



LAWS OF ALASKA

2006

Source
CSHB 357(FIN)

Chapter No.

AN ACT

Updating the terminology in statutes for persons with disabilities; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

Updating the terminology in statutes for persons with disabilities; and providing for an effective date.

* **Section 1.** AS 14.30.630(b) is amended to read:

(b) The agency shall

(1) provide special education services including

(A) itinerant outreach services to students who are deaf, deaf-blind, mentally retarded, hearing impaired, blind and visually impaired, orthopedically disabled, [HANDICAPPED, OTHER] health-impaired in other ways, and [,] severely emotionally disturbed, and to [MULTI-HANDICAPPED] students with multiple disabilities;

(B) special education instructional support and training of local school district special education personnel; and

(C) other services appropriate to special education needs;

- 1 (2) provide for an annual audit of the agency;
- 2 (3) provide the department with a two-year plan of operation including
- 3 a description of the services to be offered by the agency, the method by which the
- 4 services will be evaluated, information on the number of students and school district
- 5 personnel to be served, a schedule of funds available to the agency from all sources,
- 6 and other information that may be required by the department by regulation;
- 7 (4) present an annual budget to the department.

8 * **Sec. 2.** AS 18.15.210 is amended to read:

9 **Sec. 18.15.210. Testing for certain other heritable diseases.** The department

10 shall administer and provide services for testing for other heritable diseases that lead

11 to mental retardation and physical **disabilities** [HANDICAPS] as screening programs

12 accepted by current medical practice and as developed.

13 * **Sec. 3.** AS 18.55.130(b) is amended to read:

14 (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the

15 corporation shall fix the income limits for occupancy of its low-cost housing projects

16 and rents that are approved by the United States Department of Housing and Urban

17 Development after taking into consideration

18 (1) the family size, composition, age, physical **disabilities**

19 [HANDICAPS], and other factors that might affect the rent-paying ability of the

20 family; and

21 (2) the economic factors that affect the financial stability and solvency

22 of the project.

23 * **Sec. 4.** AS 23.15.080 is amended to read:

24 **Sec. 23.15.080. Eligibility for vocational rehabilitation service.** (a)

25 Vocational rehabilitation service shall be provided directly or through a public or

26 private instrumentality to **an** [A HANDICAPPED] individual **with a disability** who

27 (1) is a resident of the state at the time of application for the service

28 and whose vocational rehabilitation the agency determines after full investigation can

29 be satisfactorily achieved; or

30 (2) is eligible for the service under an agreement with another state or

31 with the federal government.

1 (b) In determining the types and extent of vocational rehabilitation services to
2 be provided to an [A HANDICAPPED] individual with a disability, the agency shall
3 take into consideration any similar benefits that may be available to the individual
4 under other programs. However, the agency may not take other benefits into
5 consideration when doing so would significantly delay the provision of needed
6 services to the [HANDICAPPED] individual with a disability. The agency need not
7 take other benefits into consideration when they are for

8 (1) diagnostic and related services, including transportation and
9 subsistence in connection with those services;

10 (2) counseling, guidance, and referral;

11 (3) training, including personal and vocational adjustment training, and
12 necessary training materials;

13 (4) services to members of families of [HANDICAPPED] individuals
14 with disabilities;

15 (5) job placement; and

16 (6) services necessary to assist [HANDICAPPED] individuals with
17 disabilities to maintain suitable employment.

18 * **Sec. 5.** AS 23.15.090 is amended to read:

19 **Sec. 23.15.090. Priority as to eligibility.** If vocational rehabilitation service
20 cannot be provided for all eligible [HANDICAPPED] individuals with disabilities
21 who apply, the agency shall provide by regulation for determining the order to be
22 followed in selecting those to whom the services will be provided.

23 * **Sec. 6.** AS 23.15.100 is amended to read:

24 **Sec. 23.15.100. Powers and duties; vending facilities.** (a) In carrying out
25 AS 23.15.010 - 23.15.210, the agency shall

26 (1) take the action it considers necessary or appropriate to carry out the
27 purposes of AS 23.15.010 - 23.15.210 [,] and adopt regulations in conformity with
28 these purposes;

29 (2) determine the eligibility of applicants for vocational rehabilitation
30 service;

31 (3) submit to the governor annual reports of activities and expenditures

1 and, before each regular session of the legislature, estimates of sums required for
2 carrying out AS 23.15.010 - 23.15.210 and estimates of the amounts to be made
3 available for this purpose from all sources;

4 (4) cooperate with public and private departments, agencies, and
5 institutions in providing for the vocational rehabilitation of [HANDICAPPED]
6 individuals with disabilities, studying the problems involved in providing this
7 rehabilitation, and establishing, developing, and providing, in conformity with the
8 purposes of AS 23.15.010 - 23.15.210, the programs, facilities, and services that may
9 be necessary or desirable;

10 (5) survey the potential for providing vending facilities on public
11 property and, when feasible, establish vending facilities operated by blind persons and
12 [SEVERELY HANDICAPPED] persons with severe disabilities on public property;

13 (6) license blind persons and [SEVERELY HANDICAPPED] persons
14 with severe disabilities in accordance with AS 23.15.133 for the operation of vending
15 facilities on public property, with blind persons having first priority for operation of
16 the vending facilities;

17 (7) provide the training and supervision necessary to enable blind
18 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to
19 operate vending facilities;

20 (8) provide the equipment and initial stock necessary to enable blind
21 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to
22 operate vending facilities.

23 (b) In carrying out AS 23.15.010 - 23.15.210, the agency may

24 (1) enter into agreements with other states to provide for the vocational
25 rehabilitation of residents of the states concerned;

26 (2) establish and operate rehabilitation facilities and workshops and
27 make grants to public and other nonprofit organizations for these purposes;

28 (3) supervise the operation of vending stands and other small
29 businesses established under AS 23.15.010 - 23.15.210 to be conducted by
30 [SEVERELY HANDICAPPED] individuals with severe disabilities;

31 (4) make studies, investigations, demonstrations, and reports, and

1 provide training and instruction, including the establishment and maintenance of the
2 research fellowships and traineeships with the stipends and allowances that are
3 considered necessary, in matters relating to vocational rehabilitation; and

4 (5) adopt regulations necessary for carrying out the provisions of
5 AS 23.15.010 - 23.15.210.

6 * **Sec. 7.** AS 23.15.125(e)(2) is amended to read:

7 (2) "person with a disability" means [A HANDICAPPED
8 INDIVIDUAL OR] an individual having a physical or mental disability.

9 * **Sec. 8.** AS 23.15.133(a) is amended to read:

10 (a) The agency shall issue a license for the operation of a vending facility on
11 public property to a blind person or a [SEVERELY HANDICAPPED] person **with a**
12 **severe disability** who is a resident of the state at the time of application and who
13 qualifies for a license under

14 (1) 20 U.S.C. 107 - **107f** [107(f)] ([THE] Randolph-Sheppard Act); or

15 (2) regulations adopted by the agency providing for licensing of blind
16 persons or [SEVERELY HANDICAPPED] persons **with severe disabilities**.

17 * **Sec. 9.** AS 23.15.134 is amended to read:

18 **Sec. 23.15.134. Active participation by [SEVERELY HANDICAPPED]**
19 **licensees with severe disabilities.** The agency shall adopt regulations that ensure the
20 opportunity for active participation by a [SEVERELY HANDICAPPED] licensee
21 **with severe disabilities** in the administration of vending facilities operated by
22 [SEVERELY HANDICAPPED] licensees **with severe disabilities**. The opportunity
23 for active participation provided under this section must be at least as extensive as the
24 opportunity for active participation provided for a blind licensee under AS 23.15.135.

25 * **Sec. 10.** AS 23.15.170 is amended to read:

26 **Sec. 23.15.170. Maintenance not assignable.** The right of an [A
27 HANDICAPPED] individual **with a disability** to maintenance under AS 23.15.010 -
28 23.15.210 is not transferable or assignable at law or in equity.

29 * **Sec. 11.** AS 23.15.180(b) is amended to read:

30 (b) A blind person or a [SEVERELY HANDICAPPED] person **with a severe**
31 **disability** aggrieved by a decision or action of the agency under AS 23.15.133 -

23.15.135 shall receive a hearing on request in accordance with AS 44.62.330 - 44.62.630 (Administrative Procedure Act). A blind person may also file a complaint in accordance with 20 U.S.C. 107d-1 for arbitration of a grievance.

* **Sec. 12.** AS 23.15.210 is amended to read:

Sec. 23.15.210. Definitions. In AS 23.15.010 - 23.15.210,

(1) "active participation" means a process through which the Committee of Blind Vendors or a licensee is provided the opportunity to exert a major influence in program policies, standards, and procedures affecting the operation of vending facilities, with the commissioner of education and early development having final responsibility;

(2) "agency" means the division of vocational rehabilitation;

(3) "blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of **not** [NO] greater than 20 degrees; an examination by an ophthalmologist or by an optometrist is necessary before a person is found to be blind;

(4) [REPEALED

(5)] "director" means the director of the division of vocational rehabilitation;

(5) "individual having a physical or mental disability" means an individual who has a physical or mental condition that materially limits, contributes to limiting, or, if not corrected, will probably result in limiting the individual's activities or functioning;

(6) "[HANDICAPPED] individual **with a disability**" means an individual having a physical or mental disability **that** [WHICH] for that individual constitutes or results in a substantial **barrier** [HANDICAP] to employment and who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services;

(7) ["INDIVIDUAL HAVING A PHYSICAL OR MENTAL DISABILITY" MEANS AN INDIVIDUAL WHO HAS A PHYSICAL OR MENTAL

1 CONDITION THAT MATERIALLY LIMITS, CONTRIBUTES TO LIMITING, OR,
2 IF NOT CORRECTED, WILL PROBABLY RESULT IN LIMITING THE
3 INDIVIDUAL'S ACTIVITIES OR FUNCTIONING;

4 (8)] "licensee" means a blind person or a [SEVERELY
5 HANDICAPPED] person with a severe disability licensed by the division of
6 vocational rehabilitation under 20 U.S.C. 107 - 107b and 107d - 107f ([THE]
7 Randolph-Sheppard Act), AS 23.15.133, and regulations adopted under federal or
8 state law;

9 **(8) "person with a severe disability" means a person who has one**
10 **or more physical or mental disabilities that seriously limit the person's functional**
11 **capacities in terms of regular employment and whose vocational rehabilitation**
12 **requires multiple vocational rehabilitation services over an extended period of**
13 **time;**

14 (9) "public property" means real or personal property owned or leased
15 by the state or federal government [,] or an agency of the state or federal government;

16 (10) ["SEVERELY HANDICAPPED PERSON" MEANS A PERSON
17 WHO HAS ONE OR MORE PHYSICAL OR MENTAL DISABILITIES THAT
18 SERIOUSLY LIMIT THE PERSON'S FUNCTIONAL CAPACITIES IN TERMS OF
19 REGULAR EMPLOYMENT, AND WHOSE VOCATIONAL REHABILITATION
20 REQUIRES MULTIPLE VOCATIONAL REHABILITATION SERVICES OVER
21 AN EXTENDED PERIOD OF TIME;

22 (11)] "vending facility" means a vending machine, cafeteria, snack bar,
23 shelter, cart, or counter where food, tobacco, newspapers, periodicals, and other
24 articles are offered for sale to the general public and dispensed automatically or
25 manually whether prepared on or off the premises; and excludes a facility in a
26 hospital, school, or other institution where food or other articles are offered for sale
27 only to patients, inmates, and persons enrolled in or employed by the institution;

28 **(11)** [(12)] "vocational rehabilitation service" means goods and
29 services, including diagnostic and related services, necessary to enable an [A
30 HANDICAPPED] individual with a disability to engage in gainful employment;

31 **(12)** [(13)] "workshop" means a rehabilitation facility engaged in a

1 production or service operation that is operated for the primary purpose of providing
2 gainful employment or professional services to persons with disabilities [THE
3 HANDICAPPED] as an interim step in the rehabilitation process for those who cannot
4 readily be absorbed in the competitive labor market or during times when employment
5 opportunities for them in the competitive labor market do not exist.

6 * **Sec. 13.** AS 29.60.120(f)(1) is amended to read:

7 (1) "health facility"

8 (A) means a facility that is licensed or certified by the state or
9 approved under regulations adopted by the department and that is owned or
10 operated or both by a municipality or by a nonprofit corporation or other
11 nonprofit sponsor;

12 (B) includes a public health center, maternity home,
13 community mental health center, facility for persons with mental or physical
14 disabilities [THE MENTALLY OR PHYSICALLY HANDICAPPED],
15 nursing home, convalescent center, domestic violence or sexual assault shelter
16 qualified to receive a grant or contract under AS 18.66, or alcohol or drug
17 abuse facility that meets standards established under AS 47.37;

18 (C) excludes a facility operated or wholly supported by the
19 state or the federal government;

20 * **Sec. 14.** AS 35.10.015(a) is amended to read:

21 (a) The department shall prepare, adopt, and enforce regulations governing the
22 construction of public buildings and facilities by or for the state, including the
23 University of Alaska, and its political subdivisions, whether financed in whole or in
24 part by federal funds, to ensure that public buildings and facilities are accessible to [,]
25 and usable by persons with disabilities and by the [, THE PHYSICALLY
26 HANDICAPPED,] aged [,] or infirm. The regulations of the department must conform
27 to a standard comparable to applicable provisions of federal law, regulations, and
28 standards.

29 * **Sec. 15.** AS 35.10.015(c) is amended to read:

30 (c) All ferries owned or operated by the state shall be equipped with elevators
31 or other passenger lifting equipment, ramps, or other facilities and devices to ensure

1 that these vessels are accessible to and usable by **persons with disabilities and by**
2 [PHYSICALLY HANDICAPPED,] aged or infirm passengers. In this subsection,
3 "accessible to and usable by" means that **a person with a disability or an** [A
4 PHYSICALLY HANDICAPPED,] aged or infirm passenger can board, disembark,
5 and move between decks and about the public areas aboard a state ferry with personal
6 comfort and safety [,] and with safety to [,] other passengers and members of the crew.

7 * **Sec. 16.** AS 35.10.015(d) is amended to read:

8 (d) After June 25, 1976, a ferry may not be constructed, lengthened,
9 completely renovated, or purchased for use or entered into service by the division of
10 marine transportation of the department as a part of the Alaska marine highway system
11 that does not include adequate facilities and devices to ensure that the vessel is
12 accessible to and usable by **persons with disabilities and by** [PHYSICALLY
13 HANDICAPPED,] aged or infirm passengers. Some staterooms and all restrooms,
14 indoor passageways, outdoor weather decks, and other public areas aboard the vessel
15 shall be so designed and constructed as to permit access and use by **persons with**
16 **disabilities and by** [PHYSICALLY HANDICAPPED,] aged [,] or infirm passengers,
17 including [BUT NOT LIMITED TO] those persons occupying a wheelchair.

18 * **Sec. 17.** AS 35.10.015(e) is amended to read:

19 (e) After June 25, 1976, **a** [NO] public building or facility in the state may **not**
20 be planned, designed, financed, constructed, opened to public use, or otherwise placed
21 in operation unless it meets the standards established under this section. If the
22 standards for a public building or facility are not provided for in federal **statute**
23 [LAW], regulation, or standards, the department shall determine the extent of, and
24 adopt regulations setting the standards for, access to and use of the public building or
25 facility by **persons with disabilities and by** the [PHYSICALLY HANDICAPPED,]
26 aged [,] or infirm.

27 * **Sec. 18.** AS 36.30.040(b) is amended to read:

28 (b) The commissioner shall adopt regulations pertaining to

29 (1) suspension, debarment, and reinstatement of prospective bidders
30 and contractors;

31 (2) bid protests;

1 (3) conditions and procedures for the procurement of perishables and
2 items for resale;

3 (4) conditions and procedures for the use of source selection methods
4 authorized by this chapter, including single source procurements, emergency
5 procurements, and small procurements;

6 (5) the opening or rejection of bids and offers, and waiver of
7 informalities in bids and offers;

8 (6) confidentiality of technical data and trade secrets submitted by
9 actual or prospective bidders or offerors;

10 (7) partial, progressive, and multiple awards;

11 (8) storerooms and inventories, including determination of appropriate
12 stock levels and the management of agency supplies;

13 (9) transfer, sale, or other disposal of supplies;

14 (10) definitions and classes of contractual services and procedures for
15 acquiring them;

16 (11) providing for conducting price analysis;

17 (12) use of payment and performance bonds in connection with
18 contracts for supplies, services, and construction;

19 (13) guidelines for use of cost principles in negotiations, adjustments,
20 and settlements;

21 (14) conditions under which an agency may use the services of an
22 employment program;

23 (15) a bidder's or offeror's duties under this chapter; and

24 (16) the elimination and prevention of discrimination in state
25 contracting because of race, religion, color, national origin, sex, age, marital status,
26 pregnancy, parenthood, **disability** [HANDICAP], or political affiliation.

27 * **Sec. 19.** AS 36.30.990(11) is amended to read:

28 (11) "employment program" means a nonprofit program to increase
29 employment opportunities for individuals with physical or mental disabilities that
30 constitute substantial **barriers** [HANDICAPS] to employment;

31 * **Sec. 20.** AS 39.25.160(f) is amended to read:

1 (f) Action affecting the employment status of a state employee or an applicant
2 for state service, including appointment, promotion, demotion, suspension, or removal,
3 may not be taken or withheld on the basis of unlawful discrimination due to race,
4 religion, color, [OR] national origin, age, disability [HANDICAP], sex, marital status,
5 change in marital status, pregnancy, or parenthood. In addition, action affecting the
6 employment status of an employee in the classified service, including appointment,
7 promotion, demotion, suspension, or removal, may not be taken or withheld for a
8 reason not related to merit.

9 * **Sec. 21.** AS 41.21.027(b) is amended to read:

10 (b) The state may not enter into a concession contract under (a) of this section
11 if the proposed contract involves estimated annual gross receipts of more than
12 \$100,000, construction of facilities, a term longer than four years, or the provision of
13 services other than those normally provided at similar facilities managed by the state,
14 unless the commissioner finds that the proposed concession contract

15 (1) will implement the purposes of the park unit and is authorized by
16 the park management plan, if any, that applies to the park unit;

17 (2) will enhance public use and enjoyment of the park unit while
18 maintaining a high quality environment and the opportunity for high quality
19 recreational experiences;

20 (3) will provide services or facilities that are not feasible or affordable
21 for the state to provide directly;

22 (4) will not create unacceptable adverse environmental effects;

23 (5) is based on a need and desire of the public;

24 (6) recognizes and accommodates, at no cost, ordinary uses in a park
25 unit;

26 (7) requires the contractor to hire residents of the state, to the extent
27 available and qualified, when hiring persons to work in the park under the contract;

28 (8) provides the state with a fair and equitable portion, in money or
29 services, of the contractor's receipts from the provision of the service or the operation
30 of the facility;

31 (9) provides that the department retains control over the level of fees

1 and the design and appearance of any facility to be constructed;

2 (10) encourages the contractor to accommodate visitors with special
3 circumstances, including [HANDICAPPED] persons **with disabilities**, senior citizens,
4 and school children; and

5 (11) provides that the contract may be terminated if the contractor fails
6 to fulfill the requirements of this section or the contract.

7 * **Sec. 22.** AS 47.14.100(d) is amended to read:

8 (d) In addition to money paid for the maintenance of foster children under (b)
9 of this section, the department

10 (1) shall pay the costs of caring for [PHYSICALLY OR MENTALLY
11 HANDICAPPED] foster children **with physical or mental disabilities**, including the
12 additional costs of medical care, habilitative and rehabilitative treatment, services and
13 equipment, **and** special clothing, and the indirect costs of medical care, including child
14 care and transportation expenses;

15 (2) may pay for respite care; in this paragraph, "respite care" means
16 child care for the purpose of providing temporary relief from the stresses of caring for
17 a foster child; and

18 (3) may pay a subsidized guardianship payment under AS 25.23.210
19 when a foster child's foster parents or other persons approved by the department
20 become court-appointed legal guardians of the child.

21 * **Sec. 23.** AS 47.75.060(2) is amended to read:

22 (2) "social services" means child care services, protective services for
23 children and adults, services for children and adults in foster care, services related to
24 the management and maintenance of the home, day care services for adults,
25 transportation services, training and related services, employment services,
26 information, referral, and counseling services, the preparation and delivery of meals,
27 health support services, **a** full range of legal services, and appropriate combinations of
28 services designed to meet the special needs of children, the aged, **persons with**
29 **developmental disabilities**, **persons who are** [THE DEVELOPMENTALLY
30 DISABLED, THE] blind, **persons with mental illness**, **persons with physical**
31 **disabilities** [THE MENTALLY ILL, THE PHYSICALLY HANDICAPPED], and

1 **persons with substance abuse disorders** [ALCOHOLIC AND DRUG ADDICTS].

2 * **Sec. 24.** AS 47.80.010 is amended to read:

3 **Sec. 47.80.010. Rights of persons with disabilities [HANDICAPS].** Persons
4 with **disabilities** [HANDICAPS] have the same legal rights and responsibilities
5 guaranteed all other persons by the Constitution of the United States and federal laws
6 and by the constitution and laws of the state. An otherwise qualified person may not
7 be excluded, by reason of having a **disability** [HANDICAP], from participation in, be
8 denied the benefits of, or be subjected to discrimination under, any program or activity
9 that receives public funds. Some persons with **disabilities** [HANDICAPS] may be
10 unable, due to the severity of their **disability** [HANDICAP], to exercise for
11 themselves all of their rights in a meaningful way; for others modification of some or
12 all of their rights is appropriate. The procedure used for modification of rights must
13 contain proper legal safeguards against every form of abuse, must be based on an
14 evaluation of the social capability of the person by qualified experts, and must be
15 subject to periodic reviews and to the right of appeal to higher authorities.

16 * **Sec. 25.** AS 47.80.020 is amended to read:

17 **Sec. 47.80.020. Protection and advocacy of rights.** The department shall
18 establish a system to protect and advocate rights of persons with **disabilities**
19 [HANDICAPS]. The system

20 (1) has the authority to pursue legal, administrative, and other
21 appropriate remedies to assure the protection of the rights of persons with **disabilities**
22 [HANDICAPS]; and

23 (2) shall be independent of any state agency that provides treatment,
24 services, or habilitation of persons with **disabilities** [HANDICAPS].

25 * **Sec. 26.** AS 47.80.040(f) is amended to read:

26 (f) In the appointment of all members other than state agency members, due
27 regard shall be given to geographically balanced representation of areas of the state
28 and to representation of persons with a variety of different mental and physical
29 **disabilities** [HANDICAPS].

30 * **Sec. 27.** AS 47.80.100(a) is amended to read:

31 (a) The Department of Health and Social Services, the Department of

1 Education and Early Development, and other departments of the state as appropriate,
2 shall, in coordination, plan, develop, and implement a comprehensive system of
3 services and facilities for persons with **disabilities** [HANDICAPS,] that is consistent
4 with the state plan adopted under AS 47.80.090(5) and is dispersed geographically
5 within the state.

6 * **Sec. 28.** AS 47.80.100(b) is amended to read:

7 (b) The services required in (a) of this section are specialized services or
8 special adaptations of services available to the general population and shall be directed
9 toward the social, personal, physical, or economic habilitation or rehabilitation of
10 persons with **disabilities** [HANDICAPS].

11 * **Sec. 29.** AS 47.80.110 is amended to read:

12 **Sec. 47.80.110. Program principles.** The system of services and facilities
13 required under AS 47.80.100 shall accord with the principles that service providers
14 shall

15 (1) make services available at times and locations that enable residents
16 of the provider's service area to obtain services readily;

17 (2) ensure each client's right to confidentiality and treatment with
18 dignity;

19 (3) establish staffing patterns that reflect the cultural, linguistic, and
20 other social characteristics of the community and that incorporate multidisciplinary
21 professional staff to meet client functional levels and diagnostic and treatment needs;

22 (4) promote client and family participation in formulating, delivering,
23 and evaluating treatment and rehabilitation;

24 (5) design treatment and habilitation to maximize individual potential
25 and minimize institutionalization; and

26 (6) provide services in the least restrictive setting, enabling a person to
27 live as normally as possible within the limitations of the **disability** [HANDICAP].

28 * **Sec. 30.** AS 47.80.120 is amended to read:

29 **Sec. 47.80.120. Habilitation plans.** A state agency, contractor, or grantee who
30 is directly responsible for providing services to persons with **disabilities**
31 [HANDICAPS] shall develop an individual habilitation plan for each person whose

1 program of services utilizes state funds. The plan shall be completed in writing and
2 furnished to the department within 30 days of admission of a client to the program of
3 services. The plan, its renewals, and any changes of it [,] shall have the written
4 concurrence of the client, or the client's parent or guardian when appropriate, and the
5 agency or contractor responsible for providing services. The development and content
6 of a plan shall conform to requirements established by the department by regulation.
7 Insofar as practicable, the requirements shall conform to those established for
8 individual habilitation plans under P.L. 91-517 or P.L. 94-103, as amended. Each plan
9 shall be time-limited, evaluated, and renewed at least annually.

10 * **Sec. 31.** AS 47.80.130(a) is amended to read:

11 (a) The department shall

12 (1) develop budgets and receive and distribute appropriations and
13 funds under this section;

14 (2) adopt regulations regarding standards of services and facilities for
15 persons with **disabilities** [HANDICAPS] and the quality of services and the process
16 by which services are to be delivered;

17 (3) adopt any other regulations necessary to implement this chapter;

18 (4) provide technical assistance to public and private agencies in
19 planning, developing, and implementing programs to serve [HANDICAPPED]
20 persons **with disabilities**;

21 (5) operate programs and facilities [,] and enter into agreements,
22 contracts, or grants necessary to provide services required under this chapter;

23 (6) take the actions and undertake the obligations that are necessary to
24 participate in federal grant-in-aid programs and accept federal or other financial aid
25 for the study, examination, care, and treatment of **persons with disabilities** [THE
26 HANDICAPPED].

27 * **Sec. 32.** AS 47.80.150(a) is amended to read:

28 (a) A person with a **disability** [HANDICAP] or the person's legal
29 representative acting in a representative capacity, the person's spouse, or the person's
30 parents if the person is a minor [,] shall pay or contribute to the payment of the
31 charges for the care or treatment in accordance with the fee schedule adopted under

AS 44.29.022. The order of the department relating to the payment of charges shall be prospective in effect and may relate only to charges to be incurred, except that, if a person intentionally conceals ability to pay, the person shall be ordered to pay to the extent of the person's ability to pay the charges accruing during the period of the concealment. The order of the department relating to the payment of charges by the person with a **disability** [HANDICAP] or the person's legal representative, or the person's spouse or parents, shall be issued within six months of the date on which the charge was incurred. The department may make necessary investigations to determine the ability to pay. The order shall remain in full force and effect unless modified by subsequent court or department orders.

* **Sec. 33.** AS 47.80.150(b) is amended to read:

(b) As used in (a) of this section, the term "actual cost of the care and treatment" means the lesser of (1) the rate provided for by a contract entered into under this chapter, (2) the fee established under AS 44.29.022 for services provided under this chapter or, (3) if the person is under the age of 18, the cost of care of a person of the same age who is not a person with a **disability** [HANDICAP] and who resides with a parent or guardian, and includes expenses of transportation incidental to treatment and carrying out the intent of this chapter. In establishing fees for services under this chapter, the commissioner shall consider the income and family size of the responsible party, age of the person receiving the services, and other factors that relate to the ability to pay. Fees may not exceed the actual cost of the care or treatment.

* **Sec. 34.** AS 47.80.150(e) is amended to read:

(e) All money paid to the department by the person with a **disability** [HANDICAP] or on the person's behalf, under this section, shall be deposited in the general fund.

* **Sec. 35.** AS 47.80.150(f) is amended to read:

(f) If an order of payment is entered by the department under this section and delinquency in the payment of any amount due the state under the order continues for a period of more than 30 days after the notification by the department to the person, the legal representative, parent, or spouse of the person with a **disability** [HANDICAP], the state may proceed to collect the amounts due by appropriate

1 proceedings. Actions to enforce the collection of payments may only be brought
2 within three years after the date of notification of a delinquent payment.

3 * **Sec. 36.** AS 47.80.900(3) is amended to read:

4 (3) "facilities for persons with disabilities [HANDICAPS]" means
5 publicly or privately operated facilities, or specified portions of facilities, designed
6 primarily for the delivery of services to those persons; the term includes [BUT IS
7 NOT LIMITED TO] residential facilities;

8 * **Sec. 37.** AS 47.80.900(4) is amended to read:

9 (4) "habilitation" means education or training for persons with
10 disabilities [THE HANDICAPPED] to enable them to function better in society;

11 * **Sec. 38.** AS 47.80.900(5) is amended to read:

12 (5) "least restrictive setting" means a residential or other setting for
13 meeting the needs of a person with a disability that [HANDICAPPED PERSON
14 WHICH] requires the least amount of restriction of personal liberty by enabling the
15 person to function in as normal an environment as possible and to live as normally as
16 possible, within the limitations of the disability [HANDICAP];

17 * **Sec. 39.** AS 47.80.900(6) is amended to read:

18 (6) "person with a disability [HANDICAP]" means a person with a
19 developmental disability as defined in (7) of this section or a person who is hard of
20 hearing, deaf, speech impaired, visually impaired [HANDICAPPED], seriously
21 emotionally disturbed, orthopedically or otherwise health impaired, or who has a
22 specific learning disability; the term includes a child with a disability as defined in
23 AS 14.30.350;

24 * **Sec. 40.** AS 47.80.900(8) is amended to read:

25 (8) "residential facility" means a publicly or privately operated facility
26 that provides 24-hour care for four or more persons with disabilities [HANDICAPS],
27 excluding family, foster family, or adoptive homes;

28 * **Sec. 41.** AS 47.80.900(9) is amended to read:

29 (9) "substantial disability [HANDICAP]" means a disability that
30 prevents or substantially impedes the person's participating in and benefiting from the
31 social, economic, educational, recreational, or other opportunities generally available

1 to peers in the community who are not similarly **disabled** [HANDICAPPED].

2 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 CONFORMING INSTRUCTIONS. (a) The revisor of statutes is instructed to change
5 the catch line of AS 47.80.100 from "Programs for persons with handicaps" to "Programs for
6 persons with disabilities."

7 (b) Throughout the Alaska Administrative Code, the regulations attorney is instructed
8 to change the terms "handicapped," "handicap," and "handicaps," as appropriate, in a manner
9 consistent with the changes made in secs. 1 - 41 of this Act.

10 * **Sec. 43.** This Act takes effect immediately under AS 01.10.070(c).