

HOUSE CS FOR CS FOR SENATE BILL NO. 296(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/26/96

Referred: Rules

Sponsor(s): SENATOR ELLIS, Halford, Pearce, Leman, Green, Taylor, Kelly, Rieger, Sharp, Duncan, Salo, Lincoln, Zharoff, Phillips

REPRESENTATIVES B.Davis, Brown, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act requiring criminal background checks before certain persons may be
2 employed in a nursing home or assisted living facility; and prohibiting the
3 hiring or retention of certain nursing home and assisted living facility employees
4 convicted of specified offenses."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 18.20 is amended by adding a new section to read:

7 Sec. 18.20.302. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)

8 A nursing facility may not employ an individual in a paid position that the department
9 has determined is covered by this section, according to its regulations, unless the
10 individual, before beginning employment,

11 (1) provides to the facility a sworn statement as to whether the individual
12 has been convicted of an offense described in (c) of this section;

13 (2) provides to the facility the results of a name-check criminal
14 background investigation that was completed by the Department of Public Safety no

more than 30 days before the individual is hired; and

(3) submits to the facility two full sets of the individual's fingerprints.

(b) Within 30 days after employing an individual in a paid position, nursing facility shall submit to the Department of Public Safety the fingerprints obtained under (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. When the results are received, the department shall advise the facility of

(1) the date on which the fingerprint background check was completed; and

(2) whether the check shows that the individual has committed an offense described in (c) of this section.

(c) A nursing facility may not hire or retain an employee who has been convicted of an offense listed in the department's regulations as being an offense covered by this section.

* **Sec. 2.** AS 47.33 is amended by adding a new section to article 1 to read:

Sec. 47.33.100. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)

An assisted living home may not employ an individual in a paid position that the applicable licensing agency has determined is covered by this section, according to its regulations, unless the individual, before beginning employment,

(1) provides to the home a sworn statement as to whether the individual has been convicted of an offense described in (c) of this section; and

(2) provides to the home the results of a name-check criminal background investigation that was completed by the Department of Public Safety no more than 30 days before the individual is hired; and

(3) submits to the home two full sets of the individual's fingerprints.

(b) Within 30 days after employing an individual in a paid position, an assisted living home shall submit to the Department of Public Safety the fingerprints obtained under (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. When the results are received, the department shall advise the home of

(1) the date on which the fingerprint background check was completed; and

1 (2) whether the check shows that the individual has committed an offense
2 described in (c) of this section.

3 (c) An assisted living home may not hire or retain an employee who has been
4 convicted of an offense listed in the regulations of the applicable licensing agency as
5 being an offense covered by this section.

6 * **Sec. 3.** AS 47.33.920 is amended to read:

7 Sec. 47.33.920. REGULATIONS. The commissioner of health and social
8 services and the commissioner of administration each may adopt regulations to carry out
9 the provisions of this chapter, including regulations regarding licensure and renewal
10 requirements, license application and renewal procedures; application and license fees;
11 types, duration, renewal, and transferability of licenses; staffing and home operation
12 standards; and variances to licensure and operating standards. Regulations adopted under
13 this chapter may provide for the waiver or modification of the requirements of this
14 chapter for homes with fewer than six residents **except that the regulations may not**
15 **provide for waiver or modification of the requirements of AS 47.33.100.**

16 * **Sec. 4.** APPLICABILITY. (a) AS 18.20.302(a) and (b), added by sec. 1 of this Act, and
17 AS 47.33.100(a) and (b), added by sec. 2 of this Act, apply only to persons hired on or after
18 the effective date of this Act and may not be construed to modify a collective bargaining
19 agreement in effect on the effective date of this Act.

20 (b) AS 18.20.302(c), added by sec. 1 of this Act, and AS 47.33.100(c), added by sec.
21 2 of this Act, do not apply to convictions for offenses that were committed before the
22 effective date of this Act if the offense was committed by a person who was hired before the
23 effective date of this Act.

24 (c) Notwithstanding (a) and (b) of this section, until the effective date of new
25 regulations adopted to implement this Act, regulations that are in effect on the effective date
26 of this Act remain enforceable to the extent that they pertain to retention or nonretention of
27 an administrator or care provider in an assisted living home based on criminal offenses
28 described in the regulations.