voluntarily go to a crisis residential center or evaluation
 12 facility, the court shall grant the application and appoint an attorney to represent the
 13 respondent, and the respondent may remain at the crisis stabilization center until
 14 admission to a crisis residential center or evaluation facility. If the court **does not find**
 15 **clear and convincing evidence** [FINDS NO PROBABLE CAUSE], the court shall
 16 order the respondent released.

17 * **Sec. 4.** AS 47.30.708(b) is amended to read:

18 (b) The mental health professional who performs the emergency examination
 19 under (a) of this section may admit the respondent to the crisis residential center if the
 20 mental health professional has **clear and convincing evidence** [PROBABLE
 21 CAUSE] to believe that

22 (1) the respondent has a mental illness and is suffering an acute
 23 behavioral health crisis and, as a result, is likely to cause serious harm to self or others
 24 or is gravely disabled; and

25 (2) the respondent's acute behavioral health crisis will be resolved
 26 during admission to the crisis residential center.

27 * **Sec. 5.** AS 47.30.708(c) is amended to read:

28 (c) If a mental health professional admits a respondent to a crisis residential
 29 center and a judicial order has not been obtained under AS 47.30.707, the mental
 30 health professional may apply for an ex parte order under this section authorizing
 31 admission to the crisis residential center. Based on the application, if the court finds

1 that **clear and convincing evidence** [PROBABLE CAUSE] exists to believe that the
 2 respondent has a mental illness and is suffering an acute behavioral health crisis and,
 3 as a result, is likely to cause serious harm to self or others or is gravely disabled and
 4 the respondent's acute behavioral health crisis will be resolved during admission to a
 5 crisis residential center, the court shall grant the application and appoint an attorney to
 6 represent the respondent. If the court **does not find clear and convincing evidence**
 7 [FINDS NO PROBABLE CAUSE], the court shall order the respondent released.

8 * **Sec. 6.** AS 47.30.708(g) is amended to read:

9 (g) If, at a hearing held under (d) of this section, the court reviews a petition
 10 for seven-day detention at a crisis residential center, the respondent has the rights
 11 listed in AS 47.30.735(b)(1) - (9). At the conclusion of a hearing on a petition for
 12 seven-day detention at a crisis residential center, the court

13 (1) may order the respondent detained at the crisis residential center
 14 for up to seven days following the respondent's arrival at the crisis stabilization center
 15 or the crisis residential center, whichever is earlier, if the court finds there is **clear and**
 16 **convincing evidence** [PROBABLE CAUSE] to believe that

17 (A) the respondent is suffering an acute behavioral health crisis
 18 and, as a result, is likely to cause serious harm to self or others or is gravely
 19 disabled; and

20 (B) the respondent's acute behavioral health crisis will be
 21 resolved during admission to the crisis residential center; or

22 (2) shall order the respondent released if the court **does not find clear**
 23 **and convincing evidence** [FINDS NO PROBABLE CAUSE].

24 * **Sec. 7.** AS 47.30.715 is amended by adding a new subsection to read:

25 (b) A facility may accept a court order only if the order is transmitted through
 26 a distribution method that permits the facility to verify that the order originated from a
 27 court. If the facility receives an order through a distribution method that does not
 28 permit the facility to verify that the order originated from a court, the facility shall
 29 contact the court and request that the court transmit the order to the facility through a
 30 suitable distribution method. The court shall immediately comply. A facsimile
 31 transmission from a telephone number, or electronic mail received from an electronic

1 mail address, known by the facility to belong to a court is sufficient to satisfy this
2 subsection.

3 * **Sec. 8.** AS 47.30.725(a) is amended to read:

4 (a) When a respondent is detained for evaluation under AS 47.30.660 -
5 47.30.915, the respondent shall be immediately notified orally and in writing of the
6 rights under this section **and shall be provided a copy of all court orders, if any,**
7 **relating to the detention.** Notification must be in a language understood by the
8 respondent. The respondent's guardian, if any, and, if the respondent requests, an adult
9 designated by the respondent, shall also be notified of the respondent's rights under
10 this section **and be provided a copy of all court orders, if any, relating to the**
11 **detention of the respondent.**

12 * **Sec. 9.** AS 47.30.838(a) is amended to read:

13 (a) Except as provided in (c) and (d) of this section, an evaluation facility or
14 designated treatment facility may administer psychotropic medication to a patient
15 without the patient's informed consent, regardless of whether the patient is capable of
16 giving informed consent, only if

17 (1) there is a crisis situation, or an impending crisis situation, that
18 requires immediate use of the medication to preserve the life of, or prevent significant
19 physical harm to, the patient or another person, as determined by a physician,
20 physician assistant, or advanced practice registered nurse; the behavior or condition of
21 the patient giving rise to a crisis under this paragraph and the staff's response to the
22 behavior or condition must be documented in the patient's medical record; the
23 documentation must include an explanation of alternative responses to the crisis that
24 were considered or attempted by the staff and why those responses were not sufficient;
25 and

26 (2) the medication is ordered by a physician, physician assistant, or
27 advanced practice registered nurse; the order

28 (A) may be written or oral and may be received by telephone,
29 facsimile machine, or in person;

30 (B) may include an initial dosage and may authorize additional,
31 as needed, doses; if additional, as needed, doses are authorized, the order must

1 specify the medication, the quantity of each authorized dose, the method of
2 administering the medication, the [MAXIMUM] frequency of administration,
3 the specific conditions under which the medication may be given, and the
4 [MAXIMUM] amount of medication that may be administered to the patient in
5 a 24-hour period;

6 (C) is valid for only 24 hours and may be renewed by a
7 physician, physician assistant, or advanced practice registered nurse for a total
8 of 72 hours, including the initial 24 hours, only after a personal assessment of
9 the patient's status and a determination that there is still a crisis situation as
10 described in (1) of this subsection; upon renewal of an order under this
11 subparagraph, the facts supporting the renewal shall be written into the
12 patient's medical record.

13 * **Sec. 10.** AS 47.30.838 is amended by adding a new subsection to read:

14 (f) Psychotropic medication administered under this section may be
15 administered to a patient only in the smallest therapeutic dose for the shortest period
16 possible.

17 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **INDIRECT COURT RULE AMENDMENTS.** AS 47.30.700(d), enacted by sec. 2 of
20 this Act, and AS 47.30.715(b), enacted by sec. 7 of this Act, have the effect of changing Rules
21 4 and 5, Alaska Rules of Civil Procedure, by restricting the permissible methods by which a
22 court order may be served on a party.

23 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 **CONDITIONAL EFFECT.** AS 47.30.700(d), enacted by sec. 2 of this Act, and
26 AS 47.30.715(b), enacted by sec. 7 of this Act, take effect only if sec. 11 of this Act receives
27 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the
28 State of Alaska.