

## Senate Bill 190 Sectional Analysis

Prepared by the Alaska Department of Health and Social Services – 1/21/16

SB 151, an act relating to criminal and civil history requirements for individuals and entities licensed or certified by the Department of Health and Social Services.

### Sectional Analysis

- Section 1 Conforming amendment to add new statute number relating to centralized registry under AS 47.05.360
- Section 2 Repeals and reenacts the criminal background statutes (AS 47.05.310) to correct references to the centralized registry under AS 47.05.330 -- see AS 47.05.310(c) and AS 47.05.310(i)(2) and (3). This would alleviate confusion, inconsistencies, and redundancy between these statutes. This section further clarifies that individuals as well as entities can seek a criminal background check and centralized registry check. It also relocates the content of subsection (g) to the general regulation authority in sec. 5 of the bill to implement the chapter.
- Section 3 Adds a new section AS 47.05.325, related to civil history and the centralized registry statute (AS 47.05.330) so that it mirrors the criminal background check statute. This section further clarifies what type of civil findings would constitute a bar to licensure and/or employment and clearly establishes that only those bars that are subject to due process would be applied. This section also adds a paragraph that would include substantiations of barring behavior by the Department of Health and Social Services, Office of Children's Services and Adult Protective Services (references to AS 47.17.040 and AS 47.24). The section also deletes current subsections (c), (d), and (e), and amends existing subsection (f) to "include" what was in (c), (d), (e), and (g).
- Section 4 Repealed and reenacted to remove the confidentiality section from current statute AS 47.05.330(h) to create a stand-alone statute for that purpose and create the centralized registry.
- Section 5 Amends AS 47.05.350 of the existing immunity section in AS 47.05.350 to update the language to include new statute AS 47.05.325
- Section 6 Adds a new subsection to AS 47.03.360 allowing individuals the ability to request corrections and clarify variances, reconsiderations, or appeals rights under this chapter.

- Section 7 Amends AS 47.05.390, adding individual service provider to the definition of “entity”.
- Section 8 Amends AS 47.17.040 to include substantiated findings of abuse or neglect in the Central Registry maintained by the Office of Children’s Services and to clarify that information on this registry can be used for licensing actions taken in this state or another state.
- Section 9 This section amends AS 47.17.040 to confirm due process protections before placement on the central registry.
- Section 10 Amends AS 47.32.070 adding a new section allowing the department to consider licensing history when making determinations or enforcement under this chapter.
- Section 11 Adds a new subsection 47.32.090 stating the department may investigate an individual and if conduct is substantiated, affords the applicant due process to appeal the findings. This section also provides authority to the Department to adopt regulations.
- Section 12 Amends AS 47.32.180 to reference subsection 47.32.140(f) which allows the department the ability to assess civil fines for violations.
- Section 13 AS 47.32.180 adds a new subsection allowing the department the ability to share information from a licensing investigation with law enforcement agencies.
- Section 14 Amends 47.32.190 replacing specific divisions with the department, affording the department the ability to then identify the appropriate division to implement this chapter and access otherwise confidential information from necessary divisions within the department.
- Section 15 Repeals AS 47.05.390(1), the definition for “criminal history records”, and repeals AS 47.32.140(d)(13), the requirement that the entity submit a plan of correction.
- Section 16 Adds a new applicability subsection to the uncodified law of the State of Alaska, applying this act to both criminal and civil conduct.
- Section 17 Amends the uncodified law of the State of Alaska to include a new subsection outlining revisor’s instructions, requesting conforming changes to other existing statutes.
- Section 18 Provides for an immediate effective date.