

CS SB 81 (HSS) ver. D Sectional
(DHSS centralize registry; license; background checks)
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Section 1. Amends Title 12 of the Alaska statutes to bring the Department of Public Safety criminal background check process into compliance with federal law; specifically, this amendment allows public safety share criminal history information with the Department of Health and Social Services.

Section 2. This section makes conforming edits to rename “Centralized Registry” to the “the civil history database check” (AS 47.05.330) to more accurately describe the current practice and avoids confusion with the “the central registry” in AS 47.17.040 (see section 14).

Sections 3 and 4. These sections would amend AS 47.05.310(b) and 47.32.310(d) to clarify that barrier crimes apply to individuals as well as entities.

Section 5. This section would amend AS 47.05.310(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. (see also section 1).

Section 6. This section would amend AS 47.05.310(f) to make it clear that DHSS may – in addition to exceptions to the barrier crime provisions – approve a variance for a barrier crime.

Section 7. 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 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 history database 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 repeal and reenact current statute to outline how the department will review existing databases, rather than create a separate database for the civil history checks. This section further provides that information reviewed would be confidential and is not subject to a public records request. Specifically, this section:

- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases related to licensed entities, not technical violations that may lead to a nonrenewal, suspension or revocation of a license;
- Clarifies that we are looking to identify persons whose children are subjects of a child in need of aid petition;
- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases related to licensed providers (occupational licensing under AS 08), not unrelated technical violations;
- Adds that a person who works for the state – not just the Department of Health and Social Services – is subject to a barring condition if they are terminated from employment for a substantiated allegation of assaultive, neglectful, or exploitive behavior.

Section 11. This would amend the current immunity section to reflect the change to civil history database check.

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 there is disagreement with any decision made by DHSS, including providing a legal mechanism to share information held by the Office of Children’s Services for proposes of pursuing a variance.

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 amends AS 47.10.093(b) to allow for the sharing of information in the possession of OCS that will be necessary to pursue a variance as provided in section 12 of this bill.

Section 15. 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 16. 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 17. This section would make a conforming edit to AS 47.32.010(c) replacing the centralized registry with civil history database check.

Section 18. 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 19. 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 20. This is technical fix to rename the “registry” to the “civil history database.”

Section 21. This is technical fix that would clarify when formal hearings are required when an enforcement action is taken after a licensing investigation.

Section 22. This would add a new section to clarify 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 in a concurrent investigation.

Section 23. 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 24. This section would repeal reference to provisions of the current law that are no longer necessary as a result of the prior sections of this bill.

Section 25. 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 26. 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 27. This provides for an immediate effective date.