

# HOUSE BILL 164

## PROTECT: VULNERABLE ADULTS/LONG TERM CARE

### SECTIONAL ANALYSIS

**Section 1** is a technical amendment to AS 47.24.010(a) to update the name of the entity responsible for receiving reports to the department “vulnerable adult centralized intake office”.

**Section 2** is a technical amendment to AS 47.24.010(e) to update the name of the entity responsible for receiving reports to the department “vulnerable adult centralized intake office”.

**Section 3** amends AS 47.24.013(a) to remove the requirement to forward reports of maltreatment to the Long Term Care Ombudsman’s office. Adds passive language to allow the DHSS to transfer reports for Long Term Care Ombudsman’s investigation as defined under AS.62.015.

**Section 4** amends AS 47.24.013(b) to delete reference to DHSS’s obligation to investigate reports for vulnerable adult’s age 60 or less. The Department of Health and Social Services is responsible for reports involving vulnerable adults ages 18 and older.

**Section 5** amends AS 47.24.013(d) to remove the Long Term Care Ombudsman’s obligation to mandatorily provide a report to the DHSS Central Intake. Aligns state law with federal law requiring the Long Term Care Ombudsman’s office to only forward information of a complainant or resident with appropriate consent or court order. (45 CFR 1327.11(e)(3)). Amended to reflect current Department of Human and Social Services responsibility for vulnerable adult centralized intake.

**Section 6** amends AS 47.24.015(a) to remove reference to reports transferred to the Office of Long Term Care Ombudsman under 47.24.013. Updates legislative language to appropriately reference subjects of reports are vulnerable adults. Removes requirement for face to face interview.

**Section 7** amends AS 47.62.015(a) to add language to align state law with federal law by providing the Long Term Care Ombudsman the authority to investigate and resolve a complaint for a person residing in a long term care facility who is not defined as an older Alaska.

**Section 8** amends AS 47.62.015(c) to include all residents of a long term care facility.

**Section 9** repeals and reenacts AS 47.62.025 to define access to long term care facilities, older Alaskan, and records. Title amended to include all ages of residents of long term care facilities. Section (a) amended to include all ages of residents of long term care facilities. Section (b) amended to include all ages of residents of long term care facilities and amended to allow for consent to be provided by the resident or the resident’s representative or by subpoena.

**Section 10** repeals and reenacts AS 47.62.030(b) to include all ages of residents. Amended to allow for disclosures with consent. Adds authority for resident representative to give consent. Amended to align state law with federal law to clarify limited circumstances when the Office of Long Term Care Ombudsman has authority to report resident-identifying information without obtaining resident or resident representative consent.

**Section 11** amends AS 47.62.060 to include all ages of residents of long term care facilities.

**Section 12** amends AS 47.62.090 to revise the definition of "older Alaskan" as an individual who lives in Alaska since definition of "resident" was added to mean individual living in a long term care facility. Adds new sections to define resident as an individual who resides in a long term care facility and to align state law with federal law to define resident representative and authority the resident representative has to act on behalf of the resident.

**Section 13** repeals AS 47.24.010(f), AS 47.24.013(c)(3), and AS 47.24.013(e). AS 47.24.010(f) is repealed as Federal statute and regulations prohibit representatives of the Office Long Term Care Ombudsman from abuse reporting requirements when such reporting would disclose identifying information of a complainant or resident without appropriate consent or court order. (45 CFR 1327.11(e)(3)). Therefor mandatory reporting to the Office of Long Term Care Ombudsman does not fulfill a mandatory reporter's obligation under law to make mandatory reports of maltreatment. AS 47.24.013(c)(3) repeals the requirement for the Office of the Long Term Care Ombudsman to provide results of investigation to the DHSS. OAA Section 712(d)(2)(B) establishes strict disclosure limitations. The Long Term Care Ombudsman program is intended to be a safe, person-centered place for residents to bring their concerns. Residents can be assured that their information will not be disclosed without their consent, the consent of the resident representative, or court order. AS 47.24.013(e) is repealed as the Office of the Long Term Care Ombudsman is not the appropriate agency to officially substantiate abuse or neglect complaints on behalf of DHSS. The Office of the Long Term Care Ombudsman represents the interests of residents, rather than the interests of the DHSS. (See OAA Section 712(a)(3)(E), (a)(5)(B)(iv); 45 CFR 1327.13(a)(5), 1327.19(a)(4)).