



Anchorage

3601 C Street, Suite 902
Anchorage, Alaska 99503-5923
Main: 907.269.7800
Fax: 907.269.0060

Juneau

350 Main Street, Suite 404
Juneau, Alaska 99801
Main: 907.465.3030
Fax: 907.465.3068

Executive Order 121
SECTIONAL ANALYSIS

Section 1: Governor's findings. Adds uncodified law to express the governor's finding that it is in the best interests of efficient administration to split the Department of Health and Social Services into the Department of Health and the Department of Family and Community Services. (Page 1)

Section 2: National criminal history record check requirements (AS 12.62.400(a)). Amends AS 12.62.400(a), regarding national criminal history record checks for individuals and entities subject to AS 47.05.310, to separate individuals and entities under the authority of the Department of Health from those under the authority of the Department of Family and Community Services. (Pages 1-3)

Section 3: State child fatality review team (AS 12.65.120(a)). Amends AS 12.65.120(a), establishing the state child fatality review team, to state that the team is within the Department of Health and that the social worker team member is within the Department of Family and Community Services and appointed by the commissioner of family and community services. (Pages 3-4)

Sections 4, 10, 19 - 24, 33-34, 71 - 77, and 121: Makes amendments to address the transfer, from AS 47.30 to AS 44.25, of statutes regarding the Alaska Mental Health Trust Authority. (Pages 4, 6, 10-11, 31-32, 65-69, and 90)

Sections 5, 6, 120, and 122: Makes amendments to address the transfer, from AS 47.80 to AS 44.29, of statutes regarding the Governor's Council on Disabilities and Special Education. (Pages 4, 89, and 90)

Section 7: Employer payments under the health care professionals workforce enhancement program (AS 18.29.110(a)). Amends AS 18.29.110 to clarify that an employer payment must include the fee established under AS 44.29.022 with regard to the Department of Health or the fee now established for services under AS 44.30.030 from the Department of Family and Community Services. (Pages 4-5)

Section 8: Prohibition on smoking outdoors (AS 18.35.301(c)). Makes an amendment to address the transfer, from AS 47.62 to AS 44.25, of the definition of "long term care facility" under AS 44.25.390. (Page 5)

Sections 9, 17, and 18: Makes amendments to address the renumbering of a statutory provision establishing

the tobacco control program, from AS 44.29.020(a)(14) to AS 44.29.020(a)(12). (Pages 5-6, 9, and 10)

Section 10: See Section 4. (Page 6)

Sections 11 and 14: Sections 11 and 14 change the name of the Department of Health and Social Services or commissioner of health and social services to the Department of Health or commissioner of health, as applicable. (Pages 6-7, and 7-8)

Section 12: Legislative Finance audits AS 24.20.235(a). Aligns, for both new departments, the year of the next scheduled legislative finance audit, so that it corresponds with what would have been the year of the next audit for the Department of Health and Social Services. (Page 7)

Section 13: Child Support Services Agency - accounting and disposition of federal receipts and agency collections (AS 25.17.125(b)). Deletes a reference in statute to the Department of Health and Social Services. Statutory citations to AS 47.14.100 – AS 47.14.130 (Juvenile Programs and Institutions; Care of Children) (Department of Family and Community Services) and AS 47.27 (Alaska Temporary Assistance Program) (Department of Health) remain, and the legislature may use the balance in the referenced account to carry out the purposes of either of the statutes. (Page 7)

Section 14: See Section 11. (Pages 6-7)

Sections 15 and 16: Definition of program receipts and non-general fund program receipts (AS 37.05.146). Amends AS 37.05.146(c)(77) and add AS 37.05.146(c)(80), to change the name of the Department of Health and Social Services to the Department of Health. Also, section 16 transfers, to the Department of Family and Community Services, a reference to income received from a state or federal agency for children in foster care. Sections 15 and 16 make precise citations to address which entities' licensing fees under AS 47.32 are available to which department. (Pages 8-9)

Section 17-18: See Section 9. (Pages 9-10)

Section 19-24: See Section 4. (Pages 10-11)

Section 25: Marijuana tax (AS 43.61.010). Amends AS 43.61.010(f) to change, from AS 44.29.020(a)(17) to AS 44.29.020(a)(14), the provision to which the comprehensive marijuana use education and treatment program is assigned, and to change the name of the Department of Health and Social Services to the Department of Health. (Page 11)

Section 26: Offices and departments (AS 47.17.005). Amends the list of the state's principal offices and departments to rename the Department of Health and Social Services as the Department of Health, and to add to the list the Department of Family and Community Services. (Pages 11-12)

Section 27: Alaska Mental Health Trust Authority (AS 44.25.200 - 44.25.295) and long-term care ombudsman (AS 44.25.300 - 44.25.390). Transfers sections regarding the Alaska Mental Health Trust Authority from former AS 47.30.011 - 47.30.061 to AS 44.25.200 - 44.25.295, and transfers sections

regarding the long-term care ombudsman, established in the Alaska Mental Health Trust Authority, from former AS 47.62 to AS 44.25.300 - 44.25.390. (Pages 12-27)

Section 28: Duties of the Department of Health (AS 44.29.020). Removes duties now assigned altogether to the Department of Family and Community Services: management of state institutions, child welfare services, the Alaska Pioneers' Home, and the Alaska Veterans' Home. Regarding mental health treatment and diagnosis, distinguishes between the services under AS 47.30.660 - 47.30.915, provided by the Department of Family and Community Services, and those services still provided by the Department of Health. Amends the name of the department from the Department of Health and Social Services to the Department of Health. (Pages 27-30)

Sections 29 - 31: Fees for department services (AS 44.29.022). Makes amendments to address the renumbering of provisions in AS 44.29.020(a), to address the transfer of certain mental health programs and services to the Department of Family and Community Services, and to change the name of the Department of Health and Social Services or commissioner of health and social services to the Department of Health or commissioner of health, as applicable. (Page 30)

Section 32: Fees for services of contractors or grantees (AS 44.29.024). Makes an amendment to address the transfer of certain mental health programs and services to the Department of Family and Community Services. (Page 30-31)

Section 33-34: See Section 4 (Pages 31-32)

Section 35: Governor's Council on Disabilities and Special Education, statewide independent living program, Alaska Commission on Aging, and Alaska Mental Health Board (AS 44.29.600 - 44.29.890). Transfers sections regarding the Governor's Council on Disabilities and Special Education from AS 47.80.030 - 47.80.095 to AS 44.29.600 - 44.29.670, transfers sections regarding the statewide independent living program from former AS 47.80.300 - 47.80.330 to AS 44.29.700 - 44.29.730, transfers sections regarding the Alaska Commission on Aging from AS 47.45.200 - 47.45.290 to AS 44.29.750 - 44.29.795, and transfers sections regarding the Alaska Mental Health Board from former AS 47.30.661 - 47.30.669 to AS 44.29.800 - 44.29.890. (Pages 32-43)

Section 36: Organization and duties of the Department of Family and Community Services and Alaska Pioneers' Home Advisory Board (AS 44.30). Sets out AS 44.30 (Department of Family and Community Services), naming the commissioner of family and community services as the principal executive officer. The department administers the state programs of child welfare, institutional management, and delinquency, including mental health treatment and diagnosis under AS 47.30.660 - 47.30.915, management of state institutions, except for adult penal institutions, child welfare and delinquency services, and the Alaska Pioneers' Home and the Alaska Veterans' Home. The commissioner may establish by regulation a schedule of reasonable fees for department services, in a manner that mirrors how the Department of Health may establish fees. (Pages 43-46)

Also transfers the Alaska Pioneers' Home Advisory Board from AS 44.29.500 - 44.29.530 to AS 44.30.100 - AS 44.30.130. The only variation from the older statutes is that the board is now in the Department of Family and Community Services, reflecting the department's duties with respect to the Alaska Pioneers'

Home and the Alaska Veterans' Home. (Page 45)

Section 37: Application of the Administrative Procedure Act administrative adjudication provisions to civil history databases (AS 44.62.330(a)(41)). Includes both the Department of Health and the Department of Family and Community Services as subject to administrative adjudication relating to the civil history databases under AS 47.05.330 - 47.05.390. (Page 46)

Section 38: Jurisdiction of the Office of Administrative Hearings (AS 44.64.030(a)(47)) Jurisdiction of Office – Hearing Officers and Office of Administrative Hearings. Includes both the Department of Health and the Department of Family and Community Services as departments for which administrative adjudication hearings will be conducted for matters under AS 47.32 (centralized licensing and related administrative procedures). (Page 46)

Section 39: Expiration of state boards and commissions (AS 44.66.010(a)(4)). Amends the relevant provision regarding expiration of state boards and commissions, to address the transfer of the Alaska Commission on Aging from AS 47.45.200 to AS 44.29.750. (Page 46)

Section 40: Review by the legislative audit division of agency programs (AS 44.66.020(a)). Aligns both new departments, the year of the next scheduled performance review by the legislative audit division, so that it corresponds with what would have been the year of the next audit for the Department of Health and Social Services. (Page 46-47)

Section 41: Duties of the Department of Health (AS 47.05.010). Changes the name of the Department of Health and Social Services and commissioner of health and social services to the Department of Health and commissioner of health. Deletes a provision of AS 47.05.010 that pertains to the services and expenditure of federal funds for the protection and care of homeless, dependent, and neglected children in danger of becoming delinquent. This duty now lies with the Department of Family and Community Services.

Amends two provisions that pertain to entering into reciprocal agreements with other states relative to public assistance, welfare services, and institutional care. The duty to enter into reciprocal agreements for welfare services and institutional care lies with the Department of Family and Community Services.

Deletes a provision that had established an active duty to recruit quality foster parents and adoptive parents when a shortage of quality foster parents or adoptive parents exists. This duty now lies with the Department of Family and Community Services. (Pages 47-49)

Section 42: Interstate Compact on Adoption and Medical Assistance (AS 47.05.090(a)). Provides for continuing cooperation by the Department of Health and Department of Family and Community Services in entering into the Interstate Compact on Adoption and Medical Assistance. (Page 49-50)

Section 43: Definitions (AS 47.05.190). New section of definitions to state that, in AS 47.05.010 - 47.05.190, "commissioner" means the commissioner of health and "department" means the Department of Health. (Page 50)

Section 44: Criminal and civil history; applicability (AS 47.05.300). Amends AS 47.05.300 to apply to

both the Department of Health and the Department of Family and Community Services, as both departments will have licensing responsibilities and will receive payments, in whole or in part, to provide for the health, safety, and welfare of persons served by the programs administered by the departments. (Page 50)

Sections 45 - 64: Criminal and civil history background checks (AS 47.05.310- AS 47.05.390). Replace references that were specific to the former Department of Health and Social Services with references to the department with licensing or certification authority: terminology that takes in both the Department of Health and the Department of Family and Community Services. (Pages 50-58)

Section 65: Child welfare, social services, and institutions (AS 47.06). Establishes provisions for the general administration of programs in the Department of Family and Community Services. Includes AS 47.06.010, a list of duties that mirrors those of the Department of Health, except that they apply to the organization and duties of the Department of Family and Community Services, as set out in AS 44.30 and in provisions transferred from AS 47.05.010. Transfers to AS 47.06.020 (purpose and policy related to children) and AS 47.06.025 (legislative findings related to children) provisions previously located at AS 47.05.060 and 47.05.065. Provisions in AS 47.05.012 (material incorporated by reference) and applicable to the Department of Family and Community Services are set out in AS 47.06.030. Sections that mirror AS 47.05.040 (consent to conditions of federal programs) and AS 47.05.090 (authorization of the Interstate Compact on Adoption and Medical Assistance) are set out in AS 47.06.040 and 47.06.050. Former AS 47.05.100 is transferred to AS 47.06.060 (monthly reports concerning children).

Language in AS 47.06.070 (contracts) and AS 47.06.080 (cooperation with federal government) mirrors text in AS 47.05.015 and 47.05.050. Finally, AS 47.06.095 (definition) provides that "department" means the Department of Family and Community Services. (Page 58-64)

Section 66: Children in need of aid: construction (AS 47.10.005). Makes an amendment to address the transfer of AS 47.05.065 to AS 47.06.025 (Page 64)

Sections 67-69, and 115: Makes amendments to address the transfer, from AS 47.62 to AS 44.25, of statutes regarding the long-term care ombudsman. (Pages 64-65, and 88)

Section 70: Required review of proposed regulations (AS 47.24.070). Makes an amendment to address the transfer of the Alaska Commission on Aging from AS 47.45.200 to AS 44.29.750. (Page 65)

Section 71-77: See Section 4. (Pages 65-69)

Section 78: Cooperative powers and duties of the Department of Family and Community Services and the Department of Health (AS 47.30.660). Identifies the cooperative powers and duties of the Department of Health and the Department of Family and Community Services with respect to the integrated comprehensive mental health programs and integrated comprehensive system of care. Makes amendments to address the transfer, from AS 47.30 to AS 44.25, of statutes regarding the Alaska Mental Health Trust Authority. (Pages 69-71)

Sections 79 - 113: Centralized licensing and related administrative procedures (AS 47.32). Changes provisions for the centralized licensing and procedures for entities listed in AS 47.32, to address that some

entities are now regulated by the Department of Health and others by the Department of Family and Community Services. (Pages 71-88)

Section 114: House rules of assisted living homes (AS 47.33.060(d)). Identifies the Department of Health as the department with oversight over assisted living homes. (Page 88)

Section 115: See Section 67. (Page 88)

Section 116: Interdepartmental coordinating committee regarding substance abuse (AS 47.37.050(a)). Identifies the commissioner of health as a member and as the chair of the interdepartmental coordinating committee regarding substance abuse. (Pages 88-89)

Section 117: Purchase of services for pregnant women (AS 47.40.100). Identifies the joint role that the Department of Health and Department of Family and Community Services play in providing services to pregnant women. (Page 89)

Section 118 and 119: Licensing and supervision of persons providing services purchased under AS 47.40.100 - 47.40.120 for pregnant women, and related regulations (AS 47.40.110 and 47.40.120). Identifies either the Department of Health or the Department of Family and Community Services as a purchaser of services under AS 47.40.100 - 47.40.120 for pregnant women. (Page 89)

Section 120: See Section 5. (Pages 89-90)

Section 121: See Section 4. (Page 90)

Section 122: See Section 5. (Page 90)

Section 123: Repealed Provisions. Lists the provisions of law that the executive order repeals, because the order transfers them to other provisions, and so that those provisions are not duplicated. (Page 90)

Sections 124 - 133: Transitional Provisions. Addresses the matters that carry over on the date when the department is split in two: assistance payments in progress, federally approved state plans and waivers, department agreements, the Alaska Tribal Child Welfare Compact, applications in progress, public records requests in progress, and membership of boards and commissions. The transitional provisions also address the transfer of employees of the two departments, and adoption before the effective date of the executive order of regulations to implement it. (Pages 90-93)

Sections 134 - 138: Instructions to revisor of statutes and regulations attorney. Provides instructions to the revisor of statutes within the Legislative Affairs Agency regarding changes in references from the Department of Health and Human Services to the Department of Health or the Department of Family and Community Services and changes from the commissioner of health and social services to the commissioner of health or the commissioner of family and community services. Sets out an implementation order for the Department of Law's regulations attorney for the Alaska Administrative Code. (Pages 93-100)

Section 139: Effective date. Sets an Effective date of July 1, 2022. (Page 100)