



# LAWS OF ALASKA

2020

**Source**

CSSB 120(HSS) am H

**Chapter No.**

\_\_\_\_\_

**AN ACT**

An Act establishing an alternative to arrest procedure for persons suffering from an acute behavioral health crisis; relating to emergency detention for mental health evaluation; relating to administration of psychotropic medication to a patient without the patient's informed consent; relating to licensure of crisis stabilization centers; and providing for an effective date.

\_\_\_\_\_

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

THE ACT FOLLOWS ON PAGE 1



## AN ACT

1 An Act establishing an alternative to arrest procedure for persons suffering from an acute  
2 behavioral health crisis; relating to emergency detention for mental health evaluation; relating  
3 to administration of psychotropic medication to a patient without the patient's informed  
4 consent; relating to licensure of crisis stabilization centers; and providing for an effective  
5 date.

6  

---

7 \* **Section 1.** AS 12.25 is amended by adding a new section to read:

8 **Sec. 12.25.031. Alternative to arrest.** (a) As an alternative to arrest, a peace  
9 officer may, at the officer's discretion, deliver a person to a crisis stabilization center  
10 or an evaluation facility or decline to arrest the person if

11 (1) the arresting officer believes in good faith that the person is  
12 suffering from an acute behavioral health crisis; and

13 (2) the person voluntarily agrees to be taken to a crisis stabilization

1 center or an evaluation facility or to promptly seek outpatient mental health treatment.

2 (b) Notwithstanding (a) of this section, a peace officer may, as an alternative  
3 to arrest, take a person into emergency custody under AS 47.30.705 and deliver the  
4 person to a crisis stabilization center or an evaluation facility.

5 (c) Delivery of a person to a crisis stabilization center or an evaluation facility  
6 for examination under (a) of this section does not constitute an involuntary  
7 commitment under AS 47.30 or an arrest.

8 (d) Before a person delivered to a crisis stabilization center or an evaluation  
9 facility under (a) or (b) of this section is released to the community, a mental health  
10 professional shall make reasonable efforts to inform the arresting officer of the  
11 planned release if the officer has specifically requested notification and provided the  
12 officer's contact information to the crisis stabilization center or evaluation facility.

13 (e) A peace officer is not liable for civil damages arising from an act or  
14 omission done with reasonable care and in good faith under this section.

15 (f) An agreement to participate in outpatient treatment or to be delivered to a  
16 crisis stabilization center or an evaluation facility under (a) of this section

17 (1) may not require a person to stipulate to any facts regarding the  
18 alleged criminal activity as a prerequisite to participation in a mental health treatment  
19 alternative;

20 (2) is inadmissible in any criminal or civil proceeding; and

21 (3) does not create immunity from prosecution for the alleged criminal  
22 activity.

23 (g) If a person violates an agreement to be delivered to a crisis stabilization  
24 center or an evaluation facility or to seek outpatient treatment under (a) of this section,

25 (1) a mental health professional shall make reasonable efforts to  
26 inform the arresting officer of the person's decision to leave the crisis stabilization  
27 center or evaluation facility; and

28 (2) the original charges may be filed or referred to the prosecutor, as  
29 appropriate, and the matter may proceed as provided by law.

30 (h) Notwithstanding the other provisions of this section, charges may be filed  
31 or referred to the prosecutor, as appropriate, at any time in accordance with law.

1 (i) In this section,

2 (1) "crisis stabilization center" means a facility licensed under  
3 AS 47.32 that meets the definition of "crisis stabilization center" in AS 47.32.900;

4 (2) "evaluation facility" has the meaning given in AS 47.30.915;

5 (3) "mental health professional" has the meaning given in  
6 AS 47.30.915.

7 \* **Sec. 2.** AS 18.65.530(c) is amended to read:

8 (c) A peace officer is not required to make an arrest **of a person** under (a) of  
9 this section if the officer has received authorization [NOT TO ARREST] from a  
10 prosecuting attorney in the jurisdiction in which the offense under investigation arose

11 **(1) not to arrest the person; or**

12 **(2) to deliver the person to a crisis stabilization center or an**  
13 **evaluation facility as provided in AS 12.25.031(b).**

14 \* **Sec. 3.** AS 18.65.530 is amended by adding a new subsection to read:

15 (g) A peace officer who delivers a person to a crisis stabilization center or  
16 evaluation facility under (c) of this section shall provide the peace officer's contact  
17 information to the crisis stabilization center or evaluation facility and, if the peace  
18 officer is notified under AS 12.25.031(d) of a planned release of the person, shall  
19 make reasonable efforts to inform the victim of a crime committed under (a)(1) or (2)  
20 of this section of the planned release.

21 \* **Sec. 4.** AS 47.30.705(a) is amended to read:

22 (a) A peace officer, a psychiatrist or physician who is licensed to practice in  
23 this state or employed by the federal government, or a clinical psychologist licensed  
24 by the state Board of Psychologist and Psychological Associate Examiners who has  
25 probable cause to believe that a person is gravely disabled or is suffering from mental  
26 illness and is likely to cause serious harm to self or others of such immediate nature  
27 that considerations of safety do not allow initiation of involuntary commitment  
28 procedures set out in AS 47.30.700, may cause the person to be taken into custody and  
29 delivered to the nearest **crisis stabilization center as defined in AS 47.32.900 or the**  
30 **nearest** evaluation facility. A person taken into custody for emergency evaluation may  
31 not be placed in a jail or other correctional facility except for protective custody

1 purposes and only while awaiting transportation to a **crisis stabilization center or**  
2 treatment facility. However, emergency protective custody under this section may not  
3 include placement of a minor in a jail or secure facility. The peace officer or mental  
4 health professional shall complete an application for examination of the person in  
5 custody and be interviewed by a mental health professional at the **crisis stabilization**  
6 **center, evaluation facility, or treatment** facility.

7 \* Sec. 5. AS 47.30.710(a) is amended to read:

8 (a) A respondent who is delivered under AS 47.30.700 - 47.30.705 to an  
9 evaluation facility, **except for delivery to a crisis stabilization center as defined in**  
10 **AS 47.32.900,** for emergency examination and treatment shall be examined and  
11 evaluated as to mental and physical condition by a mental health professional and by a  
12 physician within 24 hours after arrival at the facility. **A respondent who is delivered**  
13 **under AS 47.30.705 to a crisis stabilization center shall be examined by a mental**  
14 **health professional as defined in AS 47.30.915 within three hours after arriving at**  
15 **the center.**

16 \* Sec. 6. AS 47.30.838(a) is amended to read:

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

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

30 (2) the medication is ordered by a [LICENSED] physician, **physician**  
31 **assistant, or advanced practice registered nurse;** the order

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

3 (B) may include an initial dosage and may authorize additional,  
4 as needed, doses; if additional, as needed, doses are authorized, the order must  
5 specify the medication, the quantity of each authorized dose, the method of  
6 administering the medication, the maximum frequency of administration, the  
7 specific conditions under which the medication may be given, and the  
8 maximum amount of medication that may be administered to the patient in a  
9 24-hour period;

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

17 \* **Sec. 7.** AS 47.32.010(b) is amended to read:

18 (b) This chapter and regulations adopted under this chapter apply to the  
19 following entities:

- 20 (1) ambulatory surgical centers;
- 21 (2) assisted living homes;
- 22 (3) child care facilities;
- 23 (4) child placement agencies;
- 24 (5) foster homes;
- 25 (6) free-standing birth centers;
- 26 (7) home health agencies;
- 27 (8) hospices, or agencies providing hospice services or operating  
28 hospice programs;
- 29 (9) hospitals;
- 30 (10) intermediate care facilities for individuals with an intellectual  
31 disability or related condition;

- 1 (11) maternity homes;  
2 (12) nursing facilities;  
3 (13) residential child care facilities;  
4 (14) residential psychiatric treatment centers;  
5 (15) runaway shelters;  
6 (16) rural health clinics;  
7 **(17) crisis stabilization centers.**

8 \* **Sec. 8.** AS 47.32.900 is amended by adding a new paragraph to read:

9 (22) "crisis stabilization center" means

10 (A) a facility, or a part or unit of a facility, that has been  
11 designed to evaluate, stabilize, and treat, on a short-term basis and without the  
12 use of hospitalization, individuals experiencing an acute behavioral health  
13 crisis;

14 (B) a 23-hour crisis stabilization center;

15 (C) a crisis residential center; or

16 (D) a subacute facility.

17 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 TRANSITION: LICENSING. Notwithstanding AS 47.32.010(b), as amended by sec.  
20 7 of this Act, the Department of Health and Social Services may, before a crisis stabilization  
21 center is licensed under AS 47.32.010(b), as amended by sec. 7 of this Act, issue a provisional  
22 license to or reimburse the crisis stabilization center under a waiver that is in effect before the  
23 effective date of sec. 7 of this Act.

24 \* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 TRANSITION: REGULATIONS. The Department of Health and Social Services may  
27 adopt regulations necessary to implement the changes made by this Act. The regulations take  
28 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the  
29 law implemented by the regulations.

30 \* **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).