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Governor Bill Walker
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March 7, 2017

The Honorable Pete Kelly
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Kelly:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the protection of vulnerable adults and residents of long term care facilities.

This bill would amend provisions of AS 47.62, Office of the Long Term Care Ombudsman, to ensure alignment with 42 U.S.C. 3058(g) (Older Americans Act of 1965), as amended by S. 192, P.L. 114-144, (Older Americans Act Reauthorization Act of 2016), and implementing regulations, 45 C.F.R. Part 1327. The bill would also amend certain provisions of AS 47.24 (protection of vulnerable adults).

Under current State law, if a report of abuse or neglect of an older Alaskan is made directly to the Office of the Long Term Care Ombudsman, the Ombudsman is required to provide the report and the results of the Office's investigation to the Department of Health and Social Services (DHSS). This mandate potentially conflicts with federal requirements precluding the Ombudsman from disclosing the report unless there is consent; this bill would clarify that the Ombudsman may provide a report of abuse to DHSS, but only if the vulnerable adult provides consent to do so. The bill also would clarify that DHSS has the responsibility to investigate all reports of harm it receives regarding vulnerable adults and that DHSS may transfer reports to the Ombudsman for additional assistance in resolving any issues for residents in long term care facilities. The Ombudsman also would have discretion to investigate and resolve complaints for residents of facilities who are younger than 60 years of age, consistent with federal law.

Under current law, the Ombudsman may not disclose the person's identity without the consent of the identified person or the person's legal guardian, unless required by court order. Amendments, consistent with federal law, would allow the Ombudsman to disclose the person's identity for purposes of making a referral to an agency if the person or the resident representative is unable to provide consent and if certain other conditions are met. The bill includes a definition of "resident representative" consistent with federal regulations.

This bill also amends AS 47.24 as it relates to the Department of Health and Social Services' handling of reports of harm to older Alaskans and the investigation of the reports. Additionally, it clarifies where reports of harm are to be lodged within DHSS.

I urge your prompt and favorable action on this measure.

Sincerely,

Bill Walker
Governor

Enclosure