

HB 162/SB 81 Sectional

(DHSS centralized registry; license; background checks)

Created by: Department of Law

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Section 1. This section would make conforming edits to rename the centralized registry to the civil registry to avoid confusion under the current law with the centralized registry (AS 47.05.330) and the central registry in AS 47.17.040 (see section 14).

Sections 2 and 3. These sections would amend AS 47.05.310(d) and 47.32.310(d) to clarify that barrier crimes apply to individuals as well as entities.

Section 4. This section would amend AS 47.53.310(e) to allow an individual to seek a background check; under the current law only entities can seek a background check. This section would also remove, at the request of the Department of Public Safety, the designation of the Department of Health and Social Services (DHSS) as a criminal justice agency for purpose of the background check program.

Section 5. This section would amend AS 47.05. 310(f) to make it clear that the DHSS may, in addition to exceptions to the barrier crime provisions, approve a variance for a barrier crime.

Section 6. This section would amend AS 47.05.310(h) to address how a non-licensed provider, such as a relative who is receiving payment by the Office of Children's Services, is treated under the statute. This amendment would make it clear that such providers, while not being paid by DHSS, are still subject to background checks prior to placement.

Section 7. This section would make a conforming edit to AS 47.05.310(i) to rename the centralized registry to the civil registry (similar to section 1).

Section 8. This section would add a new section to AS 47.05.310 to address immunity from civil or criminal liability for reporting during the background check process.

Section 9. This section would provide a similar framework for the civil registry checks as background checks (see AS 47.05.310). This means that the same process applies to a person who is found to have a barring criminal conviction under AS 47.05.310 as well as a barring civil finding under AS 47.05.330.

Section 10. This section would be repealed and reenacted to outline how the department will review existing registries, rather than create yet another separate database. This

section would also identify what DHSS will be looking for in terms of civil findings that are inconsistent with licensure or payment (e.g., CINA findings, terminated from DHSS for assaultive/neglectful or exploitative behavior). Information contained or obtained via the registry would be confidential and not subject to a public records request.

Section 11. This would amend the current immunity section to reflect the change to civil registry from centralized registry.

Section 12. This would establish a new section to address the ability to seek a variance for any finding under this chapter and how to appeal a decision if you disagree with any decision made by DHSS.

Section 13. This section would amend AS 47.05.390(6) to expand the definition of entity to include an individual service provider.

Section 14. This section would rename the central registry maintained by the Office of Children's Services to the child protection registry to avoid confusion. It also clarifies what is maintained on this registry, including substantiated findings under AS 47.10 or AS 47.17.

Section 15. This new subsection would clarify that before a substantiated finding can be placed on the child protection registry the person must have been afforded notice of the finding and the opportunity to challenge the finding.

Section 16. This section would make a conforming edit to AS 47.32.010(c) replacing centralized registry with civil registry (similar to section 1).

Section 17. This section would amend AS 47.32 to provide authority for DHSS to consider prior adverse licensing findings in determining whether to grant or deny a license or whether to place a condition on a license

Section 18. This would add a new section to make it clear that when there is an allegation that an employee or individual affiliated with a licensed entity is alleged to have engaged in any behavior that would impact the safety or welfare of a resident, the department may investigate that individual and issue a report on the findings of that investigation. This section would further provide that if a finding of abuse or neglect is substantiated then that finding will be part of the civil registry process and may result in a person being prohibited from employment or licensure in the future. This section would also make it clear that before such a finding can be used, due process must be afforded.

Section 19. This is technical fix that would clarify when formal hearings are required when an enforcement action is taken after a licensing investigation.

Section 20. This would add a new section to clarify that that when law enforcement is investigating a crime that is also the subject of a licensing investigation, the material gathered by DHSS may be shared with the law enforcement as a matter of law.

Section 21. This section would clarify that all divisions who implement AS 47.32 may share information with each other for the purpose of administering the licensing programs at DHSS.

Section 22. This section would repeal reference to provisions of the current law that are no longer necessary or have been determined to be superfluous. Specifically, the section would repeal the reference to the civil registry when doing a background check, references to DHSS as criminal justice agency, and statutes stating an administrative hearing is not required when the enforcement action sought is a plan of correction.

Section 23. This is an applicability section for purposes of applying the criminal and civil background checks before, on or after the effective date of this act.

Section 24. This section would advise the revisor regarding title changes to reflect amendments in this act, including the change to include the civil history registry.

Section 25. This provides for an immediate effective date.