EXECUTIVE ORDER NO. 119

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS. As governor, I find that it is in the best interests of efficient administration to divide the Department of Health and Social Services into the Department of Health and the Department of Family and Community Services.

* Sec. 2. AS 08.68.700(g) is amended to read:

(g) In this section,

(1) "determination of death" means observation and assessment that a person is dead, as defined in AS 09.68.120;

(2) "health care facility" means a private, municipal, state, or federal hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center (excluding freestanding hemodialysis units), or intermediate care facility, but does not include the [OR] Alaska Pioneers' Home or Alaska Veterans' Home administered by the Department of Family and Community Services [HEALTH AND SOCIAL SERVICES] under AS 47.55.

* Sec. 3. AS 11.71.100(a) is amended to read:

(a) The Controlled Substances Advisory Committee is established in the Department of Law. The committee consists of

(1) the attorney general or the attorney general's designee;

(2) the commissioner of health [AND SOCIAL SERVICES] or the commissioner's designee;

(3) the commissioner of public safety or the commissioner's designee;

(4) the president of the Board of Pharmacy or the designee of the
president who shall also be a member of the Board of Pharmacy;

(5) a peace officer appointed by the governor after consultation with
the Alaska Association of Chiefs of Police;

(6) a physician appointed by the governor;

(7) a psychiatrist appointed by the governor; [AND]

(8) two individuals appointed by the governor; and

(9) the commissioner of family and community services or the
commissioner's designee.

* Sec. 4. AS 12.62.100(a) is amended to read:

(a) The Criminal Justice Information Advisory Board is established in the
department. The board consists of the following members:

(1) a member of the general public appointed by and serving at the
pleasure of the governor;

(2) a municipal police chief appointed by and serving at the pleasure of
the governor; in making this appointment, the governor shall consult with the Alaska
Association of Chiefs of Police;

(3) the attorney general or the attorney general's designee;

(4) the chief justice of the supreme court or the chief justice's designee;

(5) the commissioner of administration or the commissioner's
designee;

(6) the commissioner of corrections or the commissioner's designee;

(7) the commissioner of health [AND SOCIAL SERVICES] or the
commissioner's designee;

(8) the commissioner of public safety or the commissioner's designee,
who will serve as chair of the board; [AND]

(9) the executive director of the Alaska Judicial Council or the
executive director's designee; and

(10) the commissioner of family and community services or the
commissioner's designee.

* Sec. 5. AS 12.62.400(a) is amended to read:

(a) To obtain a national criminal history record check for determining a
person's qualifications for a license, permit, registration, employment, or position, a
person shall submit the person's fingerprints to the department with the fee established
by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau
of Investigation to obtain a national criminal history record check of the person for the
purpose of evaluating a person's qualifications for

(1) a license or conditional contractor's permit to manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage under AS 04.11;

(2) licensure as a mortgage lender, a mortgage broker, or a mortgage loan originator under AS 06.60;

(3) admission to the Alaska Bar Association under AS 08.08;

(4) licensure as a collection agency operator under AS 08.24;

(5) a certificate of fitness to handle explosives under AS 08.52;

(6) licensure as a massage therapist under AS 08.61;

(7) licensure to practice nursing or certification as a nurse aide under AS 08.68;

(8) certification as a real estate appraiser under AS 08.87;

(9) a position involving supervisory or disciplinary power over a minor or dependent adult for which criminal justice information may be released under AS 12.62.160(b)(9);

(10) a teacher certificate under AS 14.20;

(11) a registration or license to operate a marijuana establishment under AS 17.38;

(12) admittance to a police training program under AS 18.65.230 or for certification as a police officer under AS 18.65.240 if that person's prospective employer does not have access to a criminal justice information system;

(13) licensure as a security guard under AS 18.65.400 - 18.65.490;

(14) a concealed handgun permit under AS 18.65.700 - 18.65.790;

(15) licensure as an insurance producer, managing general agent, reinsurance intermediary broker, reinsurance intermediary manager, surplus lines broker, or independent adjuster under AS 21.27;
(16) serving and executing process issued by a court by a person designated under AS 22.20.130;

(17) a school bus driver license under AS 28.15.046;

(18) licensure as an operator or an instructor for a commercial driver training school under AS 28.17;

(19) registration as a broker-dealer, agent, investment adviser representative, or investment adviser under AS 45.56.300 - 45.56.350;

(20) licensure, license renewal, certification, certification renewal, or payment from the Department of Health [AND SOCIAL SERVICES] of an individual and an entity subject to the requirements for a criminal history check under AS 47.05.310, including:

(A) a public home care provider described in AS 47.05.017;

(B) a provider of home and community-based waiver services financed under AS 47.07.030(c);

(C) a case manager to coordinate community mental health services under AS 47.30.530;

(D) an entity listed in AS 47.32.010(b), including an owner, officer, director, member, partner, employee, volunteer, or contractor of an entity; or

(E) an individual or entity not described in (A) - (D) of this paragraph that is required by statute or regulation to be licensed or certified by the Department of Health [AND SOCIAL SERVICES] or that is eligible to receive payments, in whole or in part, from the Department of Health [AND SOCIAL SERVICES] to provide for the health, safety, and welfare of persons who are served by the programs administered by the Department of Health [AND SOCIAL SERVICES];

(21) licensure, license renewal, certification, or certification renewal by the Department of Family and Community Services of an individual or entity, or a 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 foster homes, child placement agencies, and
runaway shelters listed in AS 47.32.010(c), including an owner, officer, director,
member, partner, employee, volunteer, or contractor of an entity.

* Sec. 6. AS 14.03.078(b) is amended to read:

(b) By December 31 of each year, the department shall provide to the Alaska Mental Health Trust Authority established by AS 44.25.200 [AS 47.30.011] a report on the progress of school districts in the state toward the objective of AS 14.30.278(b), based on performance indicators included in the most current plan submitted by the state to the United States Secretary of Education as required under 20 U.S.C. 1412(a).

* Sec. 7. AS 14.30.610 is amended to read:

Sec. 14.30.610. Governing board. The agency shall be governed by the Governor's Council on Disabilities and Special Education (AS 44.29.600) [(AS 47.80.030)].

* Sec. 8. AS 18.29.110 is amended to read:

Sec. 18.29.110. Employer payments. An employer approved for participation in the program shall make a nonrefundable quarterly payment to the department for the benefit of the employer's health care professional employee. The employer payment may come from any available source, including a philanthropic institution, health foundation, government agency, community organization, or private individual. The payment amount

1. must be equal to the health care professional's program payment amount established by the commissioner;
2. may be adjusted based on the employer's ability to pay, as determined by the commissioner and in consultation with the advisory council; and
3. must include the fee established under AS 44.29.022 or AS 44.30.030 for services provided under this chapter.

* Sec. 9. AS 18.35.301(c) is amended to read:

(c) An individual may not smoke outdoors
1. within 10 feet of playground equipment located at a public or private school or a state or municipal park while children are present;
2. in a seating area for an outdoor arena, stadium, or amphitheater;
3. at a place of employment or health care facility that has declared
the entire campus or outside grounds or property to be smoke-free;
   
   (4) within
   
   (A) 10 feet of an entrance to a bar or restaurant that serves
   alcoholic beverages;
   
   (B) 20 feet of an entrance, open window, or heating or
   ventilation system air intake vent at an enclosed area at a place where smoking
   is prohibited under this section; or
   
   (C) a reasonable distance, as determined by the owner or
   operator, of an entrance, open window, or heating or ventilation system air
   intake vent of
   
   (i) a vessel covered by this section; or
   
   (ii) a long term care facility as defined in AS 44.25.390
   
   [AS 47.62.090].

* Sec. 10. AS 18.35.321(b) is amended to read:

   (b) The program of education under (a) of this section may be provided in
   combination with the comprehensive smoking education, tobacco use prevention, and
   tobacco control program established in AS 44.29.020(a)(12) [AS 44.29.020(a)(14)].

* Sec. 11. AS 18.66.020(a) is amended to read:

   (a) The council consists of
   
   (1) four public members appointed by the governor, one of whom shall
   be from a rural area; the governor may consult with the Alaska Network on Domestic
   Violence and Sexual Assault, a nonprofit corporation, in appointing the public
   members under this paragraph; the Alaska Network on Domestic Violence and Sexual
   Assault shall submit a list to the governor of persons recommended for appointment;
   
   (2) the commissioner of public safety or the designee of the
   commissioner of public safety;
   
   (3) the commissioner of health [AND SOCIAL SERVICES] or the
   designee of the commissioner of health [AND SOCIAL SERVICES];
   
   (4) the commissioner of education and early development or the
   designee of the commissioner of education and early development;
   
   (5) the attorney general or the designee of the attorney general; [AND]
(6) the commissioner of corrections or the designee of the commissioner of corrections; and

(7) the commissioner of family and community services or the designee of the commissioner of family and community services.

* Sec. 12. AS 18.66.400(b) is amended to read:

(b) The membership of a domestic violence fatality review team shall be determined by the commissioner of public safety or the municipality, as appropriate. Membership may include representatives from

(1) law enforcement agencies within the area or municipality;
(2) the district attorney for the area or municipality and municipal prosecutor if created by a municipality;
(3) the office of the chief medical examiner;
(4) the Department of Corrections;
(5) employees of the Department of Health and the Department of Family and Community Services [AND SOCIAL SERVICES] who deal with domestic violence;
(6) local agencies and organizations involved with crime victim and domestic violence protection, reporting, and counseling and assistance;
(7) other organizations, departments, and agencies determined to be appropriate.

* Sec. 13. AS 23.15.095(b) is amended to read:

(b) By December 31 of each year, the commissioner shall provide to the Alaska Mental Health Trust Authority established by AS 44.25.200 [AS 47.30.011] a report on the agency's progress toward the objective under (a) of this section.

* Sec. 14. AS 23.15.550(a) is amended to read:

(a) The Alaska Workforce Investment Board is established in the department. The board consists of the following voting members, not to exceed 26:

(1) the lieutenant governor or the lieutenant governor's designee;
(2) the commissioners of commerce, community, and economic development, education and early development, health [AND SOCIAL SERVICES], and labor and workforce development, or each respective commissioner's designee;
(3) one representative from the University of Alaska;

(4) four additional representatives of education, with one from local public education, one from secondary vocational education, one from a postsecondary vocational education institution, and one from adult basic education;

(5) four representatives of business and industry;

(6) four representatives of organized labor whom the governor shall appoint from lists of nominees submitted by recognized state labor organizations; the governor may reject a list submitted under this paragraph and request that another list be submitted;

(7) at least one representative from an organization representing employment and training needs of Alaska Natives;

(8) at least one representative of a community-based service organization;

(9) at least one representative who has personal or professional experience with developmental disabilities;

(10) at least one veteran; in this paragraph, "veteran" has the meaning given in AS 43.20.048(f);

(11) at least one and up to four additional members of the private sector to ensure a private sector majority and regional and local representation on the board.

* Sec. 15. AS 25.27.125(b) is amended to read:

  (b) The annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 may be used by the legislature to make appropriations [TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES] to carry out the purposes of AS 47.14.100 - 47.14.130 and AS 47.27.

* Sec. 16. AS 26.23.071(b) is amended to read:

  (b) The commission consists of the commissioners of commerce, community, and economic development, environmental conservation, family and community services, fish and game, health [AND SOCIAL SERVICES], labor and workforce development, natural resources, public safety, and transportation and public facilities, or the designees of the commissioners, the adjutant general of the Department of
Military and Veterans' Affairs or a designee, and seven members of the public appointed by the governor, two of whom must be members of a local emergency planning committee for an emergency planning district that is predominantly rural in character and two of whom must be members of a local emergency planning committee for an emergency planning district that is predominantly urban in character. Two of the other three members of the public who are appointed to the commission must be members of the governing body of, or the mayor of, a political subdivision that has a local emergency planning committee or a person who, in the opinion of the governor, is otherwise appropriate to represent the political subdivision. The United States Department of Defense - Alaska Command, the Federal Emergency Management Agency, the United States Environmental Protection Agency, and the United States Coast Guard may each appoint a representative to serve on the commission in an ex-officio, nonvoting capacity. To the extent practicable, the commission must include members with expertise in the emergency response field.

* Sec. 17. AS 37.05.146(c)(77) is amended to read:

(77) the following fees, receipts, income, and monetary recoveries collected by the Department of Health [AND SOCIAL SERVICES]:

(A) receipts of the Department of Health [AND SOCIAL SERVICES], Bureau of Vital Statistics;

(B) monetary recoveries of Medicaid expenditures from recipients, third parties, and providers under AS 47;

(C) the state's share of overpayments collected under AS 47.05.080;

(D) [INCOME RECEIVED FROM A STATE OR FEDERAL AGENCY FOR CHILDREN IN FOSTER CARE UNDER AS 47.14.100;

(E)] fees received or collected under AS 44.29.022 for nursing and planning services provided at health centers, genetic screening clinics and specialty clinics, the certification of x-ray machines, the alcohol safety action program, and other public health programs and services;

(F) [fees received under AS 18.08.080 for the certification of emergency medical technicians, emergency medical dispatchers, and
emergency medical technician instructors;

(G) fees received under AS 47.32;

(G) the state's share of child support collections for reimbursement of the cost of the Alaska temporary assistance program as provided under AS 25.27.120, 25.27.130, and AS 47.27.040; and

(H) monetary recoveries under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act);

*Sec. 18.* AS 37.05.146(c) is amended by adding a paragraph to read:

(80) the following fees, receipts, income, and monetary recoveries collected by the Department of Family and Community Services:

(A) income received from a state or federal agency for children in foster care under AS 47.14.100;

(B) fees received under AS 47.32.

*Sec. 19.* AS 37.05.580(a) is amended to read:

(a) There is created as a special account in the general fund the tobacco use education and cessation fund into which shall be deposited 20 percent annually of the revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated, et al, No. 1JU-97-915 CI (Alaska Super. 1997). The purpose of the tobacco use education and cessation fund is to provide a source to finance the comprehensive smoking education, tobacco use prevention, and tobacco control program authorized by [AS 44.29.020(12)] [AS 44.29.020(a)(14)].

*Sec. 20.* AS 37.05.580(b) is amended to read:

(b) The legislature may make appropriations from the tobacco use education and cessation fund for the comprehensive smoking education, tobacco use prevention, and tobacco control program established under [AS 44.29.020(12)] [AS 44.29.020(a)(14)].

*Sec. 21.* AS 37.14.001 is amended to read:

Sec. 37.14.001. Mental health trust. In carrying out its trust obligations under the Mental Health Enabling Act of 1956, the state acts through the governor, the legislature, and the Alaska Mental Health Trust Authority [AS 44.25.200] [(AS 47.30.011)].
* Sec. 22. AS 37.14.007(a) is amended to read:

(a) The Alaska Mental Health Trust Authority, established by AS 44.25.200 [AS 47.30.011], is the trustee of the trust established under the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

* Sec. 23. AS 37.14.099(1) is amended to read:

(1) "authority" means the Alaska Mental Health Trust Authority established under AS 44.25.200 [AS 47.30.011];

* Sec. 24. AS 39.25.110(34) is amended to read:

(34) the chief executive officer and employees of the Alaska Mental Health Trust Authority employed under AS 44.25.230(b) [AS 47.30.026(b)];

* Sec. 25. AS 39.50.200(b)(62) is amended to read:

(62) the Board of Trustees of the Alaska Mental Health Trust Authority AS 44.25.210 (AS 47.30.016);

* Sec. 26. AS 43.61.010(f) is amended to read:

(f) The marijuana education and treatment fund is established in the general fund. In addition to the accounting under (c) of this section, the Department of Administration shall separately account for 25 percent of the tax collected under this section and deposit it into the marijuana education and treatment fund. The Department of Administration shall deposit interest earned on the fund into the general fund. Money in the fund does not lapse. The legislature may use the annual estimated balance in the fund to make appropriations to the Department of Health [AND SOCIAL SERVICES] for the comprehensive marijuana use education and treatment program established under AS 44.29.020(a)(14) [AS 44.29.020(a)(17)].

* Sec. 27. AS 44.17.005 is amended to read:

Sec. 44.17.005. Offices and departments. There are in the state government the following principal offices and departments:

(1) Office of the Governor
(2) Department of Administration
(3) Department of Law
(4) Department of Revenue
(5) Department of Education and Early Development
(6) Department of Health [AND SOCIAL SERVICES]
(7) Department of Labor and Workforce Development
(8) Department of Commerce, Community, and Economic Development
(9) Department of Military and Veterans' Affairs
(10) Department of Natural Resources
(11) Department of Fish and Game
(12) Department of Public Safety
(13) Department of Transportation and Public Facilities
(14) Department of Environmental Conservation
(15) Department of Corrections
(16) Department of Family and Community Services.

* Sec. 28. AS 44.25 is amended by adding new sections to read:

Article 4. Alaska Mental Health Trust Authority.

Sec. 44.25.200. Alaska Mental Health Trust Authority. (a) The Alaska Mental Health Trust Authority is established as a public corporation of the state within the Department of Revenue.

(b) The purpose of the authority is to ensure an integrated comprehensive mental health program and to administer the office of the long term care ombudsman established in AS 44.25.300.

(c) The authority

(1) shall, as provided in AS 37.14.009, administer the trust established under the Alaska Mental Health Enabling Act of 1956;

(2) may sue and be sued;

(3) may retain the services of independent counsel when, in the judgment of the authority's board of trustees, independent counsel is needed;

(4) shall insure or indemnify and protect the board, a member of the board, or an agent or employee of the authority against financial loss and expense, including reasonable legal fees and costs, arising out of a claim, demand, suit, or judgment by reason of alleged negligence, alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to a person or accidental damage to or
destruction of property if the board member, agent, or employee, at the time of the occurrence, was acting under the direction of the authority within the course or scope of the duties of the board member, agent, or employee;

(5) shall exercise the powers granted to it under AS 37.14.041, subject to the limitations imposed by AS 37.14.045; and

(6) shall administer the office of the long term care ombudsman established in AS 44.25.300.

(d) The provisions of AS 44.62.330 - 44.62.630 do not apply to the Alaska Mental Health Trust Authority.

Sec. 44.25.210. Board establishment, membership, quorum, fees, and expenses. (a) The authority shall be governed by its board of trustees.

(b) The board consists of seven members appointed by the governor and confirmed by the legislature. The members appointed under this subsection shall be appointed

(1) based upon their ability in financial management and investment, in land management, or in services for the beneficiaries of the trust;

(2) after the governor has considered a list of persons prepared by a panel of six persons who are beneficiaries, or who are the guardians, family members, or representatives of beneficiaries; the panel shall consist of

(A) one person selected by the Alaska Mental Health Board established by AS 44.29.800;

(B) one person selected by the Governor's Council on Disabilities and Special Education established by AS 44.29.600;

(C) one person selected by the Advisory Board on Alcoholism and Drug Abuse established by AS 44.29.100;

(D) one person selected by the Alaska Commission on Aging established by AS 47.45.200;

(E) one person selected by the Alaska Native Health Board;

and

(F) one person selected by the authority.

(c) A member of the board appointed by the governor under (b) of this section
may not

(1) be an officer or employee of the state; or

(2) within the preceding two years or during the member's term of office have an interest in, served on the governing board of, or been employed by an organization that has received, during that same period, money from the mental health trust settlement income account under a grant or contract for services.

(d) A quorum of the board is four members.

(e) A member of the board is entitled to

(1) an honorarium of $200 for each day or any part of a day spent at a meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the board; and

(2) per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

Sec. 44.25.220. Term of office, vacancies, removal, and reappointment. (a) The members of the board serve staggered five-year terms. A member shall continue to serve until the member's successor is appointed and confirmed.

(b) A vacancy occurring in the membership of the board shall be filled within 60 days by appointment of the governor for the unexpired portion of the vacated term.

(c) The governor may remove a member of the board only for cause, including incompetence, neglect of duty, misconduct in office, poor attendance, or lack of contribution to the board's work. A member being removed for cause shall be given a copy of the charges and afforded an opportunity to publicly present a defense in person or by counsel upon not less than 10 days' written notice. If a member is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the member and the governor's findings based on the charges, together with a complete record of the proceedings. The removal of a member for cause constitutes a final administrative order. A member seeking to appeal the governor's removal of a member for cause under this subsection shall file a notice of appeal with the superior court under AS 44.62.560.

(d) Except for a trustee who has served two consecutive five-year terms, a member of the board may be reappointed. A member of the board who has served two
consecutive five-year terms is not eligible for reappointment to the board until one year has intervened.

Sec. 44.25.230. Officers and staff. (a) The board shall annually elect a presiding officer and other officers it considers necessary from among its membership.

(b) The board shall employ a chief executive officer who shall be selected by the board. The chief executive officer shall be compensated at no less than range 26 of the pay plan for state employees under AS 39.27.011(a). The chief executive officer may

(1) hire additional employees;

(2) appoint hearing officers to perform the responsibilities set out in AS 47.30.031(b)(4); and

(3) contract for the services of consultants and others.

(c) The chief executive officer is directly responsible to the board.

(d) The chief executive officer and employees hired under this section are in the exempt service under AS 39.25.110.

Sec. 44.25.240. Regulations. (a) The board shall adopt regulations under AS 44.62 (Administrative Procedure Act) consistent with state law and the fiduciary responsibilities imposed by law on members of boards of directors of corporations having trust responsibilities.

(b) The regulations shall address, but are not limited to,

(1) the requirements of AS 44.25.290(h) and (j);

(2) procedures by which an aggrieved person or group who believe they have not received services that should be provided from the trust may apply to the authority for redress;

(3) provisions that allow and encourage entities providing trust funded services to integrate those services with other community human services funded by other sources;

(4) administrative adjudication procedures, including but not limited to

(A) the acceptance of applications under (3) of this subsection;

(B) investigations;

(C) hearings; and
(D) the issuance of administrative orders, as necessary;

(5) provisions that establish a process for long-range planning for expenditures from the mental health trust settlement income account; and

(6) criteria for determining the nature and extent of necessary services and related expenses to be funded by the trust.

Sec. 44.25.250. Duties of the board. The board shall

(1) preserve and protect the trust corpus under AS 37.14.009;

(2) coordinate with other state agencies involved with programs affecting persons in need of mental health services;

(3) review and consider the recommendations submitted under AS 44.29.140(a)(2), AS 44.29.850(6), AS 47.45.240(a)(8), and AS 44.29.660(13);

(4) adopt bylaws governing its meetings, selection of officers, proceedings, and other aspects of board procedure;

(5) make an annual written report of its activities to the governor and the public and notify the legislature that the report is available; and

(6) fulfill its obligations under AS 44.25.270.

Sec. 44.25.260. Board advisors. The commissioners of health, family and community services, natural resources, and revenue, or their respective designees, are advisors to the board.

Sec. 44.25.270. Budget recommendations; reports. (a) The board shall annually, not later than September 15, submit to the governor and the Legislative Budget and Audit Committee a budget for the next fiscal year and a proposed plan of implementation based on the integrated comprehensive mental health program plan prepared under AS 47.30.660(a)(1). The budget must include the authority's determination of the amount

(1) recommended for expenditure from the general fund during the next fiscal year to meet the operating and capital expenses of the integrated comprehensive mental health program;

(2) in the mental health trust settlement income account, if any, that is not reasonably necessary to meet the projected operating and capital expenses of the integrated comprehensive mental health program that may be transferred into the
general fund; and

(3) of the expenditures the authority intends to make under AS 37.14.041 and 37.14.045, including the specific purposes and amounts of any grants or contracts as part of the state's integrated comprehensive mental health program.

(b) When the authority submits its proposed budget under (a) of this section, the authority shall also provide a report to the Legislative Budget and Audit Committee, the governor, the Office of Management and Budget, the commissioner of health, and all entities providing services with money in the mental health trust settlement income account, and shall make it available to the public. The report must describe at least the following:

(1) the assets, earnings, and expenditures of the trust as of the end of the preceding fiscal year;

(2) comparisons of the trust's assets, earnings, and expenditures with the prior five fiscal years;

(3) projections of the trust's assets, earnings, and expenditures for the next five fiscal years;

(4) the authority's budget recommendations submitted under (a) of this section, and its reasons for making those recommendations;

(5) the authority's guidelines for the establishment of services; the provision of services shall be based on the principle that services paid for from the trust are provided to recipients as close to the recipient's home and family as practical with due consideration of demographics, mental health service requirements, use of mental health services, economic feasibility, and capital expenditures required for provision of minimum levels of service;

(6) forecasts of the number of persons needing services;

(7) projections of the resources required to provide the necessary services and facilities; and

(8) reviews of the status of the integrated comprehensive mental health program, including evaluation of program goals, objectives, targets and timelines, and overall effectiveness.

New Text Underlined [DELETED TEXT BRACKETED]
Sec. 44.25.280. Submissions requiring use of trust money. An agency or entity proposing an expenditure of money by the trust shall present its proposal to the authority under regulations adopted under AS 44.25.240.

Sec. 44.25.290. Use of money in the mental health trust settlement income account. (a) The money in the mental health trust settlement income account established in AS 37.14.036 shall be used as provided in AS 37.14.041, including to

(1) provide an integrated comprehensive mental health program as required by this section;

(2) meet the authority’s annual administrative expenses; and

(3) offset the effect of inflation on the mental health trust fund.

(b) Expenditures under (a)(1) of this section must provide for a reasonable level of necessary services to persons who

(1) are mentally ill;

(2) have an intellectual disability, a developmental disability, or both;

(3) are chronic alcoholics suffering from psychoses;

(4) as a result of senility, suffer major mental illness; and

(5) need mental health services, as the legislature may determine.

(c) The integrated comprehensive mental health program for which expenditures are made under this section

(1) must give priority in service delivery to persons who, as a result of a mental disorder or of a disorder identified in (b) of this section,

   (A) may require or are at risk of hospitalization; or

   (B) experience such major impairment of self-care, self-direction, or social and economic functioning that they require continuing or intensive services;

(2) may, at the discretion of the board, include services to persons who are not included under (b) or (c)(1) of this section.

(d) In (b)(1) of this section,"the mentally ill" includes persons with the following mental disorders:

(1) schizophrenia;

(2) delusional (paranoid) disorder;
(3) mood disorders;
(4) anxiety disorders;
(5) somatoform disorders;
(6) organic mental disorders;
(7) personality disorders;
(8) dissociative disorders;
(9) other psychotic or severe and persistent mental disorders manifested by behavioral changes and symptoms of comparable severity to those manifested by persons with mental disorders listed in this subsection; and
(10) persons who have been diagnosed by a licensed psychologist, psychiatrist, or physician licensed to practice medicine in the state and, as a result of the diagnosis, have been determined to have a childhood disorder manifested by behaviors or symptoms suggesting risk of developing a mental disorder listed in this subsection.

(e) In (b)(2) of this section,"persons who have an intellectual disability, developmental disability, or both" includes persons with the following neurologic or mental disorders:

(1) cerebral palsy;
(2) epilepsy;
(3) autistic disorder;
(4) severe organic brain impairment;
(5) significant developmental delay during early childhood indicating risk of developing a disorder listed in this subsection;
(6) other severe and persistent intellectual disability or developmental disability manifested by behaviors and symptoms similar to those manifested by persons with disorders listed in this subsection.

(f) In (b)(3) of this section,"chronic alcoholics suffering from psychoses" includes persons with the following disorders:

(1) alcohol withdrawal delirium (delirium tremens);
(2) alcohol hallucinosis;
(3) alcohol amnestic disorder;
(4) dementia associated with alcoholism;
(5) alcohol-induced organic mental disorder;
(6) alcoholic depressive disorder;
(7) other severe and persistent disorders associated with a history of prolonged or excessive drinking or episodes of drinking out of control and manifested by behavioral changes and symptoms similar to those manifested by persons with disorders listed in this subsection.

(g) In (b)(4) of this section,"persons who, as a result of senility, suffer major mental illness" includes persons with the following mental disorders:
   (1) primary degenerative dementia of the Alzheimer type;
   (2) multi-infarct dementia;
   (3) senile dementia;
   (4) presenile dementia;
   (5) other severe and persistent mental disorders manifested by behaviors and symptoms similar to those manifested by persons with disorders listed in this subsection.

(h) The authority shall adopt regulations defining the disorders identified in this section to reflect revisions in the diagnostic nomenclature of the health professions serving the beneficiaries of the trust. The authority shall review and revise the regulations as necessary. Regulations adopted under this subsection must be in the long term best interest of the trust and of persons with disorders equivalent to those identified in (b) and (c) of this section.

(i) In this section,"an integrated comprehensive mental health program" means public health programs and services that, on December 16, 1994, are separately recognizable and administered, without regard to the administrative unit directly responsible for the delivery of the service; among the services included are services for the mentally ill, community mental health services, services for the developmentally disabled, alcoholism services, and services for children, youth, adults, and seniors with mental disorders;

(2) includes, at a minimum, each of the following services as appropriate:
(A) emergency services on a 24-hour basis;

(B) screening examination and evaluation services required to complete the involuntary commitment process under AS 47.30.700 - 47.30.815;

(C) inpatient care;

(D) crisis stabilization services, which may include
   (i) active community outreach;
   (ii) in-hospital contact;
   (iii) mobile crisis teams of mental health professionals;
   (iv) crisis beds to provide a short term residential program for persons experiencing an acute episode of mental illness that requires temporary removal from a home environment;

(E) treatment services, which may include
   (i) diagnosis, testing, and evaluation of medical needs;
   (ii) medication monitoring;
   (iii) physical examinations;
   (iv) dispensing psychotropic and other medication;
   (v) detoxification;
   (vi) individual or group therapy;
   (vii) aftercare;

(F) case management, which may include
   (i) evaluation of needs;
   (ii) development of individualized treatment plans;
   (iii) enhancement of access to available resources and programs;
   (iv) development of interagency contacts and family involvement;
   (v) advocacy;

(G) daily structure and support, which may include
   (i) daily living skills training;
   (ii) socialization activities;
(iii) recreation;
(iv) transportation;
(v) day care services;
(vi) client and care provider education and support services;

(H) residential services, which may include
(i) crisis or respite care;
(ii) board and care;
(iii) foster care, group homes, halfway houses, or supervised apartments;
(iv) intermediate care facilities;
(v) long-term care facilities;
(vi) in-home care;

(I) vocational services, which may include
(i) prevocational services;
(ii) work adjustment;
(iii) supported work;
(iv) sheltered work;
(v) training in which participants achieve useful work experience;

(J) outpatient screening, diagnosis, and treatment services, including individual, family, and group psychotherapy, counseling, and referral;

(K) prevention and education services, including consultation with organizations, providers, and the public; and

(L) administrative services, including appropriate operating expenses of state agencies and other service providers.

(j) The authority shall adopt regulations regarding the services described in (i) of this section to reflect advances in the appropriate professions. The authority shall review and revise the regulations as necessary. Regulations adopted under this subsection must be in the long term best interest of the mental health trust.
Sec. 44.25.295. Definitions. In AS 44.25.200 - 44.25.295,

(1) "authority" means the Alaska Mental Health Trust Authority established by AS 44.25.200;

(2) "board" means the board of trustees of the authority;

(3) "trust" means the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

Article 5. Office of the Long Term Care Ombudsman

Sec. 44.25.300. Office established. (a) The office of the long term care ombudsman is established in the Alaska Mental Health Trust Authority (AS 44.25.200).

(b) The ombudsman shall be hired by the authority. A member of the authority who has a financial interest in a long term care facility in the state, or who has any other conflict of interest, may not participate in the hiring of the ombudsman. The ombudsman is a full-time position in the classified service. The ombudsman shall be compensated at no less than Range 21 of the pay plan for state employees under AS 39.27.011.

(c) The ombudsman may not have a financial interest in a long term care facility in the state. The authority shall adopt regulations to ensure that the ombudsman, and employees and volunteers of the office, do not have a conflict of interest or an appearance of a conflict of interest.

Sec. 44.25.310. Duties and powers of the long term care ombudsman. (a) The ombudsman shall investigate and resolve a complaint made by or on behalf of an older Alaskan who resides in a long term care facility in the state if the complaint relates to a decision, action, or failure to act by a provider or a representative of a provider of long term care services, or by a public agency or social services agency, that may adversely affect the health, safety, welfare, or rights of the older Alaskan. At the discretion of the ombudsman, the ombudsman may investigate and resolve a complaint made by or on behalf of a resident who is not an older Alaskan if the complaint relates to a decision, action, or failure to act by a provider or a representative of a provider of long term care services, or by a public agency or social services agency, that may adversely affect the health, safety, welfare, or rights of the
resident.

(b) The ombudsman may investigate and resolve a complaint made by or on behalf of an older Alaskan relating to the long term care or residential circumstances of the older Alaskan. Complaints under this subsection may relate to any issue not covered under (a) of this section, including the older Alaskan's landlord, senior citizen housing, a public assistance program, a public grant program for services to older Alaskans, public utilities, health care facilities, and health care providers.

(c) The ombudsman may

(1) subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with a complaint described under (a) of this section; the powers described in this paragraph shall be enforced by the superior court;

(2) pursue administrative, legal, or other appropriate remedies on behalf of a resident of a long term care facility in the state.

Sec. 44.25.320. Training and certification of staff. (a) The ombudsman shall provide for the training and certification of office staff, including volunteers and other representatives of the office. Training must include instruction in federal, state, and local laws and policies relating to long term care facilities in the state, and in investigative techniques. The ombudsman may require other appropriate training. The ombudsman may decertify a person under this section for good cause in accordance with regulations adopted by the authority.

(b) An employee, volunteer, or other representative of the office may not investigate a complaint under AS 44.25.310 unless certified as having completed training under this section and approved by the ombudsman as qualified to investigate the complaint.

Sec. 44.25.330. Access to long term care facilities, residents, and records. (a) A person may not deny access to a long term care facility or to a resident of a long term care facility by the ombudsman or an employee, volunteer, or other representative of the office.

(b) Notwithstanding the provisions of AS 44.25.310(c)(1), the ombudsman may obtain medical or other records of a resident of a long term care facility in the
state only with the consent of the resident or the person's resident representative or legal guardian or, if the resident is unable or incompetent to consent and does not have a resident representative, only with a subpoena or court order.

Sec. 44.25.340. Confidentiality. (a) Records obtained or maintained by the ombudsman are confidential, are not subject to inspection or copying under AS 40.25.110 - 40.25.120 and, except as provided in (b) of this section, may be disclosed only at the discretion of the ombudsman.

(b) The identity of a complainant or an older Alaskan or resident of a long term care facility on whose behalf a complaint is made may only be disclosed with the consent of the identified person or the person's legal guardian or resident representative or by court order. However, if an older Alaskan is unable to provide consent and does not have a legal guardian, or if a resident of a long term care facility is unable to provide consent and does not have a resident representative, the ombudsman may disclose the identity of an identified person for the purpose of making a referral to an agency or person, if the ombudsman or an employee or volunteer of the office

(1) has reasonable cause to believe that an action, inaction, or decision, including an action, inaction, or decision by a resident representative or a legal guardian of an older Alaskan, may adversely affect the health, safety, welfare, or rights of the older Alaskan or resident;

(2) has reasonable cause to believe the referral is in the best interest of the older Alaskan or resident;

(3) obtains the approval of the ombudsman for the disclosure and referral; and

(4) does not have evidence that the older Alaskan or resident would disagree with the referral.

Sec. 44.25.350. Immunity from liability. (a) A person who, in good faith, makes a complaint described in AS 44.25.310 is immune from civil or criminal liability that might otherwise exist for making the complaint.

(b) The ombudsman, or an employee, volunteer, or other representative of the office, is immune from civil or criminal liability for the good faith performance of
official duties.

Sec. 44.25.360. Interference with the long term care ombudsman and retaliation prohibited. (a) A person may not intentionally interfere with the ombudsman, or an employee, volunteer, or representative of the office, in the performance of official duties under AS 44.25.310.

(b) If a person makes a good faith complaint described in AS 44.25.310, an employer or supervisor of the person, or a public or private agency or entity that provides benefits, services, or housing to the person, may not discharge, demote, transfer, reduce the pay or benefits or work privileges of, prepare a negative work performance evaluation of, deny or withhold benefits or services, evict, or take other detrimental action against the person because of the complaint. The person making the complaint may bring a civil action for compensatory and punitive damages against an employer, supervisor, agency, or entity that violates this subsection. In the civil action there is a rebuttable presumption that the detrimental action was retaliatory if it was taken within 90 days after the complaint was made.

(c) A person who violates this section is guilty of a class B misdemeanor.

Sec. 44.25.370. Legal counsel for the long term care ombudsman. The attorney general shall provide legal advice and representation in connection with any matter relating to the powers, duties, and operation of the office, and in any legal action brought against the ombudsman or an employee, volunteer, or other representative of the office. If the attorney general cannot provide legal advice or representation because of a conflict of interest, the ombudsman may employ private legal counsel.

Sec. 44.25.380. Cooperative agreements. The authority shall enter into cooperative agreements concerning the operations of the office, including protocols for investigations, with state and local agencies that have jurisdiction over long term care facilities or over the abuse and neglect of older Alaskans or residents of long term care facilities.

Sec. 44.25.390. Definitions. In AS 44.25.300 - 44.25.390,

(1) "authority" means the Alaska Mental Health Trust Authority established in AS 44.25.200;
(2) "long term care facility" means an assisted living home, as defined in AS 47.32.900, and a nursing facility, as defined in AS 47.32.900;

(3) "office" means the office of the long term care ombudsman;

(4) "older Alaskan" means a person who is 60 years of age or older and who resides in the state;

(5) "ombudsman" means the long term care ombudsman hired under AS 44.25.300;

(6) "resident" means a person who resides in a long term care facility in the state;

(7) "resident representative" means

(A) an individual chosen by a resident to act on behalf of the resident to

(i) support the resident in decision making;

(ii) access medical, social, or other personal information of the resident;

(iii) manage financial matters; or

(iv) receive notifications;

(B) a person authorized by federal or state law to act on behalf of a resident.

(8) "senior citizen housing" has the meaning given "senior housing" in AS 18.56.799.

* Sec. 29. AS 44.29.020 is amended to read:

Sec. 44.29.020. Duties of department. (a) The Department of Health [AND SOCIAL SERVICES] shall administer the state programs of public health and public assistance [SOCIAL SERVICES], including

(1) maternal and child health services;
(2) preventive medical services;
(3) public health nursing services;
(4) nutrition services;
(5) health education;
(6) laboratories;
(7) mental health treatment and diagnosis, except for mental health treatment and diagnosis under AS 47.30.670 - 47.30.915:

(8) [MANAGEMENT OF STATE INSTITUTIONS, EXCEPT FOR ADULT PENAL INSTITUTIONS;

(9)] medical facilities;

(9) [(10)] adult public assistance;

(10) [(11)] the Alaska temporary assistance program;

(11) [(12)] [CHILD WELFARE SERVICES;

(13)] general relief;

(12) [(14)] a comprehensive smoking education, tobacco use prevention, and tobacco control program; to the maximum extent possible, the department shall administer the program required under this paragraph by grant to or contract with one or more organizations in the state; the department's program must include

(A) a community-based tobacco use prevention and cessation component addressing the needs of youth and adults that includes use of cessation aids such as a nicotine patch or a nicotine gum tobacco substitute;

(B) youth-based efforts that involve youth in the design and implementation of tobacco control efforts;

(C) anti-tobacco counter-marketing targeting both youth and adult populations designed to communicate messages to help prevent youth initiation of tobacco use, promote cessation among tobacco users, and educate the public about the lethal effects of exposure to secondhand smoke;

(D) tobacco use surveys of youth and adult populations concerning knowledge, awareness, attitude, and use of tobacco products; and

(E) an enforcement component;

(13) [(15)] THE ALASKA PIONEERS' HOME AND THE ALASKA VETERANS' HOME;

(16)] licensure and regulation of all [CHILD CARE] facilities requiring a license under AS 47.32.010(b):

(14) [(17)] a comprehensive marijuana use education and treatment
program; to the extent possible, the department shall administer the program required under this paragraph by grant to or contract with one or more organizations in the state; the department's program must include

(A) a community-based marijuana misuse prevention component; the community-based component must provide for a youth services grant program to

(i) reduce initiation and promote cessation of marijuana use by youth, reduce youth access to marijuana products, and reduce exposure of youth to impaired driving dangers related to marijuana use;

(ii) provide recreational, educational, and character-building programs for youth outside school hours; and

(iii) address marijuana use prevention through outcome-based curricula, adult and peer mentoring, and opportunities for positive, prosocial leisure and recreational activities;

(B) marijuana public education designed to communicate messages to help prevent youth initiation of marijuana use, educate the public about the effects of marijuana use, and educate the public about marijuana laws;

(C) surveys of

(i) youth and adult populations concerning knowledge, awareness, attitude, and use of marijuana products;

(ii) the need for trained professionals working in organizations described in this paragraph;

(D) the development of plans to address the need for trained professionals and to assist in implementing a training program for those professionals;

(E) monitoring of population health status related to the consequences of marijuana use; and

(F) substance abuse screening, brief intervention, and referral to treatment.

*Sec. 30.* AS 44.29.022(a) is amended to read:
(a) The commissioner of health [AND SOCIAL SERVICES] may establish by regulation a schedule of reasonable fees for services provided by the Department of Health [AND SOCIAL SERVICES] under AS 44.29.020(a)(1) - (7) and (12), for services provided under [AS 44.29.020(a)(1) (8) AND (14), AS 47.10, AS 47.12, AS 47.14, AS 47.30.655 - 47.30.910, AND] AS 47.80.100 - 47.80.170 and for the administration of public health programs under AS 18. The fee established for a service may not exceed the actual cost of providing the service. The commissioner may define or establish the "actual cost of providing a service" by regulation. The Department of Health [AND SOCIAL SERVICES] shall charge and collect the fees established under this subsection. The department may waive collection of a fee upon a finding that collection is not economically feasible or in the public interest.

* Sec. 31. AS 44.29.022(d) is amended to read:

(d) A regulation that establishes a fee for services under AS 44.29.020(a)(7) that are part of the integrated comprehensive mental health program under AS 47.30.470 – 47.30.620 [AS 47.30] may be adopted under this section after consultation with the Alaska Mental Health Trust Authority.

* Sec. 32. AS 44.29.022(e) is amended to read:

(e) The commissioner of health [AND SOCIAL SERVICES] shall consult with stakeholders regarding the reasonableness of fees when developing a schedule of reasonable fees under (a) of this section for services under AS 44.29.020(a)(12) [AS 44.29.020(a)(14)] or programs under AS 18 for which there is no regulation in effect establishing a schedule of reasonable fees. The consultation must include at least one public meeting and must occur before the commissioner provides notice of proposed action under AS 44.62.190. The commissioner shall provide notice of the public meeting at least 30 days before the meeting in the same manner as required under AS 44.62.190(a) for a notice of proposed action.

* Sec. 33. AS 44.29.024(c) is amended to read:

(c) A regulation that establishes a schedule of reasonable fees for services provided by a contractor or grantee that are part of the integrated comprehensive mental health program established under AS 47.30.470 – 47.30.620 [AS 47.30] may be adopted under this section after consultation with the Alaska Mental Health Trust
* Sec. 34. AS 44.29.140(a) is amended to read:

(a) The board shall

(1) act in an advisory capacity to the legislature, the governor, and state agencies in the following matters:

(A) special problems affecting mental health that alcoholism or drug abuse may present;

(B) educational research and public informational activities in respect to the problems presented by alcoholism or drug abuse;

(C) social problems that affect rehabilitation of alcoholics and drug abusers;

(D) legal processes that affect the treatment and rehabilitation of alcoholics and drug abusers;

(E) development of programs of prevention, treatment, and rehabilitation for alcoholics and drug abusers; and

(F) evaluation of effectiveness of alcoholism and drug abuse programs in the state;

(2) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive mental health program for the people who are described in AS 44.25.290(b)(3) [AS 47.30.056(b)(3)], and concerning the use of money in the mental health trust settlement income account in a manner consistent with regulations adopted under AS 44.25.240 [AS 47.30.031].

* Sec. 35. AS 44.29 is amended by adding new sections to read:

Article 8. Governor's Council on Disabilities and Special Education

Sec. 44.29.600. Governor's council on disabilities and special education.

There is established the Governor's Council on Disabilities and Special Education. For budgetary purposes, the council is located within the Department of Health but is the interdepartmental planning and coordinating agency of the Department of Health, the Department of Education and Early Development, and other departments that deliver services to persons who are experiencing a disability. In addition, except as provided
in AS 44.29.700 - 44.29.730, the council is the state planning council and interagency coordinating council for purposes of federal laws relating to persons who are experiencing a disability.

Sec. 44.29.610. Composition. (a) The council consists of no fewer than 18 nor more than 26 members appointed by the governor in a manner that satisfies the requirements for a state interagency coordinating council under 20 U.S.C. 1482 and a state planning council under 42 U.S.C. 6024.

(b) In the appointment of all members other than state agency members, due regard shall be given to geographically balanced representation of areas of the state and to representation of persons with a variety of different mental and physical disabilities.

Sec. 44.29.620. Term of office. (a) Council members serve staggered terms of three years.

(b) A vacancy occurring in the membership of the council shall be filled by appointment of the governor for the unexpired portion of the vacated term.

(c) Council members serve at the pleasure of the governor, notwithstanding their terms of office.

(d) It is the legislative intent that the governor replace any member who, by poor attendance or lack of contribution to the council's work, demonstrates ineffectiveness as a council member.

Sec. 44.29.630. Compensation; per diem. Members of the council receive no salary but are entitled to per diem and reimbursement for travel and other expenses as authorized by law for boards.

Sec. 44.29.640. Officers and staff. (a) The council, by a majority of its membership, shall elect a chairman and other officers it considers necessary from among its membership, to serve on a yearly basis.

(b) The council shall have a paid staff provided by the department, including an executive director selected by the council. The executive director is in the partially exempt service and may hire additional employees in the classified service of the state. The department shall provide for the assignment of personnel to the council to ensure that the council has the capacity to fulfill its responsibilities. The personnel shall be
directly responsible to the council for performance of their duties.

Sec. 44.29.650. Bylaws. The council, on approval of a majority of its membership, shall adopt and amend bylaws governing its composition, proceedings and other activities consistent with AS 44.29.610 - 44.29.670 and including, but not limited to, provisions concerning a quorum to transact council business and other aspects of procedure, frequency and location of meetings, and establishment, functions and membership of council committees.

Sec. 44.29.660. Responsibilities. The council shall

(1) serve as a forum by which issues and benefits regarding current and potential services to disabled persons may be discussed by consumer, public, private, professional, and lay interests;

(2) advocate the needs of disabled persons before the executive and legislative branches of the state government and before the public;

(3) advise the executive and legislative branches of the state government and the private sector on programs and policies pertaining to current and potential services to disabled persons and their families;

(4) submit periodic reports to the commissioner of health, the commissioner of education and early development, and to other appropriate departments, on the effects of current federal and state programs regarding services to disabled persons; these reports must include program performance reports to the governor, the federal government, and state agencies as required under 20 U.S.C. 1482 and 42 U.S.C. 15025;

(5) in conjunction with the Departments of Health and Education and Early Development, develop, prepare, adopt, periodically review, and revise as necessary an annual state plan prescribing programs that meet the needs of persons with developmental disabilities as required under 42 U.S.C. 15024;

(6) review and comment to commissioners of state departments on all state plans and proposed regulations relating to programs for persons who are experiencing disabilities before the adoption of a plan or regulation; for this purpose, the appropriate departments shall submit the plans and proposed regulations to the council;
(7) recommend the priorities and specifications for the use of funds received by the state under 20 U.S.C. 1471 - 1482 and 42 U.S.C. 15001 - 15083;

(8) submit annually to the commissioner of health, the commissioner of education and early development, and the commissioner of commerce, community, and economic development a proposed interdepartmental program budget for services to disabled persons that includes, insofar as possible, projected revenues and expenditures for programs implemented by state agencies, local governmental agencies, and private organizations; the interdepartmental program budget is an informational supplement to the regular annual budgetary submissions of the departments to the Office of the Governor;

(9) provide information and guidance for the development of appropriate special educational programs and services for a child with a disability as defined in AS 14.30.350;

(10) monitor and evaluate budgets or other implementation plans and programs for disabled persons to assure nonduplication of services and encourage efficient and coordinated use of federal, state, and private resources in the provision of services; members of the council, with the approval of the council, have access to information in the possession of state agencies subject to disclosure restrictions imposed by state or federal confidentiality or privacy laws;

(11) perform other duties required under applicable federal laws or AS 14.30.231 and as the governor may assign;

(12) govern the special education service agency and may hire personnel necessary to operate the agency; and

(13) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive mental health program for the people of the state who are described in AS 44.25.290(b)(2) and the use of the money in the mental health trust settlement income account in a manner consistent with regulations adopted under AS 44.25.240.

Sec. 44.29.670. Legislative findings related to persons with disabilities; policy. (a) The legislature finds that

(1) self-direction and autonomy enhance quality of life, support
independence, build self-confidence, and generate skills that help people protect
themselves from abuse;

(2) the people of the state share a vision of a flexible system of support
for persons with physical and mental disabilities that allows persons with physical and
mental disabilities to participate actively, with assistance based on each person's
strengths and abilities, in managing their own support services so that all persons with
physical and mental disabilities can achieve a meaningful life in their homes, jobs, and
communities; and

(3) as a part of this vision, professional staff and support services
should be made available to families of persons with physical and mental disabilities
throughout the state now and into the future.

(b) It is the policy of the state that the department and the legislature consider
the vision of support services described in (a) of this section when determining the
need for new and existing services for persons with physical and mental disabilities
and establishing priorities among those needs. It is also the policy of the state to
encourage and enable persons with physical and mental disabilities to participate fully
in the social and economic life of the state.

(c) Nothing in this section

(1) creates a right;

(2) supersedes another law relating to eligibility for programs for
persons with physical or mental disabilities; or

(3) authorizes the department to apply for a waiver under 42 U.S.C.
1396n(j) to provide medical assistance payments for self-directed personal assistance
services.

Article 9. Statewide Independent Living Council
Sec. 44.29.700. Statewide independent living council. There is established
the Statewide Independent Living Council. For budgetary purposes, the council is
located in the Department of Health. The department shall provide reasonable and
necessary professional and technical assistance when requested by the council.

Sec. 44.29.710. Composition; terms; compensation. (a) The governor shall
appoint members to the council who meet the applicable requirements of 29 U.S.C.
796d after soliciting personal applications and after soliciting recommendations from
the public, from organizations representing a broad range of individuals experiencing
disabilities, and from organizations interested in individuals experiencing disabilities.
The council shall select a chairperson from among its voting members.

(b) The members shall be appointed to staggered terms of three years, except
that a person appointed to fill a vacancy shall be appointed for the remaining years of
the prior member’s term. A member may not serve more than two consecutive full
terms. Notwithstanding their terms of office, the members serve at the pleasure of the
governor.

(c) Members of the council who are not state employees are entitled to per
diem and travel expenses as authorized for members of boards and commissions under
AS 39.20.180. In addition, if required by federal law, a member is entitled to
(1) reimbursement of the necessary expenses of attending council
meetings and performing council duties, including expenses for child care and
personal assistance services;
(2) compensation of up to $150 for each day of performing council
duties and each day spent traveling to attend a council meeting if the member is not
employed or must forfeit wages from other employment in order to perform council
duties or travel to a council meeting.

Sec. 44.29.720. Powers and duties. (a) The council shall perform the duties
set out in 29 U.S.C. 796d in a manner that will maximize the state’s receipt of federal
financial assistance for independent living services and centers of independent living
for residents with severe disabilities, including the following duties:
(1) joint development of the state plan required under 29 U.S.C. 796c
and evaluation of the implementation of the plan;
(2) development of a plan for the provision of resources, including
staff and personnel, that may be necessary to carry out the council’s functions with
funds from the federal government and other public and private sources; and
(3) coordination of the council’s activities with other state agencies that
address the needs of specific disability populations and issues under federal law.
(b) The council may
(1) hold hearings and forums as determined by the council to be necessary to carry out its duties;

(2) solicit and accept money or other resources on behalf of the state from any public or private source.

Sec. 44.29.730. Definition. In AS 44.29.700 - 44.29.730, "council" means the Statewide Independent Living Council established under AS 44.29.700.

Article 10. Alaska Mental Health Board

Sec. 44.29.800. Alaska Mental Health Board. The Alaska Mental Health Board is established. For budgetary purposes, the board is located within the Department of Health. The board is the state planning and coordinating agency for the purposes of federal and state laws relating to the mental health program of the state. The purpose of the board is to assist the state in ensuring an integrated comprehensive mental health program.

Sec. 44.29.810. Composition; non-voting members. (a) The board consists of not fewer than 12 nor more than 16 members appointed by the governor, with due regard for the demographics of the state and balanced geographic representation of the state. The membership and committees of the board shall fulfill the requirements of P.L. 99-660, as amended.

(b) Not less than one-half of the members shall be persons with a mental disorder identified in AS 44.25.290(b)(1) or members of their families.

(c) The board members

(1) shall include the director of the division of the department responsible for mental health; and

(2) may include representatives of the principal state agencies with respect to education, vocational rehabilitation, criminal justice, housing, social services, medical assistance, substance abuse, and aging.

(d) Board members appointed under (c) of this section may not vote on matters before the board.

(e) The board members shall include at least two licensed mental health professionals who represent public and private providers of mental health services and at least one member who is admitted to practice law in the state. Members appointed
under this subsection may also be family members identified under (b) of this section.

(f) For the purpose of this section, "mental health professional" has the meaning provided in AS 47.30.915.

Sec. 44.29.820. Terms of office; vacancies; removal. (a) Board members serve staggered terms of three years.

(b) A vacancy occurring in the membership of the board shall be filled by appointment of the governor for the unexpired portion of the vacated term.

(c) Members may be removed only for cause, including, but not limited to, poor attendance or lack of contribution to the board's work.

Sec. 44.29.830. Officers and staff. (a) The board, by a majority of its membership, shall annually elect a chair and other officers it considers necessary from among its membership.

(b) The board shall have a paid staff provided by the Department of Health, including, but not limited to, an executive director who shall be selected by the board. The executive director is in the partially exempt service and may hire additional employees in the classified service of the state. The department shall provide for the assignment of personnel to the board to ensure the board has the capacity to fulfill its responsibilities. The executive director of the board shall be directly responsible to the board in the performance of the director's duties.

Sec. 44.29.840. Bylaws. The board, on approval of a majority of its membership and consistent with state law, shall adopt and amend bylaws governing its composition, proceedings, and other activities consistent with state law and including, but not limited to, provisions concerning a quorum to transact board business and other aspects of procedure, frequency and location of meetings, and establishment, functions, and membership of committees.

Sec. 44.29.850. Duties of the board. The board is the state planning and coordinating body for the purpose of federal and state laws relating to mental health services for persons with mental disorders identified in AS 44.25.290(b)(1). On behalf of those persons, the board shall

(1) prepare and maintain a comprehensive plan of treatment and rehabilitation services;
(2) propose an annual implementation plan consistent with the comprehensive plan and with due regard for the findings from evaluation of existing programs;

(3) provide a public forum for the discussion of issues related to the mental health services for which the board has planning and coordinating responsibility;

(4) advocate the needs of persons with mental disorders before the governor, executive agencies, the legislature, and the public;

(5) advise the legislature, the governor, the Alaska Mental Health Trust Authority, and other state agencies in matters affecting persons with mental disorders, including, but not limited to,

(A) development of necessary services for diagnosis, treatment, and rehabilitation;

(B) evaluation of the effectiveness of programs in the state for diagnosis, treatment, and rehabilitation;

(C) legal processes that affect screening, diagnosis, treatment, and rehabilitation;

(6) provide to the Alaska Mental Health Trust Authority for its review and consideration recommendations concerning the integrated comprehensive mental health program for those persons who are described in AS 44.25.290(b)(1) and the use of money in the mental health trust settlement income account in a manner consistent with regulations adopted under AS 44.25.240; and

(7) submit periodic reports regarding its planning, evaluation, advocacy, and other activities.

Sec. 44.29.860. Compensation, per diem, and expenses. The board members appointed under AS 44.29.810(b) and (e) are not entitled to a salary, but are entitled to per diem, reimbursement for travel, and other expenses authorized by law for boards and commissions under AS 39.20.180.

Sec. 44.29.890. Definitions. In AS 44.29.800 - 44.29.890,

(1) "board" means the Alaska Mental Health Board established in AS 44.29.800;
(2) "department" means Department of Health;
(3) "inpatient" means
(4) "least restrictive alternative" has the meaning given in AS 47.30.915;
(5) "mental illness" has the meaning given in AS 47.30.915;
(6) "persons with mental disorders" has the meaning given in AS 47.30.610;
(7) "state" means a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada.

* Sec. 36. AS 44 is amended by adding a new chapter to read:

AS 44.30. Department of Family and Community Services

Article 1. Organization

Sec. 44.30.010. Commissioner of Family and Community Services. The principal executive officer of the Department of Family and Community Services is the commissioner of family and community services.

Sec. 44.30.020. Duties of department. (a) The Department of Family and Community Services shall administer the state programs of child welfare, institutional management, and delinquency including:

(1) mental health treatment and diagnosis under AS 47.30.670 – 48.30.915;
(2) management of state institutions, except for adult penal institutions;
(3) child welfare and delinquency services;
(4) the Alaska Pioneers' Home and the Alaska Veterans' Home.

(b) As applicable, the Department of Family and Community Services shall cooperate with the Department of Public Safety in enforcement of the prohibition on the possession, offer, display, marketing, advertising, or sale of illicit synthetic drugs under AS 17.21.

Sec. 44.30.030. Fees for department services. (a) The commissioner of family and community services may establish by regulation a schedule of reasonable fees for services provided by the Department of Family and Community Services
under AS 44.30.020(1) - (3), AS 47.10, AS 47.12, AS 47.14, and AS 47.30.670 - 47.30.915. The fee established for a service may not exceed the actual cost of providing the service. The commissioner may define or establish the "actual cost of providing a service" by regulation. The Department of Family and Community Services shall charge and collect the fees established under this subsection. The department may waive collection of a fee upon a finding that collection is not economically feasible or in the public interest.

(b) The commissioner of family and community services may establish by regulation and the department may charge reasonable fees for department publications and research data to cover the cost of reproduction, printing, mailing, and distribution.

(c) A regulation that establishes a fee for services under AS 44.30.020(a)(1) related to the community behavioral health system of care that are part of the integrated comprehensive mental health program under AS 47.30.655, 47.30.660, and 47.30.670 - 47.30.915 may be adopted under this section after consultation with the Alaska Mental Health Trust Authority.

Sec. 44.30.040. Fees for services of contractors or grantees. (a) The commissioner of family and community services may establish by regulation a schedule of reasonable fees for services provided by a contractor or grantee of the Department of Family and Community Services under AS 47. The fee established for a service may not exceed the actual cost of providing the service. The commissioner may define or establish the "actual cost of providing a service" by regulation.

(b) The Department of Family and Community Services may require the recipient of a grant or a contractor under a grant to charge the fees established under (a) of this section for services provided by the recipient or contractor and to use the fees collected for the program providing the services.

(c) A regulation that establishes a schedule of reasonable fees for services provided by a contractor or grantee that are part of the integrated comprehensive mental health program established under AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915 may be adopted under this section after consultation with the Alaska Mental Health Trust Authority.

Article 2. Alaska Pioneers' Home Advisory Board
Sec. 44.30.100. Alaska Pioneers' Homes Advisory Board. There is created the Alaska Pioneers' Homes Advisory Board in the Department of Family and Community Services.

Sec. 44.30.110. Purpose of the board. The board shall conduct annual inspections of the property and procedures of the Alaska Pioneers' Homes and recommend to the governor changes and improvements. The board shall meet on an annual basis to review admissions procedures and to consider complaints.

Sec. 44.30.120. Composition of the board. (a) The Alaska Pioneers' Homes Advisory Board consists of

(1) five members appointed by the governor from among citizens of the state;

(2) one member appointed by the governor who is a veteran of active service in the armed forces of the United States, including the Alaska National Guard or the Alaska Territorial Guard;

(3) one member who is the chair of the Alaska Commission on Aging established in AS 47.45.200; and

(4) one member who is chair of the Alaska Veterans Advisory Council established in AS 44.35.

(b) The term of office of a member of the board appointed under (a)(1) of this section is four years. A member of the board may not serve more than eight consecutive years. A chair shall be elected by the voting members of the board. The members of the board appointed under (a)(1) and (2) of this section serve at the pleasure of the governor.

Sec. 44.30.130. Compensation, per diem, or expenses. Members of the advisory board receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards.

* Sec. 37. AS 44.62.330(a)(41) is amended to read:

(41) Department of Health and Department of Family and Community Services [AND SOCIAL SERVICES] relating to the civil history databases under AS 47.05.330-47.05.390;

* Sec. 38. AS 44.64.030(a)(47) is amended to read:
AS 47.32 (licensing by the Department of Health and the Department of Family and Community Services [Social Services]);

* Sec. 39. AS 47.05.010 is amended to read:

Sec. 47.05.010. Duties of Department of Health [DEPARTMENT]. The Department of Health [AND SOCIAL SERVICES] shall

(1) administer adult public assistance, the Alaska temporary assistance program, and all other assistance programs, and receive and spend money made available to it;

(2) adopt regulations necessary for the conduct of its business and for carrying out federal and state laws granting adult public assistance, temporary cash assistance, diversion payments, or self-sufficiency services for needy families under the Alaska temporary assistance program, and other assistance;

(3) establish minimum standards for personnel employed by the department and adopt necessary regulations to maintain those standards;

(4) require those bonds and undertakings from persons employed by it that, in its judgment, are necessary, and pay the premiums on them;

(5) cooperate with the federal government in matters of mutual concern pertaining to adult public assistance, the Alaska temporary assistance program, and other forms of public assistance;

(6) make the reports, in the form and containing the information, that the federal government from time to time requires;

(7) cooperate with the federal government, its agencies, or instrumentalities in establishing, extending, and strengthening services for the protection and care of homeless, dependent, and neglected children in danger of becoming delinquent, and receive and expend funds available to the department by the federal government, the state, or its political subdivisions for that purpose;

(8) cooperate with the federal government in adopting state plans to make the state eligible for federal matching in appropriate categories of assistance, and in all matters of mutual concern, including adoption of the methods of administration
that are found by the federal government to be necessary for the efficient operation of
welfare programs;

(8) [(9)] adopt regulations, not inconsistent with law, defining need,
prescribing the conditions of eligibility for assistance, and establishing standards for
determining the amount of assistance that an eligible person is entitled to receive; the
amount of the assistance is sufficient when, added to all other income and resources
available to an individual, it provides the individual with a reasonable subsistence
compatible with health and well-being; an individual who meets the requirements for
eligibility for assistance shall be granted the assistance promptly upon application for
it;

(9) [(10)] grant to a person claiming or receiving assistance and who is
aggrieved because of the department's action or failure to act, reasonable notice and an
opportunity for a fair hearing by the office of administrative hearings (AS 44.64.010),
and the department shall adopt regulations relative to this;

(10) [(11)] enter into reciprocal agreements with other states relative to
public assistance, [WELFARE SERVICES, AND INSTITUTIONAL CARE] that is
[ARE] considered advisable;

(11) [(12)] establish the requirements of residence for public
assistance, [WELFARE SERVICES, AND INSTITUTIONAL CARE] that is [ARE]
considered advisable, subject to the limitations of other laws of the state, or law or
regulation imposed as conditions for federal financial participation;

(12) [(13)] establish the divisions and local offices that are considered
necessary or expedient to carry out a duty or authority assigned to it and appoint and
employ the assistants and personnel that are necessary to carry on the work of the
divisions and offices, and fix the compensation of the assistants or employees, except
that a person engaged in business as a retail vendor of general merchandise, or a
member of the immediate family of a person who is so engaged, may not serve as an
acting, temporary, or permanent local agent of the department, unless the
commissioner of health [AND SOCIAL SERVICES] certifies in writing to the
governor, with relation to a particular community, that no other qualified person is
available in the community to serve as local welfare agent; for the purposes of this
paragraph, a "member of the immediate family" includes a spouse, child, parent, brother, sister, parent-in-law, brother-in-law, or sister-in-law;

(13) [(14)] provide education and health-related services and referrals designed to reduce the number of out-of-wedlock pregnancies and the number of induced pregnancy terminations in the state;

(14) [(15)] investigate reports of abuse, neglect, or misappropriation of property by certified nurse aides in facilities licensed by the department under AS 47.32;

(15) [(16)] establish state policy relating to and administer federal programs subject to state control as provided under 42 U.S.C. 3001-3058ee (Older Americans Act of 1965), as amended, and related federal regulations;

(16) [(17)] administer the older Alaskans service grants under AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants under AS 47.65.100;

(17) cooperate with and facilitate programs administered by the Department of Family and Community Services

[(18) ACTIVELY SEEK TO RECRUIT QUALITY FOSTER PARENTS AND ADOPTIVE PARENTS WHEN A SHORTAGE OF QUALITY FOSTER PARENTS OR ADOPTIVE PARENTS EXISTS].

* Sec. 40. AS 47.05.290 is amended to read:

Sec. 47.05.290. Definitions. In AS 47.05.070 - 47.05.290 [AS 47.05.200 - 47.05.290],

(1) "benefit" has the meaning given in AS 11.81.900;

(2) "claim" includes a request for payment for medical assistance services under applicable state or federal law or regulations, whether the request is in an electronic format or paper format or both;

(3) "commissioner" means the commissioner of health [AND SOCIAL SERVICES];

(4) "department" means the Department of Health [AND SOCIAL SERVICES];

(5) "falsely alters" has the meaning given in AS 11.46.580;
(6) "knowingly" has the meaning given in AS 11.81.900;
(7) "makes a false entry" has the meaning given in AS 11.56.820;
(8) "medical assistance agency" means the department, an agency of
the department, and an agent, contractor, or designee of the department or of
one of its
agencies that performs one or more of the activities of the department or an agency of
the department;
(9) "medical assistance program" means a program under AS 47.07 or
AS 47.08;
(10) "medical assistance provider" or "provider" means a person or
organization that provides, attempts to provide, or claims to have provided services or
products to a medical assistance recipient that may qualify for reimbursement under
AS 47.07 or AS 47.08 or a person or organization that participates in or has applied to
participate in a medical assistance program as a supplier of a service or product;
(11) "medical assistance recipient" means a person on whose behalf
another claims or receives a payment from a medical assistance agency, without
regard to whether the individual was eligible for benefits under a medical assistance
program;
(12) "medical assistance record" means records required to be kept by
state or federal law or regulation regarding claims to a medical assistance agency;
(13) "organization" has the meaning given in AS 11.81.900;
(14) "person" has the meaning given in AS 11.81.900;
(15) "property" has the meaning given in AS 11.81.900;
(16) "reckless disregard" means acting recklessly, as that term is
defined in AS 11.81.900;
(17) "services" or "medical assistance services" means a health care
benefit that may qualify for reimbursement under AS 47.07 or AS 47.08, including
health care benefits provided, attempted to be provided, or claimed to have been
provided to another, by a medical assistance provider, or "services" as defined in
AS 11.81.900;
(18) "unconditional discharge" has the meaning given in AS 12.55.185.

* Sec. 41. AS 47.05.300(a) is amended to read:
(a) The provisions of AS 47.05.310 - 47.05.390 apply to any individual or entity that is required by statute or regulation to be licensed or certified [by the department] or that is eligible to receive payments, in whole or in part, from the Department of Health or the Department of Family and Community Services [DEPARTMENT] to provide for the health, safety, and welfare of persons who are served by the programs administered by those departments [THE DEPARTMENT].

* Sec. 42. AS 47.05.310(a) is amended to read:

(a) If an individual has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the standards for licensure or certification established by the department with licensing or certification authority for the individual by regulation, that individual may not own an entity, or be an officer, director, partner, member, or principal of the business organization that owns an entity. In addition, an entity may not

(1) allow that individual to operate the entity;

(2) hire or retain that individual at the entity as an employee, independent contractor, or unsupervised volunteer of the entity;

(3) allow that individual to reside in the entity if not a recipient of services; or

(4) allow that individual to be present in the entity if the individual would have regular contact with individuals who receive services from the entity, unless that individual is a family member of or visitor of an individual who receives services from the entity.

* Sec. 43. AS 47.05.310(b) is amended to read:

(b) The department with licensing or certification authority for an entity or individual may not issue or renew a license or a certification for an entity or an individual that is in violation of (a) of this section or that would be in violation based on the information received as part of the application process.

* Sec. 44. AS 47.05.310(d) is amended to read:

(d) An entity or an individual shall provide to the department with licensing or certification authority for the entity or individual a release of information authorization for a criminal history check under this section for each individual who is
not a recipient of services from the entity, who is not in the custody of the applicable department, and, after the entity applies for or has been issued a license, license renewal, certification, or certification renewal by the applicable department,

(1) who intends to become an owner of the entity, or an officer, director, partner, member, or principal of the business organization that owns the entity;

(2) whom the entity intends to hire or retain as the operator of the entity's business;

(3) whom the entity intends to hire or retain as an employee, independent contractor, or unsupervised volunteer of the entity; or

(4) who will be present in the entity or at the places of operation of the entity, and would have regular contact with individuals who receive services from the entity, but who is not a family member or visitor of an individual who receives services from the entity.

* Sec. 45. AS 47.05.310(e) is amended to read:

(e) An individual for whom a release of information authorization has been provided to the department with licensing or certification authority for the individual shall submit the individual's fingerprints to that [THE] department, with the fee established under AS 12.62.160, for a report of criminal justice information under AS 12.62 and for submission by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Safety shall provide the report of criminal justice information and the results of the national criminal history record check to the applicable department for its use in considering an application for a license, license renewal, certification, or certification renewal, or in considering other approval or selection regarding an entity or individual, for compliance with the standards established in this section. The department with licensing or certification authority for the individual may waive the requirement for fingerprint submission if an individual is unable to provide fingerprints due to a medical or physical condition that is documented by a licensed physician.

* Sec. 46. AS 47.05.310(f) is amended to read:
(f) The provisions of this section do not apply if the department with licensing or certification authority for the individual or entity grants an exception from a requirement of (a) - (e) of this section under a regulation adopted by that [THE] department or if the department with licensing or certification authority for the individual or entity grants a variance under AS 47.05.360.

* Sec. 47. AS 47.05.310(g) is amended to read:

(g) The Department of Health and the Department of Family and Community Services [DEPARTMENT] shall adopt regulations listing those criminal offenses that are inconsistent with the standards for licensure or certification by each [THE] department.

* Sec. 48. AS 47.05.310(h) is amended to read:

(h) For purposes of this section, in place of nonissuance or nonrenewal of a license or certification, an entity or individual that is not required to be licensed or certified by either [THE] department or a person wishing to become an entity or individual that is not required to be licensed or certified by either [THE] department is ineligible to receive a payment, in whole or in part, from the applicable department to provide for the health, safety, and welfare of persons who are served by the programs administered by that [THE] department if the entity or individual is in violation of this section or would be in violation of this section based on information received by the applicable department as part of an application, approval, or selection process.

* Sec. 49. AS 47.05.310(l) is amended to read:

(l) The Department of Family and Community Services [DEPARTMENT] may issue or renew a foster home license under AS 47.32 or provide payments under AS 47.14.100(b) or (d) to an entity, individual service provider, or person if the applicant or a person who resides in the home is barred from licensure or payment under (c), (i)(2), or (i)(3) of this section and

(1) a person in the home is an adult family member or family friend of a child in the custody or supervision of the state under AS 47.10;

(2) the Department of Family and Community Services [DEPARTMENT] finds that placing the child with the entity, individual service provider, or person is in the best interests of the child; and
(3) the conduct that is the basis of the finding under (c), (i)(2), or (i)(3) of this section occurred at least 10 years before the date the Department of Family and Community Services [DEPARTMENT] receives the application for licensure or renewal or makes a payment to the entity, individual service provider, or person.

* Sec. 50. AS 47.05.320 is amended to read:

Sec. 47.05.320. Criminal history use standards. The Department of Health and the Department of Family and Community Services [DEPARTMENT] shall by regulation establish standards for the consideration and use by that [THE] department, an entity, or an individual service provider of the criminal history of an individual obtained under AS 47.05.310.

* Sec. 51. AS 47.05.325(a) is amended to read:

(a) The Department of Health and the Department of Family and Community Services [DEPARTMENT] shall establish by regulation civil history standards for denial of issuance or renewal of a license or certification for an individual or for an entity within that department's licensing or certification authority if the individual who is applying for a license, license renewal, certification, or certification renewal is

(1) a biological or adoptive parent, guardian, custodian, or Indian custodian of a child who is or was the subject of a child-in-need-of-aid petition under AS 47.10 and the individual had custody of the child at the time the child was the subject of a petition; or

(2) the subject of a finding or circumstance described in AS 47.05.330(a).

* Sec. 52. AS 47.05.325(c) is amended to read:

(c) An entity or an individual shall provide to the department with licensing or certification authority for that entity or individual a release of information authorization for a civil history check under this section for each individual who is not a recipient of services from the entity, who is not in the custody of the applicable department, and, after the entity applies for or has been issued a license, license renewal, certification, or certification renewal by the applicable department,

(1) who intends to become an owner of the entity, or an officer,
director, partner, member, or principal of the business organization that owns the
entity;

(2) whom the entity intends to hire or retain as the operator of the
entity's business;

(3) whom the entity intends to hire or retain as an employee,
independent contractor, or unsupervised volunteer of the entity; or

(4) who will be present in the entity or at the places of operation of the
entity, and would have regular contact with individuals who receive services from the
entity, but who is not a family member of or visitor of an individual who receives
services from the entity.

* Sec. 53. AS 47.05.325(d) is amended to read:

(d) For purposes of this section, in place of nonissuance or nonrenewal of a
license or certification, an entity or individual that is not required to be licensed or
certified by either [THE] department or a person wishing to become an entity or
individual that is not required to be licensed or certified by either [THE] department is
instead ineligible to receive a payment, in whole or in part, from the applicable
department to provide for the health, safety, and welfare of persons who are served by
the programs administered by that [THE] department if the entity or individual is in
violation of this section or would be in violation of this section based on information
received by the applicable department as part of an application, approval, or selection
process.

* Sec. 54. AS 47.05.325(e) is amended to read:

(e) The Department of Health and the Department of Family and
Community Services [DEPARTMENT] shall by regulation identify other
governmental agencies or political subdivisions of the state that can request
information from that department that is required under this section for a similar
purpose.

* Sec. 55. AS 47.05.325(f) is amended to read:

(f) The provisions of this section do not apply if the applicable department
grants an exception from the requirements of (a) or (b) of this section under a
regulation adopted by that [THE] department or if that [THE] department grants a
variance under AS 47.05.360.

* Sec. 56. AS 47.05.325(h) is amended to read:

  (h) The Department of Health and the Department of Family and
  Community Services [DEPARTMENT] shall by regulation establish standards for
  the consideration and use by that [THE] department, an entity, or an individual of the
  civil history of an individual obtained under this section.

* Sec. 57. AS 47.05.330(a) is amended to read:

  (a) The Department of Health and the Department of Family and
  Community Services [DEPARTMENT] shall by regulation identify each database
  that [THE] department will review when conducting a civil history check under
  AS 47.05.325 to identify each individual
  (1) whom a court or the applicable department has found
  (A) to have committed abuse, neglect, undue influence, or
  exploitation of a vulnerable adult;
  (B) under AS 47.32 or regulations adopted under AS 47.32, to
  have significantly adversely affected the health, safety, or welfare of an
  individual who is receiving a service from an entity licensed under AS 47.32; a
  finding described in this subparagraph includes a decision to revoke, suspend,
  or deny a license or license renewal, or the relinquishment of a license as part
  of a settlement agreement;
  (2) who has been subject to criminal or civil penalties for a violation of
  AS 09.58, AS 47.05, AS 47.06, AS 47.07, AS 47.08, or regulations adopted under
  AS 09.58, AS 47.05, AS 47.06, AS 47.07, or AS 47.08;
  (3) about whom the applicable department or a court has made a
  substantiated finding of child abuse or neglect under AS 47.10 or AS 47.14;
  (4) who was a biological or adoptive parent, guardian, custodian, or
  Indian custodian of a child at the time the child was the subject of a child-in-need-of-
  aid petition under AS 47.10;
  (5) who, in the course of employment with the state, has been
  terminated from employment or has had an allegation of assaultive, abusive,
  neglectful, or exploitive behavior or actions substantiated;
who, in this state or another jurisdiction, for reasons related to abuse, neglect, undue influence, exploitation, or other reasons that are inconsistent with standards for the protection of public health, safety, or welfare, has had a professional license, certification, or similar professional designation revoked, suspended, or denied, or has had a request for renewal of a professional license, certification, or similar professional designation denied;

(7) whom another state or jurisdiction has identified on a civil registry or database substantially similar to the databases identified under this section for reasons substantially similar to the reasons identified in (1) - (6) of this subsection.

* Sec. 58. AS 47.05.340 is amended to read:

Sec. 47.05.340. Regulations. The Department of Health and the Department of Family and Community Services shall adopt regulations to implement AS 47.05.300 - 47.05.390 for the entities and individuals for which that department has licensing or certification authority.

* Sec. 59. AS 47.05.350 is amended to read:

Sec. 47.05.350. Use of information; immunity. An entity that obtains information about an employee under a criminal history check under AS 47.05.310 or a civil history check under AS 47.05.325 may use that information only as provided for in regulations adopted by the department with licensing or certification authority for that entity under this chapter. However, if an entity reasonably relies on the information provided under the regulations adopted by the applicable department to deny employment to an individual who was selected for hire as an employee, including during a period of provisional employment, the entity is not liable in an action brought by the individual based on the employment determination resulting from the information.

* Sec. 60. AS 47.05.360 is amended to read:

Sec. 47.05.360. Variance request; final decision. (a) An individual or entity subject to the provisions of AS 47.05.310 or 47.05.325 may request a variance from the provisions of AS 47.05.310 or 47.05.325 under procedures established by the department with licensing or certification authority for that individual or entity by regulation. The procedures must include the establishment of a variance committee to
consider requests for variances. A request for a variance may include a request that the applicable department issue a written explanation of incorrect information contained in the civil history databases identified under AS 47.05.330.

(b) An individual or entity that is dissatisfied with a decision by a variance committee may, not more than 30 days after the committee issues the decision, apply to the commissioner of the department with licensing or certification authority for that individual or entity for reconsideration of the decision. A determination by the applicable commissioner is a final agency decision for purposes of appeal to the superior court.

(c) The department with licensing or certification authority for that individual or entity shall disclose information and records pertaining to a child subject to AS 47.10 or AS 47.17 to a variance committee as provided under AS 47.10.093(b).

* Sec. 61. AS 47.05.390 is repealed and reenacted to read:

Sec. 47.05.390. Definitions. In AS 47.05.300 - 47.05.390, unless the context otherwise requires,

(1) "criminal justice information" has the meaning given in AS 12.62.900;

(2) "entity" means an entity listed in AS 47.32.010(b) or (c) or an individual service provider as described in AS 47.05.300 and includes an owner, officer, director, member, or partner of the entity;

(3) "individual service provider" means an individual described in AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

(4) "license" includes a provisional license;

(5) "unsupervised" means that an individual who is licensed under AS 47.32, after submitting a criminal history background check, is not physically present to observe the volunteer at the entity.

* Sec. 62. AS 47 is amended by adding a new chapter to read:

Chapter 06. Child Welfare, Social Services, and Institutions

Article 1. General Administration

Sec. 47.06.010. Duties of department of family and community services.
The Department of Family and Community Services shall

(1) administer applicable assistance programs and receive and spend
money made available to it;

(2) adopt regulations necessary for the conduct of its business and for
carrying out federal and state laws;

(3) establish minimum standards for personnel employed by the
department and adopt necessary regulations to maintain those standards;

(4) require those bonds and undertakings from persons employed by it
that, in its judgment, are necessary, and pay the premiums on them;

(5) make the reports, in the form and containing the information, that
the federal government from time to time requires;

(6) cooperate with the federal government, its agencies, or
instrumentalities in establishing, extending, and strengthening services for the
protection and care of homeless, dependent, and neglected children in danger of
becoming delinquent, and receive and expend funds available to the department by the
federal government, the state, or its political subdivisions for that purpose;

(7) cooperate with the federal government in adopting state plans to
make the state eligible for federal matching in appropriate categories of assistance, and
in all matters of mutual concern, including adoption of the methods of administration
that are found by the federal government to be necessary for the efficient operation of
welfare programs;

(8) adopt regulations, not inconsistent with law, defining need,
prescribing the conditions of eligibility for assistance, and establishing standards for
determining the amount of assistance that an eligible person is entitled to receive; the
amount of the assistance is sufficient when, added to all other income and resources
available to an individual, it provides the individual with a reasonable subsistence
compatible with health and well-being; an individual who meets the requirements for
eligibility for assistance shall be granted the assistance promptly upon application for
it;

(9) grant to a person claiming or receiving assistance and who is
aggrieved because of the department’s action or failure to act, reasonable notice and
an opportunity for a fair hearing by the office of administrative hearings
(AS 44.64.010), and the department shall adopt regulations relative to this;

(10) enter into reciprocal agreements with other states relative to
assistance, welfare services, and institutional care that are considered advisable;

(11) establish the requirements of residence for assistance, welfare
services, and institutional care that are considered advisable, subject to the limitations
of other laws of the state, or law or regulation imposed as conditions for federal
financial participation;

(12) establish the divisions and local offices that are considered
necessary or expedient to carry out a duty or authority assigned to it and appoint and
employ the assistants and personnel that are necessary to carry on the work of the
divisions and offices, and fix the compensation of the assistants or employees, except
that a person engaged in business as a retail vendor of general merchandise, or a
member of the immediate family of a person who is so engaged, may not serve as an
acting, temporary, or permanent local agent of the department, unless the
commissioner of family and community services certifies in writing to the governor,
with relation to a particular community, that no other qualified person is available in
the community to serve as local welfare agent; for the purposes of this paragraph, a
"member of the immediate family" includes a spouse, child, parent, brother, sister,
parent-in-law, brother-in-law, or sister-in-law;

(13) actively seek to recruit quality foster parents and adoptive parents
when a shortage of quality foster parents or adoptive parents exists;

(14) cooperate with and facilitate programs administered by the
Department of Health.

Sec. 47.06.020. Purpose and policy related to children. The purpose of this
title as it relates to children is to secure for each child the care and guidance,
preferably in the child's own home, that will serve the moral, emotional, mental, and
physical welfare of the child and the best interests of the community; to preserve and
strengthen the child's family ties unless efforts to preserve and strengthen the ties are
likely to result in physical or emotional damage to the child, removing the child from
the custody of the parents only as a last resort when the child's welfare or safety or the
protection of the public cannot be adequately safeguarded without removal; and, when
the child is removed from the family, to secure for the child adequate custody and care
and adequate planning for permanent placement of the child. It is the policy of the
state to acknowledge and take into account the principles of early childhood and youth
brain development and, whenever possible, consider the concepts of early adversity,
toxic stress, childhood trauma, and the promotion of resilience through protective
relationships, supports, self-regulation, and services.

Sec. 47.06.025. Legislative findings related to children. The legislature finds
that
(1) parents have the following rights and responsibilities relating to the
care and control of their child while the child is a minor:
   (A) the responsibility to provide the child with food, clothing,
safety, education, and medical care;
   (B) the right and responsibility to protect, nurture, train, and
discipline the child, including the right to direct the child's medical care and
   the right to exercise reasonable corporal discipline;
   (C) the right to determine where and with whom the child shall
   live;
   (D) the right and responsibility to make decisions of legal or
   financial significance concerning the child;
   (E) the right to obtain representation for the child in legal
   actions; and
   (F) the responsibility to provide special safeguards and care,
   including appropriate prenatal and postnatal protection for the child;
(2) it is the policy of the state to strengthen families and to protect
children from child abuse and neglect; the state recognizes that, in some cases,
protection of a child may require removal of the child from the child's home; however,
(A) except in those cases involving serious risk to a child's
health or safety, the Department of Family and Community Services should
provide time-limited family support services to the child and the child's family
in order to offer parents the opportunity to remedy parental conduct or
conditions in the home that placed the child at risk of harm so that a child may return home safely and permanently; and

(B) the state also recognizes that when a child is removed from the home, visitation between the child and the child's parents or guardian and family members reduces the trauma for the child and enhances the likelihood that the child will be able to return home; therefore, whenever a child is removed from the parental home, the Department of Family and Community Services should encourage frequent, regular, and reasonable visitation of the child with the child's parent or guardian and family members;

(3) it is the policy of the state to recognize that, when a child is a ward of the state, the child is entitled to reasonable safety, adequate care, and adequate treatment and that the Department of Family and Community Services as legal custodian and the child's guardian ad litem as guardian of the child's best interests and their agents and assignees, each should make reasonable efforts to ensure that the child is provided with reasonable safety, adequate care, and adequate treatment for the duration of time that the child is a ward of the state;

(4) it is in the best interests of a child who has been removed from the child's own home for the state to apply the following principles in resolving the situation:

(A) the child should be placed in a safe, secure, and stable environment;

(B) the child should not be moved unnecessarily;

(C) a planning process should be followed to lead to permanent placement of the child;

(D) every effort should be made to encourage psychological attachment between the adult caregiver and the child;

(E) frequent, regular, and reasonable visitation with the parent or guardian and family members should be encouraged;

(F) parents and guardians must actively participate in family support services so as to facilitate the child's being able to remain in the home; when children are removed from the home, the parents and guardians must
actively participate in family support services to make return of their children
to the home possible; and

(G) to the extent practicable, the Department of Family and
Community Services should enable a child's contact with previous out-of-
home caregivers when appropriate and in the best interests of the child;

(5) numerous studies establish that

(A) children undergo a critical attachment process before the
time they reach six years of age;

(B) a child who has not attached with an adult caregiver during
this critical stage will suffer significant emotional damage that frequently leads
to chronic psychological problems and antisocial behavior when the child
reaches adolescence and adulthood; and

(C) it is important to provide for an expedited placement
procedure to ensure that all children, especially those under the age of six
years, who have been removed from their homes are placed in permanent
homes expeditiously.

Sec. 47.06.030. Material incorporated by reference. Under
AS 44.62.245(a)(2), in adopting or amending a regulation that incorporates a
document or other material by reference, the department may incorporate future
amended versions of a document that is published, compiled, or prepared by the
United States Department of Health and Human Services including the federal poverty
guidelines for the state.

Sec. 47.06.040. Consent to conditions of federal programs. In order to take
advantage of the training grants provisions of 42 U.S.C. 301 - 1397f (Social Security
Act), as amended, the state, through the department, consents and agrees to all
conditions required by federal statute and regulation necessary for the state to
participate fully in the training grants or other programs.

Sec. 47.06.050. Authorization of the Interstate Compact on Adoption and
Medical Assistance. (a) The Department of Family and Community Services may, on
behalf of the state, enter into the Interstate Compact on Adoption and Medical
Assistance and supplementary agreements with agencies of other states for the
provision of adoption and medical assistance under AS 47.07 and other provisions of this title for eligible children with special needs.

(b) In this section, "state" includes a state, territory, possession, or commonwealth of the United States.

Sec. 47.06.060. Monthly reports concerning children. By the 15th day of each month, the Department of Family and Community Services shall provide a report summarizing child protection activities carried out during the previous calendar month and the status of children committed to the department's custody, including information on the number and type of reports of child abuse and neglect received, the outcome of investigations completed, the number of placements of children committed to the department's custody, and the number of foster homes licensed. The report shall be made accessible to the public through the Internet.

Sec. 47.06.090. Definition. In AS 47.06.010 - 47.06.090, unless the context otherwise requires, "department" means Department of Family and Community Services.

* Sec. 63. AS 47.24.013(a) is amended to read:

(a) If a report received under AS 47.24.010 pertains to the undue influence, abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult that is alleged to have been committed by or to have resulted from the negligence of the staff or a volunteer of an out-of-home care facility, including a facility licensed under AS 47.32, in which the vulnerable adult resides, the department may forward the report to the long term care ombudsman for investigation under AS 44.25.310 [AS 47.62.015].

* Sec. 64. AS 47.24.013(c) is amended to read:

(c) Upon receipt of a report under (a) or (b) of this section, the long term care ombudsman and the department shall

(1) conduct an investigation as appropriate under AS 44.25.310 [AS 47.62.015] or this title, respectively;

(2) coordinate and cooperate in their responses to and investigations of the report if their jurisdictions overlap;

(3) [REPEALED].
* Sec. 65. AS 47.24.013(d) is amended to read:

(d) If the long term care ombudsman directly receives a report regarding the undue influence, abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult in an out-of-home care facility, the ombudsman may provide the report, and the results of the ombudsman’s actions or investigations regarding the report, to the department’s vulnerable adult centralized intake office. The ombudsman shall obtain the informed consent of the vulnerable adult or the vulnerable adult’s resident representative before providing the report to the department. The department may investigate the report as described in AS 47.24.015 if the department determines that action is appropriate. In this subsection, “resident representative” has the meaning given in AS 44.25.390 [AS 47.62.090].

* Sec. 66. AS 47.30.470 is amended to read:

Sec. 47.30.470. Powers and duties of department. The department shall

(1) ascertain and keep current a list of all institutions in the state that have available facilities for the care and treatment of alcoholics and drug abusers;

(2) encourage the development and advancement of standards of treatment of alcoholics and drug abusers in institutions;

(3) promote and encourage educational activities to make the public aware of the effects of intemperate use of alcoholic beverages and drugs, and promote and encourage the education of the general public about scientific facts regarding alcoholism and drug abuse;

(4) identify and utilize whatever facilities and services are available or can be made available through community organization for carrying out the purposes of this section, including identification and utilization for detoxification of under-utilized hospital beds;

(5) engage in research and educational activities that will aid in the understanding of alcoholism and drug abuse and in the treatment of alcoholics and drug abusers;

(6) administer a community grant-in-aid program for alcoholism and drug abuse;

(7) submit an annual report concerning alcoholism and drug abuse in
the state and the grant-in-aid program within 10 days after the convening of the legislature in each regular session;

(8) prepare that part of the plan for the integrated comprehensive mental health program under AS 44.25.290 [AS 47.30.056] that relates to the services and facilities that are necessary for the care and treatment of persons identified as chronic alcoholics suffering from psychoses, as defined in AS 44.25.290(b)(3) and (f) [AS 47.30.056(b)(3) and (f)]; in preparing the plan of services for persons identified in this paragraph, the department shall coordinate with the Alaska Mental Health Trust Authority and the Advisory Board on Alcoholism and Drug Abuse;

(9) use money awarded to the department by grant or contract from the mental health trust settlement income account established under AS 37.14.036 and appropriated from the general fund to provide the necessary services identified in (8) of this section and in accordance with AS 44.25.290 [AS 47.30.056].

* Sec. 67. AS 47.30.523(a) is amended to read:

   (a) It is the policy of the state that

   (1) the community mental health program provide a comprehensive and integrated system of community-based facilities, supports, and mental health services, including child and adolescent screening and diagnosis, inpatient, outpatient, prevention, consultation, and education services;

   (2) persons most in need of community mental health services receive appropriate services as provided under AS 44.25.290 [AS 47.30.056];

   (3) the community mental health program be coordinated, to the maximum extent possible, with the programs established under AS 47.37, AS 47.65, AS 47.80, and other programs affecting the well being of persons in need of mental health services.

* Sec. 68. AS 47.30.530(b) is amended to read:

   (b) In performing its duties under (a) of this section, the department shall coordinate with the Alaska Mental Health Trust Authority established in AS 44.25.200 [AS 47.30.011].

* Sec. 69. AS 47.30.540(b) is amended to read:

   (b) An entity designated by the department to receive money under
AS 47.30.520 - 47.30.620 shall ensure a broad base of community support as evidenced by a governing board reasonably representative of the professional, civic, and citizen groups in the community and including persons with mental disorders or family members of persons with mental disorders. No more than two members, or 40 percent of the membership, whichever is greater, may be providers of services under the program. In order to receive money under AS 47.30.520 - 47.30.620, a local community entity shall agree

(1) to give priority to mental health programs and services consistent with the priorities set out in AS 44.25.290 [AS 47.30.056] and that provide the maximum services for the least expenditure of money from the mental health trust settlement income account;

(2) to furnish services through a qualified staff meeting reasonable standards of experience and training;

(3) to conform to a state cost accounting system showing the true cost of services rendered, collect fees for services according to a schedule based on an analysis of reasonable ability to pay, and provide that a person may not be refused services because of inability to pay for those services;

(4) to maintain adequate clinical and administrative records and furnish periodic reports to the department;

(5) to furnish the authority and the department an annual report of the preceding fiscal year, including an evaluation of the effectiveness of the previous year's programs and their costs;

(6) to furnish the authority and the department satisfactory needs assessments for the population and area it serves and an annual update of a long-range planning and budget statement that describes program goals for the coming year, the steps and resources necessary to implement the goals, the projected means by which these resources will be secured, and the procedures necessary to evaluate the program;

(7) to furnish the department with confidential and other information about recipients of services paid for, in whole or part, under AS 47.30.520 - 47.30.620 and comply with regulations of the department regarding the submission of this information; and
(8) to notify the department immediately of emergency situations involving recipients of services paid for, in whole or in part, under AS 47.30.520 - 47.30.620 and comply with regulations of the department regarding this notification; for purposes of this paragraph,"emergency situations" include the disappearance, injury, or death of a recipient.

* Sec. 70. AS 47.30.545 is amended to read:

Sec. 47.30.545. Populations to be served. The entities designated by the department to receive money under AS 47.30.540(b) shall provide one or more of the services that are set out in AS 44.25.290(i) [AS 47.30.056(i)] to persons identified in AS 44.25.290 [AS 47.30.056].

* Sec. 71. AS 47.30.610(1) is amended to read:

(1) "authority" means the Alaska Mental Health Trust Authority established in AS 44.25.200 [AS 47.30.011];

* Sec. 72. AS 47.30.610(4) is amended to read:

(4) "trust" has the meaning given in AS 44.25.295 [AS 47.30.061].

* Sec. 73. AS 47.30.660 is amended to read:

Sec. 47.30.660. Powers and duties of department. (a) The department shall

1. prepare, and periodically revise and amend, a plan for an integrated comprehensive mental health program, as that term is defined by AS 44.25.290(i) [AS 47.30.056(i)]; the preparation of the plan and any revision or amendment of it shall

(A) be made in conjunction with the Alaska Mental Health Trust Authority and the Department of Family and Community Services;

(B) be coordinated with federal, state, regional, local, and private entities involved in mental health services;

2. in planning expenditures from the mental health trust settlement income account, conform to the regulations adopted by the Alaska Mental Health Trust Authority under AS 44.25.240(b)(5) [AS 47.30.031(b)(5)]; and

3. implement an integrated comprehensive system of care that, within the limits of money appropriated for that purpose and using grants and contracts that are to be paid for from the mental health trust settlement income account, meets the
service needs of the beneficiaries of the trust established under the Alaska Mental
Health Enabling Act of 1956, as determined by the plan.

(b) The department, in fulfilling its duties under this section and through its
division responsible for mental health, shall

(1) administer a comprehensive program of services for persons with
mental disorders, for the prevention of mental illness, and for the care and treatment of
persons with mental disorders, including inpatient and outpatient care and treatment
and the procurement of services of specialists or other persons on a contractual or
other basis;

(2) take the actions and undertake the obligations that are necessary to
participate in federal grants-in-aid programs and accept federal or other financial aid
from whatever sources for the study, prevention, examination, care, and treatment of
persons with mental disorders;

(3) administer AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915
[AS 47.30.660 - 47.30.915];

(4) designate, operate, and maintain treatment facilities equipped and
qualified to provide inpatient and outpatient care and treatment for persons with
mental disorders;

(5) provide for the placement of patients with mental disorders in
designated treatment facilities;

(6) enter into arrangements with governmental agencies for the care or
treatment of persons with mental disorders in facilities of the governmental agencies
in the state or in another state;

(7) enter into contracts with treatment facilities for the custody and
care or treatment of persons with mental disorders; contracts under this paragraph are
governed by AS 36.30 (State Procurement Code);

(8) enter into contracts, which incorporate safeguards consistent with
AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915 [AS 47.30.660 - 47.30.915] and
the preservation of the civil rights of the patients with another state for the custody and
care or treatment of patients previously committed from this state under 48 U.S.C. 46
et seq., and P.L. 84-830, 70 Stat. 709;
(9) prescribe the form of applications, records, reports, requests for release, and consents to medical or psychological treatment required by AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915 [AS 47.30.660 - 47.30.915];

* Sec. 74. AS 47.30.725(a) is amended to read:

(a) When a respondent is detained for evaluation under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], the respondent shall be immediately notified orally and in writing of the rights under this section. Notification must be in a language understood by the respondent. The respondent's guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights under this section.

* Sec. 75. AS 47.30.735(b) is amended to read:

(b) The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], the respondent has the right

(1) to be present at the hearing; this right may be waived only with the respondent's informed consent; if the respondent is incapable of giving informed consent, the respondent may be excluded from the hearing only if the court, after hearing, finds that the incapacity exists and that there is a substantial likelihood that the respondent's presence at the hearing would be severely injurious to the respondent's mental or physical health;

(2) to view and copy all petitions and reports in the court file of the respondent's case;

(3) to have the hearing open or closed to the public as the respondent elects;

(4) to have the rules of evidence and civil procedure applied so as to provide for the informal but efficient presentation of evidence;

(5) to have an interpreter if the respondent does not understand English;

(6) to present evidence on the respondent's behalf;

(7) to cross-examine witnesses who testify against the respondent;
(8) to remain silent;
(9) to call experts and other witnesses to testify on the respondent's behalf.

* Sec. 76. AS 47.30.775 is amended to read:

Sec. 47.30.775. Commitment of minors. The provisions of AS 47.30.700 - 47.30.815 apply to minors. However, all notices required to be served on the respondent in AS 47.30.700 - 47.30.815 shall also be served on the parent or guardian of a respondent who is a minor, and parents or guardians of a minor respondent shall be notified that they may appear as parties in any commitment proceeding concerning the minor and that as parties they are entitled to retain their own attorney or have the office of public advocacy appointed for them by the court. A minor respondent has the same rights to waiver and informed consent as an adult respondent under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915]; however, the minor shall be represented by counsel in waiver and consent proceedings.

* Sec. 77. AS 47.30.795(d) is amended to read:

(d) If the provider of outpatient care determines that the respondent will require continued outpatient care after the expiration of the commitment period, the provider may initiate further commitment proceedings as if the provider were the professional person in charge, and the provisions of AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] apply, except that provisions relating to inpatient treatment shall be read as applicable to outpatient treatment.

* Sec. 78. AS 47.30.805(b) is amended to read:

(b) When a respondent has failed to appear or been absent through the respondent's own actions contrary to any order properly made or entered under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], the relevant commitment period shall be extended for a period of time equal to the respondent's absence if written notice of absence is promptly provided to the respondent's attorney and guardian, if there is one, and if, within 24 hours after the respondent has returned to the evaluation or treatment facility, written notice of the corresponding extension and the reason for it is given to the respondent and the respondent's attorney and guardian, if any, and to the court.
* Sec. 79. AS 47.30.810 is amended to read:

Sec. 47.30.810. Habeas corpus not limited. Nothing in AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] may be construed as limiting a person's right to a writ of habeas corpus.

* Sec. 80. AS 47.30.825(a) is amended to read:

(a) A patient who is receiving services under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] has the rights described in this section.

* Sec. 81. AS 47.30.835 is amended to read:

Sec. 47.30.835. Civil rights not impaired. (a) A person may not deny to a person who is undergoing evaluation or treatment under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] a civil right, including but not limited to, the right to free exercise of religion and the right to dispose of property, sue and be sued, enter into contractual relationships, and vote. A person who violates this subsection commits the crime of interference with constitutional rights under AS 11.76.110.


* Sec. 82. AS 47.30.840(a) is amended to read:

(a) A person undergoing evaluation or treatment under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915]

(1) may not be photographed without the person's consent and that of the person's guardian if a minor, except that the person may be photographed upon admission to a facility for identification and for administrative purposes of the facility; all photographs shall be confidential and may only be released by the facility to the patient or the patient's designee unless a court orders otherwise;

(2) at the time of admission to an evaluation or treatment facility, shall have reasonable precautions taken by the staff to inventory and safeguard the patient's personal property; a copy of the inventory signed by the staff member making it shall be given to the patient and made available to the patient's attorney and any other person authorized by the patient to inspect the document;

(3) shall have access to an individual storage space for the patient's
private use while undergoing evaluation or treatment;

(4) shall be permitted to wear personal clothing, to keep and use personal possessions including toilet articles if they are not considered unsafe for the patient or other patients who might have access to them, and to keep and be allowed to spend a reasonable sum of the patient's own money for the patient's needs and comfort;

(5) shall be allowed to have visitors at reasonable times;

(6) shall have ready access to letter writing materials, including stamps, and have the right to send and receive unopened mail;

(7) shall have reasonable access to a telephone, both to make and receive confidential calls;

(8) has the right to be free of corporal punishment;

(9) has the right to reasonable opportunity for indoor and outdoor exercise and recreation;

(10) has the right, at any time, to have a telephone conversation with or be visited by an attorney;

(11) may not be retaliated against or subjected to any adverse change of conditions or treatment solely because of assertion of rights under this section.

* Sec. 83. AS 47.30.845 is amended to read:

Sec. 47.30.845. Confidential records. Information and records obtained in the course of a screening investigation, evaluation, examination, or treatment are confidential and are not public records, except as the requirements of a hearing under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] may necessitate a different procedure. Information and records may be copied and disclosed under regulations established by the department only to

(1) a physician or a provider of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient;

(2) the patient or an individual to whom the patient has given written consent to have information disclosed;

(3) a person authorized by a court order;

(4) a person doing research or maintaining health statistics if the
anonymity of the patient is assured and the facility recognizes the project as a bona
fide research or statistical undertaking;

(5) the Department of Corrections in a case in which a prisoner
confined to the state prison is a patient in the state hospital on authorized transfer
either by voluntary admission or by court order;

(6) a governmental or law enforcement agency when necessary to
secure the return of a patient who is on unauthorized absence from a facility where the
patient was undergoing evaluation or treatment;

(7) a law enforcement agency when there is substantiated concern over
imminent danger to the community by a presumed mentally ill person;

(8) the department in a case in which services provided under
AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] are paid for, in whole or in part,
by the department or in which a person has applied for or has received assistance from
the department for those services;

(9) the Department of Public Safety as provided in AS 47.30.907;
information provided under this paragraph may not include diagnostic or clinical
information regarding a patient.

* Sec. 84. AS 47.30.860 is amended to read:

Sec. 47.30.860. Documents and notices in other languages. When
practicable, all documents and notices required by AS 47.30.670 - 47.30.915
[AS 47.30.660 - 47.30.915] to be served on a respondent, or on the respondent's
parents, guardian or adult designee, shall be explained in a language the person
understands if the respondent is not competent in English.

* Sec. 85. AS 47.30.875(a) is amended to read:

(a) The admission papers of a person who is admitted to a treatment facility
under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] must include a statement
as to the person's residence. The department may return a patient who is not a resident
of the state to the state of the person's residence with court approval if the person has
been committed. If the state in which the person has residence does not accept the
person as a patient, the person shall be treated as a resident of this state under the
provisions of AS 47.30.700 - 47.30.915 [AS 47.30.660 - 47.30.915].
* Sec. 86. AS 47.30.885 is amended to read:

Sec. 47.30.885. Rights outside state. Nothing in AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] alters or impairs the application or availability to a patient, while hospitalized in another state under contractual arrangements entered in accordance with AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], of the rights, remedies, or safeguards provided by the laws of this state.

* Sec. 87. AS 47.30.905 is amended to read:

Sec. 47.30.905. Fees and expenses for judicial proceedings. (a) The witnesses, expert witnesses, and the jury in commitment proceedings under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] are entitled to the fees, compensation, and mileage established by the administrative rules of court for other jurors and witnesses. Compensation, mileage, fees, transportation expenses for a respondent, and other expenses arising from evaluation and commitment proceedings shall be audited and allowed by the superior court of the judicial district in which the proceedings are held. To the extent that services of a peace officer are used to carry out the provisions of AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], the officer is entitled to fees and actual expenses from the same source and in the same manner as for the officer's other official duties.

(b) An attorney appointed for a person under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] shall be compensated for services as follows:

(1) the person for whom an attorney is appointed shall, if the person is financially able under standards as to financial capability and indigency set by the court, pay the costs of the legal services;

(2) if the person is indigent under those standards, the costs of the services shall be paid by the state.

* Sec. 88. AS 47.30.915 is amended to read:

Sec. 47.30.915. Definitions. In AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915],

(1) "adjudication of mental illness or mental incompetence" means a court order finding that a person is

(A) not guilty by reason of insanity or guilty but mentally ill
under AS 12.47.040;

(B) incompetent to stand trial for a criminal offense under AS 12.47.100-12.47.120; or

(C) a danger to self or others, or is gravely disabled because of incapacity, incompetence, mental illness, dementia, or some other cause;

(2) "commissioner" means the commissioner of family and community services [HEALTH AND SOCIAL SERVICES];

(3) "court" means a superior court of the state;

(4) "department" means the Department of Family and Community Services [HEALTH AND SOCIAL SERVICES];

(5) "designated treatment facility" or "treatment facility" means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment or rehabilitation of mentally ill persons under AS 47.30.670 - 47.30.915 [AS 47.30.670 - 47.30.915] but does not include correctional institutions;

(6) "disability resulting from an involuntary commitment or an adjudication of mental illness or mental incompetence" means the prohibition against the possession of a firearm or ammunition under 18 U.S.C. 922(g)(4) that results from an involuntary commitment or adjudication of mental illness or mental incompetence;

(7) "evaluation facility" means a health care facility that has been designated or is operated by the department to perform the evaluations described in AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], or a medical facility licensed under AS 47.32 or operated by the federal government;

(8) "evaluation personnel" means mental health professionals designated by the department to conduct evaluations as prescribed in AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] who conduct evaluations in places in which no staffed evaluation facility exists;

(9) "gravely disabled" means a condition in which a person as a result of mental illness

(A) is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render
serious accident, illness, or death highly probable if care by another is not taken; or

(B) will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of the person's previous ability to function independently;

(10) "inpatient treatment" means care and treatment rendered inside or on the premises of a treatment facility, or a part or unit of a treatment facility, for a continual period of 24 hours or longer;

(11) "least restrictive alternative" means mental health treatment facilities and conditions of treatment that

(A) are no more harsh, hazardous, or intrusive than necessary to achieve the treatment objectives of the patient; and

(B) involve no restrictions on physical movement nor supervised residence or inpatient care except as reasonably necessary for the administration of treatment or the protection of the patient or others from physical injury;

(12) "likely to cause serious harm" means a person who

(A) poses a substantial risk of bodily harm to that person's self, as manifested by recent behavior causing, attempting, or threatening that harm;

(B) poses a substantial risk of harm to others as manifested by recent behavior causing, attempting, or threatening harm, and is likely in the near future to cause physical injury, physical abuse, or substantial property damage to another person; or

(C) manifests a current intent to carry out plans of serious harm to that person's self or another;

(13) "mental health professional" means a psychiatrist or physician who is licensed by the State Medical Board to practice in this state or is employed by the federal government; a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners; a psychological associate trained in clinical
psychology and licensed by the Board of Psychologist and Psychological Associate
Examiners; an advanced practice registered nurse or a registered nurse with a master's
degree in psychiatric nursing, licensed by the State Board of Nursing; a marital and
family therapist licensed by the Board of Marital and Family Therapy; a professional
counselor licensed by the Board of Professional Counselors; a clinical social worker
licensed by the Board of Social Work Examiners; and a person who

(A) has a master's degree in the field of mental health;

(B) has at least 12 months of post-masters working experience

in the field of mental illness; and

(C) is working under the supervision of a type of licensee listed

in this paragraph;

(14) "mental illness" means an organic, mental, or emotional
impairment that has substantial adverse effects on an individual's ability to exercise
conscious control of the individual's actions or ability to perceive reality or to reason
or understand; intellectual disability, developmental disability, or both, epilepsy, drug
addiction, and alcoholism do not per se constitute mental illness, although persons
suffering from these conditions may also be suffering from mental illness;

(15) "peace officer" includes a state police officer, municipal or other
local police officer, state, municipal, or other local health officer, public health nurse,
United States marshal or deputy United States marshal, or a person authorized by the
court;

(16) "persons with mental disorders" has the meaning given in
AS 47.30.610;

(17) "professional person in charge" means the senior mental health
professional at a facility or that person's designee; in the absence of a mental health
professional it means the chief of staff or a physician designated by the chief of staff;

(18) "provider of outpatient care" means a mental health professional or
hospital, clinic, institution, center, or other health care facility designated by the
department to accept for treatment patients who are ordered to undergo involuntary
outpatient treatment by the court or who are released early from inpatient
commitments on condition that they undergo outpatient treatment;
(19) "screening investigation" means the investigation and review of facts that have been alleged to warrant emergency examination or treatment, including interviews with the persons making the allegations, any other significant witnesses who can readily be contacted for interviews, and, if possible, the respondent, and an investigation and evaluation of the reliability and credibility of persons providing information or making allegations;

(20) "state" means a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada.

* Sec. 89. AS 47.32.010 is repealed and reenacted to read

**Sec. 47.32.010. Purpose and applicability.** (a) The purpose of this chapter is to establish centralized licensing and related administrative procedures for the delivery of services in this state by the entities listed in (b) and (c) of this section. These procedures are intended to promote safe and appropriate services by setting standards for licensure that will reduce predictable risk; improve quality of care; foster individual and patient rights; and otherwise advance public health, safety, and welfare.

(b) The following entities are subject to this chapter and regulations adopted under this chapter by the Department of Health:

(1) ambulatory surgical centers;
(2) assisted living homes;
(3) child care facilities;
(4) freestanding birth centers;
(5) home health agencies;
(6) hospices, or agencies providing hospice services or operating hospice programs;
(7) hospitals;
(8) intermediate care facilities for individuals with an intellectual disability or related condition;
(9) maternity homes;
(10) nursing facilities;
(11) residential child care facilities;
(13) residential psychiatric treatment centers;
(14) rural health clinics;
(15) crisis stabilization centers.

(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.

(d) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history, criminal history checks, criminal history use standards, and civil history databases, apply to entities listed in (b) and (c) of this section, as provided in AS 47.05.300.

* Sec. 90. AS 47.32.020(a) is amended to read:

(a) An entity may not operate a facility described in AS 47.32.010(b) or (c) without first obtaining a license under this chapter unless the entity is exempt under regulations adopted under AS 47.32.030 or is exempt under (c) of this section.

* Sec. 91. AS 47.32.020(b) is amended to read:

(b) If an entity encompasses more than one type of activity listed in AS 47.32.010(b) or (c), the entity shall apply for and receive a separate license under this chapter from either the Department of Health or the Department of Family and Community Services before operating that type of activity unless exempt under regulations adopted by the applicable department under AS 47.32.030.

* Sec. 92. AS 47.32.030 is amended to read:

Sec. 47.32.030. Powers of the Department of Health and the Department of Family and Community Services [DEPARTMENT]; delegation to municipality.

(a) For each entity over which it has licensing authority under AS 47.32.010, the applicable [THE] department may

(1) administer and enforce the provisions of this chapter;
(2) coordinate and develop policies, programs, and planning related to licensure and operation of entities listed in AS 47.32.010(b) or (c) as defined by regulation;
(3) adopt regulations necessary to carry out the purposes of this
chapter, including regulations that

(A) establish fees for licensing of each type of entity listed in

AS 47.32.010(b) or (c);

(B) impose requirements for licensure, including standards for
license renewal, that are in addition to the requirements of this chapter or of
any other applicable state or federal statute or regulation;

(C) impose requirements and standards on licensed entities that
are in addition to those imposed by this chapter or by any other applicable state
or federal statute or regulation, including

(i) requirements and standards necessary for an entity or
the state to receive money from the department from any source,
including federal money;

(ii) record-keeping requirements;

(iii) reporting requirements; and

(iv) requirements and standards regarding health, safety,
and sanitation;

(D) provide for waivers, variances, and exemptions from the
requirements of this chapter, including the requirement to obtain a license, if
the applicable department finds it necessary for the efficient administration of
this chapter; and

(E) establish requirements for the operation of entities licensed
by the applicable department under this chapter;

(4) investigate

(A) entities described in AS 47.32.010(b) or (c);

(B) applicants for licensure, including individuals named in an
application; and

(C) other persons that the applicable department has reason to
believe are operating an entity required to be licensed under this chapter, or are
residing or working in an entity for which licensure has been sought under this
chapter; this subparagraph does not apply to persons receiving services from an
entity for which licensure has been sought under this chapter;
(5) inspect and monitor licensed entities for compliance with this chapter, regulations adopted under this chapter, and any other applicable statutes or regulations;

(6) enter into contracts and agreements necessary to carry out the functions, powers, and duties of the applicable department under this chapter;

(7) enter into agreements with private entities, municipalities, and individuals to investigate and make recommendations to the applicable department regarding the licensure and monitoring of entities under this chapter;

(8) require an individual who is or will be operating an entity to complete training related to the operation of the entity;

(9) waive the application requirements for an entity seeking licensure if the entity submits documentation to the applicable department verifying that it

(A) has a license issued by an organization or other agency that has licensing authority under state or federal law if the standards for that licensure are approved by the applicable department under this chapter or regulations adopted under this chapter;

(B) has accreditation from a nationally recognized organization if the standards for that accreditation are equal to or more stringent than the standards for licensure under this chapter or regulations adopted under this chapter; or

(C) is an entity that federal law does not require to be licensed.

(b) The Department of Health [DEPARTMENT] shall delegate the department’s authority to regulate child care facilities to a municipality that has adopted an ordinance providing for child care licensing under home rule powers under AS 29.10.010 or as authorized under AS 29.35.200 - 29.35.210. The department shall make the delegation described in this subsection within 90 days after receiving a written request from the municipality to delegate the authority. A municipality receiving a delegation under this subsection may adopt additional requirements for child care facilities operating within the boundaries of the municipality if the requirements meet or exceed the requirements under state law.

(c) The issuance of a license by the applicable department does not obligate
the department to place or maintain an individual in an entity or through an entity, or
to provide financial support to an entity.

(d) The Department of Health [DEPARTMENT] may not require a licensed
entity to increase services for the sole purpose of accommodating a physician's
practice of prescribing, dispensing, or administering an investigational drug, biological
product, or device, or providing related treatment, to a patient. In this subsection
"investigational drug, biological product, or device" has the meaning given in
AS 08.64.367.

* Sec. 93. AS 47.32.040 is amended to read:

Sec. 47.32.040. Application for license. A person shall apply to the
applicable department for a license under this chapter. The application must be made
to the applicable department on a form provided by that [THE] department or in a
format approved by that [THE] department, and must be accompanied by

(1) any fee established by regulation; and

(2) documents and information required by regulation.

* Sec. 94. AS 47.32.050 is amended to read:

Sec. 47.32.050. Provisional license; biennial license. (a) After an entity
submits an application under AS 47.32.040, the department with licensing
authority over that entity may issue a provisional license. Before issuing a
provisional license, the department must conduct an [THE DEPARTMENT MAY
ISSUE A PROVISIONAL LICENSE TO AN ENTITY FOR WHICH
APPLICATION IS MADE UNDER AS 47.32.040 IF, AFTER] inspection and
investigation to determine [THE DEPARTMENT DETERMINES] that the
application and the entity meet the requirements of this chapter, regulations adopted
under this chapter, and any other applicable statutes or regulations. A provisional
license is valid for a period not to exceed one year, except that the authorizing
department may extend a provisional license for one additional period not to exceed
one year.

(b) Before expiration of a provisional license issued under (a) of this section,
the authorizing department shall inspect and investigate the entity to determine
whether the entity is operating in compliance with this chapter, regulations adopted
under this chapter, and any other applicable statutes or regulations. After inspection
and investigation under this subsection and before expiration of a provisional license,
the authorizing department shall issue a biennial license for the entity if the
department finds that

(1) the entity meets the requirements for biennial licensure established
in this chapter, regulations adopted under this chapter, and other applicable statutes
and regulations;

(2) a ground for nonrenewal of a license does not exist; and

(3) any applicable fee has been paid.

c) The department issuing a license may place one or more conditions on a
provisional or biennial license issued under this section in order to further the purposes
of this chapter.

* Sec. 95. AS 47.32.060 is amended to read:

Sec. 47.32.060. License renewal. (a) At least 90 days before expiration of a
biennial license, a licensed entity that intends to remain licensed shall submit an
application for renewal of the license on a form provided by the applicable
department or in a format approved by the applicable department, accompanied by

(1) all documents and information identified in regulation as being
required for renewal of the license; and

(2) any fee established by regulation.

(b) Before expiration of a biennial license, the authorizing department or its
representative may inspect an entity that is the subject of a renewal application to
determine whether the entity is operating in compliance with this chapter, regulations
adopted under this chapter, and other applicable statutes or regulations. After any
inspection and investigation under this subsection and before expiration of the biennial
license, the authorizing department shall renew a biennial license if the department
finds that

(1) the licensed entity meets the requirements for renewal;

(2) a ground for nonrenewal of a license does not exist; and

(3) any applicable fee has been paid.

c) If an application for renewal of a license is submitted but the authorizing
department is unable to complete its review of the application before the expiration of
the biennial license, the license is automatically extended for six months or until the
department completes its review and either approves or denies the application,
whichever occurs earlier.

(d) The authorizing department may place one or more conditions on a
renewed license issued under this section to further the purposes of this section.

(e) The department shall adopt regulations establishing the grounds for
nonrenewal of a license for each entity that department licenses under
AS 47.32.010 for purposes of AS 47.32.050 and this section.

* Sec. 96. AS 47.32.070 is amended to read:

Sec. 47.32.070. Notice of denial or conditions; appeal. (a) If the applicable
department denies an application for or places conditions on a provisional or biennial
license or license renewal, that department shall provide the applicant or entity
with a notice of the action by certified mail. The notice must contain a written
statement of the reason for the action and information about requesting a hearing
under (b) of this section.

(b) An applicant or entity that receives a notice of action under (a) of this
section may appeal the department's decision by requesting a hearing within 15 days
after receipt of the notice. The appeal must be on a form provided by the applicable
department or in a format approved by the applicable department.

(c) In considering whether to deny an application for or place a condition on a
license, the department reviewing the application shall consider the licensing history
of the applicant, including any enforcement action under this chapter.

* Sec. 97. AS 47.32.080 is amended to read:

Sec. 47.32.080. Posting; license not transferable. (a) A license issued under
this chapter shall be posted in a conspicuous place on the licensed premises. Any
notice of a variance issued by the authorizing department shall be posted near the
license.

(b) A license issued under this chapter is not transferable unless authorized by
the authorizing department.

* Sec. 98. AS 47.32.090(a) is amended to read:
(a) A person who believes that an entity has violated an applicable statute or regulation or a condition of a license issued under this chapter may file a verbal or written complaint with the department that has licensing authority for that type of entity under AS 47.32.010.

* Sec. 99. AS 47.32.090(b) is amended to read:

(b) The department with licensing authority under (a) of this section may investigate a complaint filed under this section. The department with licensing authority under (a) of this section may decline to investigate a complaint if that [THE] department reasonably concludes and documents that the complaint is without merit based on information available to that [THE] department at the time of the complaint. The department with licensing authority under (a) of this section may consolidate complaints if that [THE] department concludes that a single investigation would further the efficient administration of this chapter.

* Sec. 100. AS 47.32.090(d) is amended to read:

(d) The department with licensing authority under (a) of this section may investigate an employee, contractor, or volunteer of a licensed entity and may substantiate that the individual engaged in conduct that would significantly affect the health, safety, or welfare of an individual who is receiving a service from the entity. If the conduct is substantiated against an employee, contractor, or volunteer, the investigating department shall issue a notice of the finding to the person and include the person in the appropriate civil history database identified under AS 47.05.330. Before a substantiated finding against an employee, contractor, or volunteer may be included in a civil history database and provided as part of a check under AS 47.05.325, the department that made the finding shall provide the applicant notice of the finding and an opportunity to appeal the finding. The Department of Health and the Department of Family and Community Services [DEPARTMENT] shall adopt regulations to implement this subsection for the entities licensed by that department. In this subsection,"volunteer" includes an individual placed in a facility for training, educational, or internship purposes.

* Sec. 101. AS 47.32.100 is amended to read:

Sec. 47.32.100. Cooperation with investigation. An entity shall cooperate
with an investigation initiated by the department with licensing authority for that entity under AS 47.32.010. An investigated entity shall

(1) permit representatives of the investigating department to inspect the entity; review records, including files of individuals who received services from the entity; interview staff; and interview individuals receiving services from the entity; and

(2) upon request, provide the investigating department with information and documentation regarding compliance with applicable statutes and regulations.

* Sec. 102. AS 47.32.110 is amended to read:

Sec. 47.32.110. Right of access and inspection. (a) A designated agent or employee of a [THE] department with licensing authority under AS 47.32.010 shall have right of access to an entity within that department's licensing authority

(1) to determine whether an application for licensure or renewal is appropriate;

(2) to conduct a complaint investigation;

(3) to conduct a standard inspection;

(4) to inspect documents, including personnel records, accounts, the building, or the premises;

(5) to interview staff or residents; or

(6) if the department with licensing authority for that entity has reasonable cause to believe that the entity is operating in violation of this chapter or the regulations adopted under this chapter.

(b) If an entity denies access to an agent or employee of the department with licensing authority for that entity under AS 47.32.010, the department may petition the court for an order permitting access, or the department may seek to revoke the entity's license under AS 47.32.140.

(c) Upon petition of the department with licensing authority for the entity under AS 47.32.010 and after a hearing held upon reasonable notice to the entity, the court shall issue an order to an officer or employee of that [THE] department authorizing the officer or employee to enter for any of the purposes described in (a) of
* Sec. 103. AS 47.32.120 is amended to read:

Sec. 47.32.120. Report. (a) Within 10 working days after completing an investigation or inspection under AS 47.32.090 - 47.32.110, the department that conducted the investigation or inspection shall prepare a report of the results of the investigation or inspection and mail a copy of the report to the entity. The report shall include a description of
(1) any violation, including a citation to each statute or regulation that has been violated; and
(2) any enforcement action the department intends to take under AS 47.32.130 or 47.32.140.
(b) An entity that receives a copy of a report under this section may submit a written response to the report to the department that prepared the report. The applicable department may require an entity to submit a response to a report received under this section.
(c) Within 14 days after the entity receives a copy of the report under this section, upon request of the complainant, the department that prepared the report shall provide a copy of the report to the complainant.

* Sec. 104. AS 47.32.130 is amended to read:

Sec. 47.32.130. Enforcement action: immediate revocation or suspension.
(a) If the applicable department's report of investigation or inspection under AS 47.32.120 concludes that the department with licensing authority for the entity under AS 47.32.010 has reasonable cause to believe that a violation of an applicable statute or regulation has occurred that presents an immediate danger to the health, safety, or welfare of an individual receiving services from the entity, the department with licensing authority, without an administrative hearing and without providing an opportunity to cure or correct the violation, may immediately revoke or suspend the entity's license or, if the entity is not licensed under this chapter, may revoke the entity's ability to become licensed under this chapter or to provide services as an entity exempted under this chapter. A suspension or revocation under this subsection takes effect immediately upon initial notice to the entity from the applicable department, is
in addition to any enforcement action under AS 47.32.140, and continues until a final determination under (c) of this section or AS 47.32.150.

(b) Notice under this section shall be provided as follows:

(1) the department with licensing authority shall provide initial notice to the entity at the time the department determines that an immediate suspension or revocation is required; initial notice may be oral, except that, if an entity representative is not present at the entity, the department shall post written notice on the front door of the entity; the initial notice must provide information regarding the entity's appeal rights;

(2) the department with licensing authority shall provide formal written notice to the entity within 14 working days after the immediate revocation or suspension decision; formal written notice must include

(A) a copy of the applicable department's report under AS 47.32.120, a statement of the entity's right to submit a written response to the report, and any regulatory [DEPARTMENT] requirement that the entity submit a written response to the report;

(B) a description of any enforcement action the department with licensing authority intends to take under AS 47.32.140(d) or (f); and

(C) information regarding the entity's appeal rights.

(c) An entity to which a notice has been provided under this section may appeal the applicable department's decision to impose the enforcement action, including an enforcement action the department with licensing authority intends to take under AS 47.32.140(d) or (f), by filing a written request for a hearing, on a form provided by the applicable department, within 15 days after receipt of the notice. If a hearing is not timely requested under this subsection, the [department's] notice provided under (b) of this section constitutes a final administrative order for which the department may seek the court's assistance in enforcing.

* Sec. 105. AS 47.32.140(a) is amended to read:

(a) If the [DEPARTMENT'S] report of investigation or inspection under AS 47.32.120 concludes that the department with licensing authority has reasonable cause to believe that a violation of an applicable statute or regulation has occurred,
that [THE] department shall provide notice to the entity of the violation and an opportunity to cure the violation within a reasonable time specified in the notice [BY THE DEPARTMENT]. The notice also must include a copy of the applicable department's report under AS 47.32.120, a statement that the entity may submit a written response to the report, any regulatory [DEPARTMENT] requirement that the entity submit a written response to the report, a description of any enforcement action that [THE] department intends to take under (d) or (f) of this section, and information regarding the entity's appeal rights.

* Sec. 106. AS 47.32.140(b) is amended to read:

(b) An entity receiving a notice under (a) of this section, or a notice under AS 47.32.130(b)(2) that contains the information specified in AS 47.32.130(b)(2)(B), shall submit a plan of correction to the applicable department for approval. Once it has cured its violations, the entity shall submit to that [THE] department an allegation of compliance. Upon receipt of the allegation of compliance, the applicable department may conduct a follow-up investigation or inspection to determine compliance. The department that provides notice of a violation may take one or more enforcement actions under (d) and (f) of this section regardless of whether the entity achieves compliance under this subsection.

* Sec. 107. AS 47.32.140(c) is amended to read:

(c) If the department that provides notice of a violation believes that an entity has not voluntarily corrected the violation or entered into a plan of correction approved under (b) of this section [WITH THE APPROVAL OF THE DEPARTMENT], that [THE] department may require that the entity participate in a plan of correction under that department's regulations [OF THE DEPARTMENT]. Once the entity has cured its violations, it shall submit to that [THE] department an allegation of compliance. Upon receipt of the allegation of compliance, the applicable department may conduct a follow-up investigation or inspection to determine compliance. The department that provides notice of a violation may take one or more enforcement actions under (d) and (f) of this section regardless of whether the entity achieves compliance under this subsection.

* Sec. 108. AS 47.32.140(d) is amended to read:
(d) The department **with licensing authority for an entity** may take one or more of the following enforcement actions under this section:

1. delivery of a warning notice to the licensed entity and to any additional person who was the subject of the investigation or inspection;
2. modification of the term or scope of the entity's existing license, including changing a biennial license to a provisional license or adding a condition to the license;
3. suspension of the entity's operations for a period of time set by the department **with licensing authority**;
4. suspension of or a ban on the entity's provision of services to individuals not already receiving services from the entity for a period of time set by the department **with licensing authority**;
5. nonrenewal of the entity's license;
6. revocation of the entity's license or, if the entity is not licensed under this chapter, revocation of the entity's ability to become licensed under this chapter;
7. issuance of an order requiring closure, immediate or otherwise, of the entity regardless of whether the entity is licensed or unlicensed;
8. denial of payments under AS 47.07 for the entity's provision of services to an individual not already receiving services from the entity;
9. assumption of either temporary or permanent management of the entity or pursuit of a court-ordered receiver for the entity;
10. reduction of the number of individuals receiving services from the entity under the license;
11. imposition of a penalty authorized under law;
12. inclusion in a civil history database identified under AS 47.05.330.

* Sec. 109. AS 47.32.140(e) is amended to read:

(e) The department **with licensing authority** may not take action under (d)(9) of this section unless the commissioner of that department has reasonable cause to believe that continued management by the entity while the entity is attempting to cure
a violation would be injurious to the health, safety, or welfare of an individual who is receiving a service from the entity.

* Sec. 110. AS 47.32.140(f) is amended to read:

  (f) In addition to any other enforcement actions the department with licensing authority may take under this section, that [THE] department may assess a civil fine against an entity for a violation of an applicable statute or regulation, taking into account the type and size of the entity and the type and severity of the violation. A fine assessed under this subsection may not exceed $2,500 a day for each day of violation for a continuing violation or $25,000 for a single violation.

* Sec. 111. AS 47.32.140(g) is amended to read:

  (g) An entity to which a notice has been provided under this section regarding an enforcement action under (d) or (f) of this section may appeal that [THE] department's decision to impose the enforcement action by filing a written request for a hearing, on a form provided by the applicable department, not later than [WITHIN] 15 days after receipt of the notice of the enforcement action.

* Sec. 112. AS 47.32.140(i) is amended to read:

  (i) If a hearing is not timely requested under AS 47.32.130(c) or under (g) of this section, as applicable, the applicable department's notice regarding an enforcement action under (d) or (f) of this section constitutes a final administrative order. The applicable department may seek the court's assistance in enforcing the final administrative order.

* Sec. 113. AS 47.32.140(j) is amended to read:

  (j) An entity against which an enforcement action under (d) or (f) of this section has been taken may not apply for a license or license renewal until after the time period set by the applicable department in its final administrative order under AS 47.32.130(c), this section, or AS 47.32.150, as applicable. If a time period has not been set, a final administrative order against the entity has the effect of a permanent revocation, and the entity may not apply for a license or license renewal. If the ownership, control, or management of an entity changes, the department with licensing authority may allow the entity to seek licensure if the entity submits documents showing the change.
* Sec. 114. AS 47.32.150(a) is amended to read:

(a) Upon receipt of a timely request for a hearing by an entity regarding an enforcement action under AS 47.32.130(a) or 47.32.140(d)(3), (5), (6), (7), or (9), the applicable department shall request the chief administrative law judge appointed under AS 44.64.020 to appoint an administrative law judge employed or retained by the office of administrative hearings to preside over a hearing conducted under this section. AS 44.62.330-44.62.630 and AS 44.64.060 apply to the hearing.

* Sec. 115. AS 47.32.150(b) is amended to read:

(b) Upon receipt of a timely request for a hearing by an entity regarding an enforcement action under AS 47.05.310, AS 47.32.070, or 47.32.140(d)(1), (2), (4), (8), (10), (11), or (12) or (f), the applicable department shall conduct a hearing in front of an officer appointed by the commissioner. A hearing under this subsection may be conducted on the record, in an informal manner, and may not be conducted under AS 44.62 or AS 44.64. The appointed hearing officer may be a state employee.

* Sec. 116. AS 47.32.150(d) is amended to read:

(d) A hearing conducted under this section shall take place within 120 days after the applicable department's receipt of the request for hearing. A hearing may be held on an expedited basis upon a showing of good cause. An expedited hearing shall be held within 60 days after the applicable department's receipt of the request for a hearing.

* Sec. 117. AS 47.32.160(a) is amended to read:

(a) The Department of Health and the Department of Family and Community Services and the employees and agents of both departments [DEPARTMENT, ITS EMPLOYEES, AND ITS AGENTS] are not liable for civil damages as a result of an act or omission in the licensure process, the monitoring of a licensed entity, or any activities under this chapter.

* Sec. 118. AS 47.32.180(b) is amended to read:

(b) With the exception of information that identifies a complainant or a recipient of services from an entity, a copy of a [THE] department's report of investigation or inspection under AS 47.32.120, an entity's written response to the report, and information regarding either department's [ANY DEPARTMENT]
imposition of an enforcement action under AS 47.32.130 or 47.32.140 are public records under AS 40.25.100 - 40.25.295. The departments [DEPARTMENT] shall make this information available to the public for inspection and copying within time frames specified in AS 40.25.100 - 40.25.295 or regulations adopted under AS 40.25.100 - 40.25.295 after the

(1) entity receives its copy of the report of investigation under AS 47.32.120, if the applicable department has determined that an enforcement action under AS 47.32.130 or 47.32.140 will not be taken regarding the entity;

(2) applicable department's notice of enforcement action under AS 47.32.130 or 47.32.140 becomes a final administrative order without a hearing under AS 47.32.130(c) or 47.32.140(i); or

(3) issuance of a decision following a hearing under AS 47.32.150.

* Sec. 119. AS 47.32.180(c) is amended to read:

(c) Notwithstanding any other provision of law, a [THE] department conducting a licensing investigation under this chapter may, upon request, share information obtained during the investigation with a law enforcement agency that is investigating a crime that is [ALSO] the subject of the [A] licensing investigation [OBTAINED DURING A CURRENT INVESTIGATION].

* Sec. 120. AS 47.32.190 is amended to read:

Sec. 47.32.190. Access to information. Notwithstanding any contrary provision of law, the divisions of each [THE] department assigned to implement this chapter shall have access to any information compiled or retained by other divisions of that [THE] department, regardless of the nature of the information or whether the information is considered confidential, in order to assist in administering the provisions of this chapter.

* Sec. 121. AS 47.32.200 is amended to read:

Sec. 47.32.200. Notices required of entities. (a) An entity shall provide the department with licensing authority for that entity with written notice of a change of mailing address at least 14 days before the effective date of the change.

(b) An entity shall notify the department with licensing authority for that entity within 24 hours after having knowledge that an administrator, employee,
volunteer, or household member, as required by the type of entity under department regulations, has been

(1) convicted of, has been charged by information or complaint with, or is under indictment or presentment for an offense listed in regulations adopted under AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar elements; or

(2) found to have neglected or abused a child as described in AS 47.10.

(c) An entity shall notify the department with licensing authority for that entity within 24 hours after having knowledge of any allegation or suspicion of abuse, neglect, or misappropriation of money or other property of an individual receiving services from the entity. The entity shall conduct an investigation and make a written report to that [THE] department within five days following notification to the department under this subsection.

(d) Not less than 20 days before the effective date of a decision to relinquish the entity's license, the entity shall notify the department with licensing authority for that entity of the decision.

(e) Not more than one day after signing a contract for sale of the licensed entity, the entity shall notify the department with licensing authority for that entity of the sale.

(f) Not less than 30 days before an entity wishes to change the location of the entity, the entity shall notify the department with licensing authority for that entity of the change.

* Sec. 122. AS 47.32.900(6) is amended to read:

(6) "entity" means an entity listed in AS 47.32.010(b) or (c);

* Sec. 123. AS 47.33.310(b) is amended to read:

(b) An assisted living home shall post in a prominent place in the home

(1) a copy of the rights set out in AS 47.33.300;

(2) the name, address, and phone number of the long term care ombudsman hired under AS 44.25.300 [AS 47.62.010] and, if relevant to residents, of the advocacy agency for persons with a developmental disability or mental illness;

(3) the telephone number of an information or referral service for
vulnerable adults; and

(4) a copy of the grievance procedure established under AS 47.33.340.

* Sec. 124. AS 47.40.110 is amended to read:

Sec. 47.40.110. Licensing and supervision. A person providing services purchased by the Department of Health [AND SOCIAL SERVICES] under AS 47.40.100 - 47.40.120 shall, if required to be licensed under AS 47.32, be licensed and supervised in the same manner as [FOSTER HOMES AND] maternity homes under AS 47.32.

* Sec. 125. AS 47.45.200(a) is amended to read:

(a) The Alaska Commission on Aging is established in the Department of Health [AND SOCIAL SERVICES]. The members of the commission include

(1) the commissioner of health [AND SOCIAL SERVICES] or the commissioner's designee;

(2) the commissioner of commerce, community, and economic development or the commissioner's designee;

(3) a senior services provider, regardless of age, appointed by the governor;

(4) the chair of the Alaska Pioneers' Homes Advisory Board under AS 44.30.100 [AS 44.29.500]; and

(5) seven persons selected on the basis of their knowledge and demonstrated interest in the concerns of older Alaskans, appointed by the governor in accordance with (b) of this section.

* Sec. 126. AS 47.45.240(a) is amended to read

(a) The commission shall

(1) subject to review by the department, approve a comprehensive statewide plan that identifies and addresses the concerns and needs of older Alaskans and, with reference to the approved plan, prepare and submit to the governor and legislature an annual analysis and evaluation of the services that are provided to older Alaskans;

(2) make recommendations directly to the governor and the legislature with respect to legislation, regulations, and appropriations for programs or services
that benefit older Alaskans;

(3) encourage the development of municipal commissions serving older Alaskans and community-oriented programs and services for the benefit of older Alaskans;

(4) employ an executive director who serves at the pleasure of the commission;

(5) help older Alaskans lead dignified, independent, and useful lives;

(6) request and receive reports and audits from state agencies and local institutions concerned with the conditions and needs of older Alaskans;

(7) give assistance, on request, to the senior housing office in the Alaska Housing Finance Corporation in administration of the senior housing loan program under AS 18.56.710 - 18.56.799 and in the performance of the office's other duties under AS 18.56.700; and

(8) provide to the Alaska Mental Health Trust Authority, for its review and consideration, recommendations concerning the integrated comprehensive mental health program for persons who are described in (d) of this section and the use of the money in the mental health trust settlement income account in a manner consistent with regulations adopted under **AS 44.25.240** [AS 47.30.031].

* Sec. 127. **AS 47.45.240**(d) is amended to read:

(d) When the commission formulates a comprehensive statewide plan under (a) of this section, it shall include within the plan specific reference to the concerns and needs of older Alaskans who have a disorder described in **AS 44.25.290**(b)(4) [AS 47.30.056(b)(4)].

* Sec. 128. **AS 47.80.100**(a) is amended to read:

(a) The Department of Health [AND SOCIAL SERVICES], the Department of Education and Early Development, and other departments of the state as appropriate, shall, in coordination, plan, develop, and implement a comprehensive system of services and facilities for persons with disabilities that is consistent with the state plan adopted under **AS 44.29.660**(5) [AS 47.80.090(5)] and is dispersed geographically within the state.

* Sec. 129. **AS 47.80.135**(b) is amended to read:
(b) By December 31 of each year, the commissioner of health [AND SOCIAL SERVICES] shall provide to the Alaska Mental Health Trust Authority established by AS 44.25.200 [AS 47.30.011] a report on the department's progress toward the objective under (a) of this section.

* Sec. 130. AS 44.29.500, 44.29.510, 44.29.520, 44.29.530; AS 47.05.060; 47.05.065, 47.05.090, 47.05.100; AS 47.30.011, 47.30.016, 47.30.021, 47.30.026, 47.30.031, 47.30.036, 47.30.041, 47.30.046, 47.30.051, 47.30.056, 47.30.061, 47.30.061, 47.30.062, 47.30.063, 47.30.064, 47.30.065, 47.30.066, 47.30.067, 47.30.069; AS 47.32.900(4), 47.32.900(5); AS 47.62.010, 47.62.015, 47.62.020, 47.62.025, 47.62.030, 47.62.035, 47.62.040, 47.62.050, 47.62.060, 47.62.090; AS 47.80.030, 47.80.040, 47.80.050, 47.80.060, 47.80.070, 47.80.080, 47.80.090, 47.80.095, 47.80.300, 47.80.310, 47.80.320, and 47.80.330 are repealed.

* Sec. 131. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISIONS. (a) Litigation, hearings, investigations, and other proceedings pending under a law repealed or amended by this Order, or in connection with a function transferred by this Order, continue in effect and may be completed, notwithstanding a transfer, under the applicable statute adopted by this Order and within the applicable agency named in this Order.

(b) Certificates, orders, and regulations in effect immediately before the effective date of a law affected by this Order that were issued or adopted under authority of a law amended or repealed by this Order, or in connection with a function transferred by this Order, remain in effect for the term issued and shall be enforced by the agency to which the function is transferred under this Order until revoked, vacated, or amended by the agency to which the function is transferred.

(c) Wherever in Alaska Statutes affected by this Order there is a reference to regulations adopted under a section of law and there are no regulations adopted under that section because previous regulations adopted under another section are being enforced under (b) of this section, the reference shall be construed to refer to the previously adopted regulations until they are amended by the new agency.

(d) Contracts, rights, liabilities, and obligations created by or under a law repealed or amended by this Order, and in effect on the day before the effective date of the repeal or
amendment, remain in effect notwithstanding this Order's taking effect.

(e) Records, equipment, appropriations, and other property of an agency of the state whose functions are transferred under this Order shall be transferred to implement the provisions of this Order.

* Sec. 132. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: CONTINUED ELIGIBILITY FOR CURRENT RECIPIENTS. A person who applied, and was determined eligible, for medical, public, or other assistance under a statute repealed or amended by this Order, or a function transferred by this Order, may continue to receive that assistance without reapplying for an eligibility determination so long as the person remains eligible for that assistance.

* Sec. 133. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: CURRENTLY LICENSED OR APPROVED ENTITY OR FACILITY. A facility or entity that is being operated under a valid license or under an approval issued under a statute repealed or amended by this Order, or a function transferred by this Order, may continue to operate under that license or approval as provided in this section.

* Sec. 134. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: FEDERALLY APPROVED STATE PLANS; WAIVERS. State plans and waivers prepared by the Department of Health and Social Services and approved by the United States Department of Health and Human Services that are in effect on the day immediately before the effective date of this Order remain in effect for the term issued and shall be enforced by the agency to which the function is transferred under this Order until revoked, vacated, or amended by the agency to which the function is transferred or by the United States Department of Health and Human Services.

* Sec. 135. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: DEPARTMENT AGREEMENTS. Agreements entered into by the Department of Health and Social Services in effect on the day before the effective date of this
Order, including memorandums of agreement or understanding, data use agreements, and
business associate agreements, remain in effect and continue under the terms of the agreement
and shall be enforced by the agency to which the function is transferred under this Order until
revoked, vacated, or amended by the parties to the agreement.

* Sec. 136. The uncodified law of the State of Alaska is amended by adding a new section
to read:

TRANSITION: TRIBAL COMPACT. The Alaska Tribal Child Welfare Compact
entered into by the Department of Health and Social Services remains in effect and continues
under the terms of the agreement and shall be enforced by the agency to which the function is
transferred under this Order until revoked, vacated, or amended by the parties to the
agreement.

* Sec. 137. The uncodified law of the State of Alaska is amended by adding a new section
to read:

PENDING PAYMENTS; APPLICATIONS; REQUESTS. (a) Medical, public, or
other assistance payments pending on the day before the effective date of this Order shall
remain in process and be transferred to implement the provisions of this Order.

(b) Applications pending with the Department of Health and Social Services on the
day before the effective date of this Order shall remain in process and be transferred to
implement the provisions of this Order, including applications for

(1) medical, public, or other assistance payments;
(2) a license, certification, or enrollment;
(3) background checks;
(4) eligibility determinations;
(5) grants.

(c) Public records and other requests pending on the day before the effective date of
this Order shall remain in process and be transferred to implement the provisions of this
Order.

* Sec. 138. The uncodified law of the State of Alaska is amended by adding a new section
to read:

EMPLOYEES. On the effective date of this Order, employees in the Department of
Health and Social Services whose duties have been transferred by law to
(1) the Department of Health under this Order shall be transferred to the Department of Health;

(2) the Department of Family and Community Services under this Order shall be transferred to the Department of Family and Community Services.

* Sec. 139. The uncodified law of the State of Alaska is amended by adding a new section to read:

BOARD AND COMMISSION MEMBERS. A public member of a board or commission that is transferred by this Order whose terms have not expired by the effective date of this Order may continue to serve the remainder of the member’s term on the board or commission, notwithstanding the transfer.

* Sec. 140. The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. A department affected by this Order may proceed to adopt regulations to implement this Order. The regulations take effect under AS 44.62 (Administrative Procedure Act) but not before the effective date of the corresponding enabling statute.

* Sec. 141. The uncodified law of the State of Alaska is amended by adding a new section to read:

CONFIDENTIALITY; SHARING OF INFORMATION. Consistent with state and federal law, the Department of Health and the Department of Family and Community Services, established by this Order, shall coordinate and share information, including confidential and protected health information, to enable each department to manage, administer, and operate each department’s programs and provide the services, payments, or benefits assigned to each department under the authority of this Order. Each department shall maintain the confidentiality required by state or federal law for any information shared.

* Sec. 142. The uncodified law of the State of Alaska is amended by adding a new section to read:

INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the references to "Department of Health and Social Services" to read "Department of Health" in the following statutes:

(a) AS 04
(1) 04.16.049(i); 04.16.050(c);
(2) 04.21.080(14).

(b) AS 06
(1) 06.65.270; 06.65.280;
(c) AS 08
(1) 08.02.040(a);
(2) 08.11.120(b);
(3) 08.65.140;
(4) 08.68.700(f);
(5) 08.80.261(b).
(d) AS 09
(1) 09.10.075;
(2) 09.58.010(d); 09.58.015(a); 09.58.100(5);
(3) 09.65.161; 09.65.292(c).
(e) AS 11
(1) 11.71.125(b);
(2) 11.76.105(b); 11.76.109(b).
(f) AS 12
(1) 12.65.005(a); 12.65.020(g); 12.65.025(a); 12.65.025(b); 12.65.025(c);
12.65.025(d); 12.65.025(f); 12.65.100; 12.65.120(a); 12.65.120(b); 12.65.120(c).
(g) AS 13
(1) 13.26.415(a); 13.26.615(e);
(2) 13.28.040(b);
(3) 13.52.300; 3.52.390(10);
(4) 13.55.010(b); 13.55.100(1).
(h) AS 14
(1) 14.30.065; 14.30.070(b); 14.30.127(b); 14.30.360(b).
(i) AS 15
(1) 15.07.055(a).
(j) AS 16
(1) 16.43.340(a).
(k) AS 17
   (1) 17.20.135(2); 17.20.175(2); 17.20.180;
   (2) 17.21.030(a);
   (3) 17.22.090(1);
   (4) 17.30.200(d);
   (5) 17.37.070(5).

(l) AS 18
   (1) 18.05.070;
   (2) 18.07.111(7); 18.07.111(10);
   (3) 18.08.089(d); 18.08.200(5);
   (4) 18.09.010; 18.09.990(6);
   (5) 18.10.260(2);
   (6) 18.13.010(c);
   (7) 18.15.250(c); 18.15.900;
   (8) 18.16.010(a); 18.16.040;
   (9) 18.20.130(1); 18.20.210(2); 18.20.390(1)
   (10) 18.23.100; 18.23.325(2); 18.23.400(n);
   (11) 18.25.120;
   (12) 18.28.100(3);
   (13) 18.29.190(2);
   (14) 18.35.399(3);
   (15) 18.45.030;
   (16) 18.50.950(6);
   (17) 18.55.255(c);
   (18) 18.60.030; 18.60.100; 18.60.545(1); 18.60.835;
   (19) 18.66.300;
   (20) 18.68.020(a).

(m) AS 21
   (1) 21.09.242;
   (2) 21.55.320(b);
   (3) 21.65.105(b);
1 (4) 21.86.180(b).
2
(n) AS 23
3 (1) 23.15.280;
4 (2) 23.30.097(p); 23.30.238(a); 23.30.395(38);
5 (3) 23.40.075.
6 (o) AS 25
7 (1) 25.05.111; 25.05.381(2);
8 (2) 25.20.055(a); 25.20.055(d);
9 (3) 25.24.250(b);
10 (4) 25.27.020(a); 25.27.063(c).
11 (p) AS 28
12 (1) 28.10.181(z)
13 (2) 28.15.201(d); 28.15.211(d); 28.15.241(b); 28.15.253;
14 (3) 28.35.030(h); 28.35.032(l); 28.35.039(1).
15 (q) AS 29
16 (1) 29.35.530(c);
17 (2) 29.60.600(a).
18 (r) AS 33
19 (1) 33.30.028(a).
20 (s) AS 34
21 (1) 34.35.460(b); 34.35.481.
22 (t) AS 36
23 (1) 36.30.735; 36.30.850(b)(18).
24 (u) AS 39
25 (1) 39.25.110(13).
26 (v) AS 42
27 (1) 42.05.296(b).'
28 (w) AS 43
29 (1) 43.23.170(a); 43.23.170(b); 43.23.240(a);
30 (2) 43.60.050(b);
31 (3) 43.61.010(d).
(x) AS 44
(1) 44.29.010; 44.29.020(b); 44.29.020(c); 44.29.022(b); 44.29.024(a); 44.29.024(b); 44.29.092; 44.29.094(h); 44.29.100; 44.29.230; 44.29.300(a);
(2) 44.42.410(e); 44.42.420(a); 44.42.420(b);
(3) 44.62.330(a)(15);
(4) 44.66.020(a)(2);
(5) 44.77.015(d)(2).

(y) AS 45
(1) 45.48.210(a).

(z) AS 47
(1) 47.07.040; 47.07.900(7);
(2) 47.08.010(a); 47.08.010(b); 47.08.020; 47.08.150(a); 47.08.150(c); 47.08.150(e); 47.08.150(f);
(3) 47.14.990(6);
(4) 47.17.030(e);
(5) 47.20.290(3); 47.20.390(2);
(6) 47.24.010(a); 47.24.900(6);
(7) 47.25.095(5); 47.25.300(2); 47.25.615(4); 47.25.621(a); 47.25.621(c); 47.25.622; 47.25.623(b); 47.25.623(c); 47.25.626(a); 47.25.990(1);
(8) 47.27.040(b); 47.27.200(a); 47.27.900(4); 47.27.900(8); 47.27.990(8);
(9) 47.30.500(3); 47.30.610(2);
(10) 47.33.420;
(11) 47.37.270(3);
(12) 47.38.199(2);
(13) 47.40.100; 47.40.120;
(14) 47.45.020; 47.45.030(a); 47.45.050; 47.45.290(2); 47.45.301(a); 47.45.309(1);
(15) 47.55.030(b); 47.55.030(d);
(16) 47.60.060;
(17) 47.65.290(3);
(18) 47.75.060(1);
* Sec. 143. The uncodified law of the State of Alaska is amended by adding a new section to read:

INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the references to "commissioner of health and social services" to read "commissioner of health" in the following statutes:

(a) AS 12
   (1) 12.65.015(a); 12.65.015(c); 12.65.015(e); 12.65.120(a); 12.62.120(b).

(b) AS 13.55
   (1) 13.55.010(b).

(c) AS 14
   (1) 14.30.070(c); 14.30.125;
   (2) 14.40.088(b).

(d) AS 17
   (1) 17.20.135(1); 17.20.175(1); 17.20.200(c); 17.20.220(a); 17.20.220(c);
   17.20.230(b); 17.20.240; 17.20.250; 17.20.260; 17.20.280; 17.20.290(c); 17.20.330;
   17.20.350; 17.20.360.
   (2) 17.30.080(b); 17.30.080(c); 17.30.140.

(d) AS 18
   (1) 18.05.070;
   (2) 18.07.111(4).
   (3) 18.08.200(3);
   (4) 18.09.990(3);
   (5) 18.10.260(1);
   (6) 18.23.070(5); 18.23.325(1).
   (7) 18.26.030;
   (8) 18.29.190(1);
   (9) 18.35.399(2);
   (10) 18.50.950(4);
   (11) 18.56.030(a).
(e) AS 19
   (1) 19.40.060.

(f) AS 21
   (1) 21.86.020(a); 21.86.020(b); 21.86.080(a); 21.86.100; 21.86.200(b);
   21.86.220; 21.86.230(b); 21.86.290.

(g) AS 26
   (1) 26.23.900(2).

(h) AS 28
   (1) 28.15.081(b).

(i) AS 29
   (1) 29.60.610.

(j) AS 44
   (1) 44.19.642(a);
   (2) 44.29.010; 44.29.024(a); 44.29.092; 44.29.110;
   (3) 44.77.015(c);
   (4) 44.85.010(a).

(k) AS 46
   (1) 46.03.110.

(l) AS 47
   (1) 47.08.010(b);
   (2) 47.14.400(c);
   (3) 47.20.390(1);
   (4) 47.27.990(7);
   (5) 47.33.050(a);
   (6) 47.37.270(2);
   (7) 47.38.199(1);
   (8) 47.45.010(b); 47.45.020; 47.45.030(a); 47.45.040; 47.45.070(a);
   47.45.080; AS 47.45.100; 47.45.130;
   (9) 47.55.010(a).

(m) AS 48
   (1) 47.80.090.
*Sec. 144.* The uncodified law of the State of Alaska is amended by adding a new section to read:

INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the references to "Department of Health and Social Services" to read "Department of Family and Community Services" in the following statutes:

(a) AS 09
   (1) 09.65.292(c).

(b) AS 11
   (1) 11.41.425(a); 11.41.425(b); 11.41.427(a); 11.41.470(3);
   (2) 11.51.130(a);
   (3) 11.81.900(61); 11.81.900(62).

(c) AS 12
   (1) 12.47.092(a);
   (2) 12.62.120(b);
   (3) 12.65.005(a); 12.65.120(a); 12.65.120(b); 12.65.130(a).

(d) AS 13
   (1) 13.26.460(g); 13.26.635(a);
   (2) 13.52.300.

(e) AS 14
   (1) 14.07.020(a).

(f) AS 18
   (1) 18.07.111(8);
   (2) 18.16.020(a);
   (3) 18.20.499(2);
   (4) 18.23.400(n);
   (5) 18.65.086(b);
   (6) 18.66.050.

(g) AS 21
   (1) 21.36.485(b).

(h) AS 24
   (1) 24.20.235(a).
(i) AS 25
   (2) 25.23.240(6).

(j) AS 43
   (1) 43.23.005; 43.23.150(a); 43.23.150(b).

(k) AS 44
   (1) 44.12.075;
   (2) 44.62.330(a)(41);
   (3) 44.64.030(a)(47).

(l) AS 47
   (1) 47.10.092(a); 47.10.092(c); 47.10.092(d); 47.10.093(l); 47.10.141(b);
   47.10.142(a); 47.10.990(8);
   (2) 47.12.990(5); 47.12.990(9);
   (3) 47.15.035; 47.15.022(d);
   (4) 47.17.290(6);
   (5) 47.18.900;
   (6) 47.21.010(a); 47.21.010(b); 47.21.020(b);
   (7) 47.31.100(2);
   (8) 47.32.032(a); 47.32.032(b); 47.32.032(c);
   (9) 47.40.091(2);
   (10) 47.55.080; 47.55.900(1);
   (11) 47.70.030(a); 47.70.030(b).

* Sec. 145. The uncodified law of the State of Alaska is amended by adding a new section to read:

INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the references to "commissioner of health and social services" to read "commissioner of family and community services" in the following statutes:

(a) AS 11
   (1) 11.56.310(a); 11.56.320(a).

(b) AS 12
   (1) 12.47.090(b); 12.47.090(c); 12.47.090(h); 12.47.092(a); 12.47.092(b);
   12.47.092(c); 12.47.092(e); 12.47.095(a); 12.47.095(b); 12.47.095(c); 12.47.095(d);
12.47.110(a);
   (2) 12.65.120(a).
(c) AS 25
   (1) 25.23.240(4).
(d) AS 29
   (1) 29.25.070(e).
(e) AS 33
   (1) 33.36.140(b).
(f) AS 37
   (1) 37.14.225.
(g) AS 47
   (1) 47.10.080(d); 47.10.092(a); 47.10.093(i); 47.10.990(5);
   (2) 47.12.320(a); 47.12.990(1);
   (3) 47.14.400(c);
   (4) 47.15.020;
   (5) 47.31.100(1);
   (6) 47.55.035.

* Sec. 146. The uncodified law of the State of Alaska is amended by adding a new section to read:

IMPLEMENTATION OF THIS ORDER. Under AS 44.62.125(b)(6), the regulations attorney shall implement this order, as necessary, in the administrative code.

* Sec. 147. This Order takes effect July 1, 2021.

DATED:__________________

__________________________________________________________________________

Mike Dunleavy
Governor