

SENATE BILL NO. 90

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATORS GIESSEL, Tobin, Claman

Introduced: 2/10/25

Referred: Health & Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the examination and treatment of minors; relating to consent for**
2 **behavioral and mental health treatment for minors 16 years of age or older; and**
3 **providing for an effective date."**

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

5 * **Section 1.** AS 25.20.025(a) is amended to read:

6 (a) Except as prohibited under AS 18.16.010(a)(3),

7 (1) **a minor who provides documentation required under (d) of this**
8 **section demonstrating that the minor is an unaccompanied homeless minor or** a
9 minor who is living apart from the minor's parents or legal guardian and who is
10 managing the minor's own financial affairs, regardless of the source or extent of
11 income, may give consent for medical, **behavioral, mental health,** and dental services
12 for the minor;

13 (2) a minor may give consent for medical and dental services if the
14 parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling

either to grant or withhold consent; however, where the parent or legal guardian cannot be contacted or, if contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them;

(3) a minor who is the parent of a child may give consent to medical, **behavioral, mental health,** and dental services for the minor or the child;

(4) a minor may give consent for diagnosis, prevention or treatment of pregnancy, and for diagnosis and treatment of venereal disease;

(5) the parent or guardian of the minor is relieved of all financial obligation to the provider of the service under this section.

* **Sec. 2.** AS 25.20.025 is amended by adding a new subsection to read:

(d) To establish that a minor is a homeless unaccompanied minor for purposes of giving consent under (a)(1) of this section, the minor must possess documentation stating that the minor is 16 years of age or older, does not have a fixed, regular, adequate nighttime residence, and is not in the care and physical custody of a parent or guardian. The document must be signed by

(1) a director or the designee of a director of a governmental or nonprofit entity that receives public or private funding to provide services to individuals who are homeless;

(2) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. 11432(g)(1)(J)(ii), a local educational agency foster care point of contact designated under 20 U.S.C. 6312(c)(5)(A), or a licensed clinical social worker employed by a school in the state;

(3) an attorney who represents the minor in any legal matter; or

(4) the minor and two adults with actual knowledge of the minor's circumstances.

* **Sec. 3.** AS 25.20 is amended by adding a new section to read:

Sec. 25.20.028. Behavioral and mental health treatment of minors. (a) A minor who is 16 years of age or older may give consent to receive outpatient behavioral or mental health services from a mental health provider for up to five

1 outpatient appointments of up to 90 minutes each. A mental health provider may not
 2 prescribe medication to a minor receiving behavioral or mental health services without
 3 obtaining the consent of the minor's parent or guardian. After the fifth appointment, a
 4 mental health provider may continue to provide behavioral or mental health services to
 5 the minor only as provided in (b) or (c) of this section.

6 (b) Not later than the fifth appointment and upon consultation with the minor,
 7 the mental health provider, in conjunction with the provider's supervisor if the mental
 8 health provider has a supervisor, shall determine whether attempting to obtain the
 9 consent of the minor's parent or guardian to provide behavioral or mental health
 10 services would be detrimental to the minor's well-being. Attempting to obtain the
 11 consent of the minor's parent or guardian would be detrimental to the minor's well-
 12 being if

13 (1) the behavioral or mental health services are related to allegations of
 14 neglect, sexual abuse, or mental or physical abuse by the minor's parent or guardian;
 15 or

16 (2) the mental health provider finds that

17 (A) requiring the consent of the minor's parent or guardian
 18 would cause the minor to reject behavioral or mental health services;

19 (B) failing to provide behavioral or mental health services to
 20 the minor would be detrimental to the minor's well-being;

21 (C) the minor sought behavioral or mental health services
 22 knowingly and voluntarily; and

23 (D) the minor has the maturity to productively participate in
 24 behavioral or mental health services.

25 (c) If the mental health provider determines that attempting to obtain the
 26 consent of the minor's parent or guardian would not be detrimental to the minor's well-
 27 being, the mental health provider shall inform the minor that the consent of the minor's
 28 parent or guardian is required to continue providing behavioral or mental health
 29 services to the minor. The mental health provider shall discontinue behavioral or
 30 mental health services to a minor who does not permit the mental health provider to
 31 obtain the consent of the minor's parent or guardian and notify the minor's parent or

guardian that the services were provided. If the minor permits the mental health provider to obtain the consent of the minor's parent or guardian, the mental health provider shall make reasonable attempts to obtain that consent. The mental health provider shall document each attempt to obtain consent in the minor's clinical record. The mental health provider may continue to provide behavioral or mental health services to the minor without the consent of the minor's parent or guardian if

(1) the mental health provider has made at least two unsuccessful attempts to contact the minor's parent or guardian to obtain consent by mail, electronic mail, or telephone; and

(2) the mental health provider has the written consent of the minor.

(d) If the mental health provider determines that attempting to obtain the consent of the minor's parent or guardian would be detrimental to the minor's well-being, the mental health provider shall document the basis for the determination in the minor's clinical record. The mental health provider may continue to provide behavioral or mental health services to the minor upon the minor's written consent. The mental health provider and the mental health provider's supervisor, if the mental health provider has a supervisor, shall evaluate the determination made under (b) of this section every 60 days until either the mental health provider discontinues providing services to the minor or the minor turns 18 years of age.

(e) A mental health provider may not inform the parent or guardian of a minor receiving behavioral or mental health services under (d) of this section of those services without the written consent of the minor. A mental health provider shall inform a minor before disclosing to the minor's parent or guardian information regarding any behavioral or mental health services provided to the minor. The mental health provider may not disclose the information to the parent or guardian if the minor discontinues the behavioral or mental health services upon being informed of the mental health provider's intent. A mental health provider may deny a minor's parent or guardian access to any part of the minor's clinical record if the mental health provider has compelling reasons for the denial.

(f) The parent or guardian of a minor is relieved of all financial obligation to the provider of a service under this section.

(g) Nothing in this section may be construed to remove liability of the person performing the examination or treatment for failure to meet the standards of care common throughout the health professions in the state or for intentional misconduct.

(f) In this section, "mental health provider" means a behavioral health professional as defined in AS 14.30.174(b) and a mental health professional as defined in AS 47.30.915.

* **Sec. 4.** AS 47.10.084(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 25.20.025 or 25.20.028, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. In this subsection, "major medical treatment" includes the administration of medication used to treat a mental health disorder.

* **Sec. 5.** AS 47.12.150(c) is amended to read:

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 25.20.025 or 25.20.028, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section.

* **Sec. 6.** This Act takes effect January 1, 2026.