

Received in the Senate: 1/20/21; Introduced: 1/25/21  
 Referred: Health & Social Services, Finance

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 Referred: Health & Social Services, Finance

### EXECUTIVE ORDER NO. 119

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with  
 2 AS 24.08.210, I order the following:

3 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
 4 to read:

5 FINDINGS. As governor, I find that it is in the best interests of efficient  
 6 administration to divide the Department of Health and Social Services into the Department of  
 7 Health and the Department of Family and Community Services.

8 \* **Sec. 2.** AS 08.68.700(g) is amended to read:

9 (g) In this section,

10 (1) "determination of death" means observation and assessment that a  
 11 person is dead, as defined in AS 09.68.120;

12 (2) "health care facility" means a private, municipal, state, or federal  
 13 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney  
 14 disease treatment center (excluding freestanding hemodialysis units), or intermediate  
 15 care facility, **but does not include the** [OR] Alaska Pioneers' Home or Alaska  
 16 Veterans' Home administered by the Department of **Family and Community**  
 17 **Services** [HEALTH AND SOCIAL SERVICES] under AS 47.55.

18 \* **Sec. 3.** AS 11.71.100(a) is amended to read:

19 (a) The Controlled Substances Advisory Committee is established in the  
 20 Department of Law. The committee consists of

21 (1) the attorney general or the attorney general's designee;

22 (2) the commissioner of health [AND SOCIAL SERVICES] or the  
 23 commissioner's designee;

24 (3) the commissioner of public safety or the commissioner's designee;

25 (4) the president of the Board of Pharmacy or the designee of the

1 president who shall also be a member of the Board of Pharmacy;

2 (5) a peace officer appointed by the governor after consultation with  
3 the Alaska Association of Chiefs of Police;

4 (6) a physician appointed by the governor;

5 (7) a psychiatrist appointed by the governor; [AND]

6 (8) two individuals appointed by the governor; **and**

7 **(9) the commissioner of family and community services or the**  
8 **commissioner's designee.**

9 \* **Sec. 4.** AS 12.62.100(a) is amended to read:

10 (a) The Criminal Justice Information Advisory Board is established in the  
11 department. The board consists of the following members:

12 (1) a member of the general public appointed by and serving at the  
13 pleasure of the governor;

14 (2) a municipal police chief appointed by and serving at the pleasure of  
15 the governor; in making this appointment, the governor shall consult with the Alaska  
16 Association of Chiefs of Police;

17 (3) the attorney general or the attorney general's designee;

18 (4) the chief justice of the supreme court or the chief justice's designee;

19 (5) the commissioner of administration or the commissioner's  
20 designee;

21 (6) the commissioner of corrections or the commissioner's designee;

22 (7) the commissioner of health [AND SOCIAL SERVICES] or the  
23 commissioner's designee;

24 (8) the commissioner of public safety or the commissioner's designee,  
25 who will serve as chair of the board; [AND]

26 (9) the executive director of the Alaska Judicial Council or the  
27 executive director's designee; **and**

28 **(10) the commissioner of family and community services or the**  
29 **commissioner's designee.**

30 \* **Sec. 5.** AS 12.62.400(a) is amended to read:

31 (a) To obtain a national criminal history record check for determining a

1 person's qualifications for a license, permit, registration, employment, or position, a  
2 person shall submit the person's fingerprints to the department with the fee established  
3 by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau  
4 of Investigation to obtain a national criminal history record check of the person for the  
5 purpose of evaluating a person's qualifications for

6 (1) a license or conditional contractor's permit to manufacture, sell,  
7 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage  
8 under AS 04.11;

9 (2) licensure as a mortgage lender, a mortgage broker, or a mortgage  
10 loan originator under AS 06.60;

11 (3) admission to the Alaska Bar Association under AS 08.08;

12 (4) licensure as a collection agency operator under AS 08.24;

13 (5) a certificate of fitness to handle explosives under AS 08.52;

14 (6) licensure as a massage therapist under AS 08.61;

15 (7) licensure to practice nursing or certification as a nurse aide under  
16 AS 08.68;

17 (8) certification as a real estate appraiser under AS 08.87;

18 (9) a position involving supervisory or disciplinary power over a minor  
19 or dependent adult for which criminal justice information may be released under  
20 AS 12.62.160(b)(9);

21 (10) a teacher certificate under AS 14.20;

22 (11) a registration or license to operate a marijuana establishment  
23 under AS 17.38;

24 (12) admittance to a police training program under AS 18.65.230 or for  
25 certification as a police officer under AS 18.65.240 if that person's prospective  
26 employer does not have access to a criminal justice information system;

27 (13) licensure as a security guard under AS 18.65.400 - 18.65.490;

28 (14) a concealed handgun permit under AS 18.65.700 - 18.65.790;

29 (15) licensure as an insurance producer, managing general agent,  
30 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
31 broker, or independent adjuster under AS 21.27;

1 (16) serving and executing process issued by a court by a person  
2 designated under AS 22.20.130;

3 (17) a school bus driver license under AS 28.15.046;

4 (18) licensure as an operator or an instructor for a commercial driver  
5 training school under AS 28.17;

6 (19) registration as a broker-dealer, agent, investment adviser  
7 representative, or investment adviser under AS 45.56.300 - 45.56.350;

8 (20) licensure, license renewal, certification, certification renewal, or  
9 payment from the Department of Health [AND SOCIAL SERVICES] of an individual  
10 and an entity subject to the requirements for a criminal history check under  
11 AS 47.05.310, including

12 (A) a public home care provider described in AS 47.05.017;

13 (B) a provider of home and community-based waiver services  
14 financed under AS 47.07.030(c);

15 (C) a case manager to coordinate community mental health  
16 services under as 47.30.530;

17 (D) an entity listed in AS 47.32.010(b), including an owner,  
18 officer, director, member, partner, employee, volunteer, or contractor of an  
19 entity; or

20 (E) an individual or entity not described in (A) - (D) of this  
21 paragraph that is required by statute or regulation to be licensed or certified by  
22 the Department of Health [AND SOCIAL SERVICES] or that is eligible to  
23 receive payments, in whole or in part, from the Department of Health [AND  
24 SOCIAL SERVICES] to provide for the health, safety, and welfare of persons  
25 who are served by the programs administered by the Department of Health  
26 [AND SOCIAL SERVICES];

27 **(21) licensure, license renewal, certification, or certification**  
28 **renewal by the Department of Family and Community Services of an individual**  
29 **or entity, or a payment from the Department of Family and Community Services**  
30 **to an individual or entity, subject to the requirements for a criminal history**  
31 **check under AS 47.05.310 for foster homes, child placement agencies, and**

1 **runaway shelters listed in AS 47.32.010(c), including an owner, officer, director,**  
 2 **member, partner, employee, volunteer, or contractor of an entity.**

3 \* **Sec. 6.** AS 14.03.078(b) is amended to read:

4 (b) By December 31 of each year, the department shall provide to the Alaska  
 5 Mental Health Trust Authority established by **AS 44.25.200** [AS 47.30.011] a report  
 6 on the progress of school districts in the state toward the objective of AS 14.30.278(b),  
 7 based on performance indicators included in the most current plan submitted by the  
 8 state to the United States Secretary of Education as required under 20 U.S.C. 1412(a).

9 \* **Sec. 7.** AS 14.30.610 is amended to read:

10 **Sec. 14.30.610. Governing board.** The agency shall be governed by the  
 11 Governor's Council on Disabilities and Special Education (**AS 44.29.600**)  
 12 [(AS 47.80.030)].

13 \* **Sec. 8.** AS 18.29.110 is amended to read:

14 **Sec. 18.29.110. Employer payments.** An employer approved for participation  
 15 in the program shall make a nonrefundable quarterly payment to the department for  
 16 the benefit of the employer's health care professional employee. The employer  
 17 payment may come from any available source, including a philanthropic institution,  
 18 health foundation, government agency, community organization, or private individual.  
 19 The payment amount

20 (1) must be equal to the health care professional's program payment  
 21 amount established by the commissioner;

22 (2) may be adjusted based on the employer's ability to pay, as  
 23 determined by the commissioner and in consultation with the advisory council; and

24 (3) must include the fee established under AS 44.29.022 **or**  
 25 **AS 44.30.030** for services provided under this chapter.

26 \* **Sec. 9.** AS 18.35.301(c) is amended to read:

27 (c) An individual may not smoke outdoors

28 (1) within 10 feet of playground equipment located at a public or  
 29 private school or a state or municipal park while children are present;

30 (2) in a seating area for an outdoor arena, stadium, or amphitheater;

31 (3) at a place of employment or health care facility that has declared

1 the entire campus or outside grounds or property to be smoke-free;

2 (4) within

3 (A) 10 feet of an entrance to a bar or restaurant that serves  
4 alcoholic beverages;

5 (B) 20 feet of an entrance, open window, or heating or  
6 ventilation system air intake vent at an enclosed area at a place where smoking  
7 is prohibited under this section; or

8 (C) a reasonable distance, as determined by the owner or  
9 operator, of an entrance, open window, or heating or ventilation system air  
10 intake vent of

11 (i) a vessel covered by this section; or

12 (ii) a long term care facility as defined in AS 44.25.390

13 [AS 47.62.090].

14 \* **Sec. 10.** AS 18.35.321(b) is amended to read:

15 (b) The program of education under (a) of this section may be provided in  
16 combination with the comprehensive smoking education, tobacco use prevention, and  
17 tobacco control program established in AS 44.29.020(a)(12) [AS 44.29.020(a)(14)].

18 \* **Sec. 11.** AS 18.66.020(a) is amended to read:

19 (a) The council consists of

20 (1) four public members appointed by the governor, one of whom shall  
21 be from a rural area; the governor may consult with the Alaska Network on Domestic  
22 Violence and Sexual Assault, a nonprofit corporation, in appointing the public  
23 members under this paragraph; the Alaska Network on Domestic Violence and Sexual  
24 Assault shall submit a list to the governor of persons recommended for appointment;

25 (2) the commissioner of public safety or the designee of the  
26 commissioner of public safety;

27 (3) the commissioner of health [AND SOCIAL SERVICES] or the  
28 designee of the commissioner of health [AND SOCIAL SERVICES];

29 (4) the commissioner of education and early development or the  
30 designee of the commissioner of education and early development;

31 (5) the attorney general or the designee of the attorney general; [AND]

1 (6) the commissioner of corrections or the designee of the  
2 commissioner of corrections; **and**

3 **(7) the commissioner of family and community services or the**  
4 **designee of the commissioner of family and community services.**

5 \* **Sec. 12.** AS 18.66.400(b) is amended to read:

6 (b) The membership of a domestic violence fatality review team shall be  
7 determined by the commissioner of public safety or the municipality, as appropriate.  
8 Membership may include representatives from

9 (1) law enforcement agencies within the area or municipality;

10 (2) the district attorney for the area or municipality and municipal  
11 prosecutor if created by a municipality;

12 (3) the office of the chief medical examiner;

13 (4) the Department of Corrections;

14 (5) employees of the Department of Health **and the Department of**  
15 **Family and Community Services** [AND SOCIAL SERVICES] who deal with  
16 domestic violence;

17 (6) local agencies and organizations involved with crime victim and  
18 domestic violence protection, reporting, and counseling and assistance;

19 (7) other organizations, departments, and agencies determined to be  
20 appropriate.

21 \* **Sec. 13.** AS 23.15.095(b) is amended to read:

22 (b) By December 31 of each year, the commissioner shall provide to the  
23 Alaska Mental Health Trust Authority established by **AS 44.25.200** [AS 47.30.011] a  
24 report on the agency's progress toward the objective under (a) of this section.

25 \* **Sec. 14.** AS 23.15.550(a) is amended to read:

26 (a) The Alaska Workforce Investment Board is established in the department.  
27 The board consists of the following voting members, not to exceed 26:

28 (1) the lieutenant governor or the lieutenant governor's designee;

29 (2) the commissioners of commerce, community, and economic  
30 development, education and early development, health [AND SOCIAL SERVICES],  
31 and labor and workforce development, or each respective commissioner's designee;

1 (3) one representative from the University of Alaska;

2 (4) four additional representatives of education, with one from local  
3 public education, one from secondary vocational education, one from a postsecondary  
4 vocational education institution, and one from adult basic education;

5 (5) four representatives of business and industry;

6 (6) four representatives of organized labor whom the governor shall  
7 appoint from lists of nominees submitted by recognized state labor organizations; the  
8 governor may reject a list submitted under this paragraph and request that another list  
9 be submitted;

10 (7) at least one representative from an organization representing  
11 employment and training needs of Alaska Natives;

12 (8) at least one representative of a community-based service  
13 organization;

14 (9) at least one representative who has personal or professional  
15 experience with developmental disabilities;

16 (10) at least one veteran; in this paragraph, "veteran" has the meaning  
17 given in AS 43.20.048(f);

18 (11) at least one and up to four additional members of the private  
19 sector to ensure a private sector majority and regional and local representation on the  
20 board.

21 \* **Sec. 15.** AS 25.27.125(b) is amended to read:

22 (b) The annual estimated balance in the account maintained by the  
23 commissioner of administration under AS 37.05.142 may be used by the legislature to  
24 make appropriations [TO THE DEPARTMENT OF HEALTH AND SOCIAL  
25 SERVICES] to carry out the purposes of AS 47.14.100 - 47.14.130 and AS 47.27.

26 \* **Sec. 16.** AS 26.23.071(b) is amended to read:

27 (b) The commission consists of the commissioners of commerce, community,  
28 and economic development, environmental conservation, **family and community**  
29 **services**, fish and game, health [AND SOCIAL SERVICES], labor and workforce  
30 development, natural resources, public safety, and transportation and public facilities,  
31 or the designees of the commissioners, the adjutant general of the Department of

1 Military and Veterans' Affairs or a designee, and seven members of the public  
 2 appointed by the governor, two of whom must be members of a local emergency  
 3 planning committee for an emergency planning district that is predominantly rural in  
 4 character and two of whom must be members of a local emergency planning  
 5 committee for an emergency planning district that is predominantly urban in character.  
 6 Two of the other three members of the public who are appointed to the commission  
 7 must be members of the governing body of, or the mayor of, a political subdivision  
 8 that has a local emergency planning committee or a person who, in the opinion of the  
 9 governor, is otherwise appropriate to represent the political subdivision. The United  
 10 States Department of Defense - Alaska Command, the Federal Emergency  
 11 Management Agency, the United States Environmental Protection Agency, and the  
 12 United States Coast Guard may each appoint a representative to serve on the  
 13 commission in an ex-officio, nonvoting capacity. To the extent practicable, the  
 14 commission must include members with expertise in the emergency response field.

15 \* **Sec. 17.** AS 37.05.146(c)(77) is amended to read:

16 (77) the following fees, receipts, income, and monetary recoveries  
 17 collected by the Department of Health [AND SOCIAL SERVICES]:

18 (A) receipts of the Department of Health [AND SOCIAL  
 19 SERVICES], Bureau of Vital Statistics;

20 (B) monetary recoveries of Medicaid expenditures from  
 21 recipients, third parties, and providers under AS 47;

22 (C) the state's share of overpayments collected under  
 23 AS 47.05.080;

24 (D) [INCOME RECEIVED FROM A STATE OR FEDERAL  
 25 AGENCY FOR CHILDREN IN FOSTER CARE UNDER AS 47.14.100];

26 (E) fees received or collected under AS 44.29.022 for nursing  
 27 and planning services provided at health centers, genetic screening clinics and  
 28 specialty clinics, the certification of x-ray machines, the alcohol safety action  
 29 program, and other public health programs and services;

30 (E) [(F)] fees received under AS 18.08.080 for the certification  
 31 of emergency medical technicians, emergency medical dispatchers, and

1 emergency medical technician instructors;

2 (F) [(G)] fees received under AS 47.32;

3 (G) [(H)] the state's share of child support collections for  
4 reimbursement of the cost of the Alaska temporary assistance program as  
5 provided under AS 25.27.120, 25.27.130, and AS 47.27.040; and

6 (H) [(I)] monetary recoveries under AS 09.58 (Alaska Medical  
7 Assistance False Claim and Reporting Act);

8 \* **Sec. 18.** AS 37.05.146(c) is amended by adding a paragraph to read:

9 (80) the following fees, receipts, income, and monetary recoveries  
10 collected by the Department of Family and Community Services:

11 (A) income received from a state or federal agency for children  
12 in foster care under AS 47.14.100;

13 (B) fees received under AS 47.32.

14 \* **Sec. 19.** AS 37.05.580(a) is amended to read:

15 (a) There is created as a special account in the general fund the tobacco use  
16 education and cessation fund into which shall be deposited 20 percent annually of the  
17 revenue derived from the settlement of State of Alaska v. Philip Morris, Incorporated,  
18 et al, No. 1JU-97-915 CI (Alaska Super. 1997). The purpose of the tobacco use  
19 education and cessation fund is to provide a source to finance the comprehensive  
20 smoking education, tobacco use prevention, and tobacco control program authorized  
21 by AS 44.29.020(12) [AS 44.29.020(a)(14)].

22 \* **Sec. 20.** AS 37.05.580(b) is amended to read:

23 (b) The legislature may make appropriations from the tobacco use education  
24 and cessation fund for the comprehensive smoking education, tobacco use prevention,  
25 and tobacco control program established under AS 44.29.020(12)  
26 [AS 44.29.020(a)(14)].

27 \* **Sec. 21.** AS 37.14.001 is amended to read:

28 Sec. 37.14.001. Mental health trust. In carrying out its trust obligations under  
29 the Mental Health Enabling Act of 1956, the state acts through the governor, the  
30 legislature, and the Alaska Mental Health Trust Authority (AS 44.25.200)  
31 [(AS 47.30.011)].

1 \* **Sec. 22.** AS 37.14.007(a) is amended to read:

2 (a) The Alaska Mental Health Trust Authority, established by **AS 44.25.200**  
3 [AS 47.30.011], is the trustee of the trust established under the Alaska Mental Health  
4 Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

5 \* **Sec. 23.** AS 37.14.099(1) is amended to read:

6 (1) "authority" means the Alaska Mental Health Trust Authority  
7 established under **AS 44.25.200** [AS 47.30.011];

8 \* **Sec. 24.** AS 39.25.110(34) is amended to read:

9 (34) the chief executive officer and employees of the Alaska Mental  
10 Health Trust Authority employed under **AS 44.25.230(b)** [AS 47.30.026(b)];

11 \* **Sec. 25.** AS 39.50.200(b)(62) is amended to read:

12 (62) the Board of Trustees of the Alaska Mental Health Trust  
13 Authority **AS 44.25.210** (AS 47.30.016);

14 \* **Sec. 26.** AS 43.61.010(f) is amended to read:

15 (f) The marijuana education and treatment fund is established in the general  
16 fund. In addition to the accounting under (c) of this section, the Department of  
17 Administration shall separately account for 25 percent of the tax collected under this  
18 section and deposit it into the marijuana education and treatment fund. The  
19 Department of Administration shall deposit interest earned on the fund into the general  
20 fund. Money in the fund does not lapse. The legislature may use the annual estimated  
21 balance in the fund to make appropriations to the Department of Health [AND  
22 SOCIAL SERVICES] for the comprehensive marijuana use education and treatment  
23 program established under **AS 44.29.020(a)(14)** [AS 44.29.020(a)(17)].

24 \* **Sec. 27.** AS 44.17.005 is amended to read:

25 **Sec. 44.17.005. Offices and departments.** There are in the state government  
26 the following principal offices and departments:

- 27 (1) Office of the Governor
- 28 (2) Department of Administration
- 29 (3) Department of Law
- 30 (4) Department of Revenue
- 31 (5) Department of Education and Early Development

- 1 (6) Department of Health [AND SOCIAL SERVICES]  
 2 (7) Department of Labor and Workforce Development  
 3 (8) Department of Commerce, Community, and Economic  
 4 Development  
 5 (9) Department of Military and Veterans" Affairs  
 6 (10) Department of Natural Resources  
 7 (11) Department of Fish and Game  
 8 (12) Department of Public Safety  
 9 (13) Department of Transportation and Public Facilities  
 10 (14) Department of Environmental Conservation  
 11 (15) Department of Corrections  
 12 **(16) Department of Family and Community Services.**

13 \* **Sec. 28.** AS 44.25 is amended by adding new sections to read:

14 **Article 4. Alaska Mental Health Trust Authority.**

15 **Sec. 44.25.200. Alaska Mental Health Trust Authority.** (a) The Alaska  
 16 Mental Health Trust Authority is established as a public corporation of the state within  
 17 the Department of Revenue.

18 (b) The purpose of the authority is to ensure an integrated comprehensive  
 19 mental health program and to administer the office of the long term care ombudsman  
 20 established in AS 44.25.300.

21 (c) The authority

22 (1) shall, as provided in AS 37.14.009, administer the trust established  
 23 under the Alaska Mental Health Enabling Act of 1956;

24 (2) may sue and be sued;

25 (3) may retain the services of independent counsel when, in the  
 26 judgment of the authority's board of trustees, independent counsel is needed;

27 (4) shall insure or indemnify and protect the board, a member of the  
 28 board, or an agent or employee of the authority against financial loss and expense,  
 29 including reasonable legal fees and costs, arising out of a claim, demand, suit, or  
 30 judgment by reason of alleged negligence, alleged violation of civil rights, or alleged  
 31 wrongful act resulting in death or bodily injury to a person or accidental damage to or

1 destruction of property if the board member, agent, or employee, at the time of the  
 2 occurrence, was acting under the direction of the authority within the course or scope  
 3 of the duties of the board member, agent, or employee;

4 (5) shall exercise the powers granted to it under AS 37.14.041, subject  
 5 to the limitations imposed by AS 37.14.045; and

6 (6) shall administer the office of the long term care ombudsman  
 7 established in AS 44.25.300.

8 (d) The provisions of AS 44.62.330 - 44.62.630 do not apply to the Alaska  
 9 Mental Health Trust Authority.

10 **Sec. 44.25.210. Board establishment, membership, quorum, fees, and**  
 11 **expenses.** (a) The authority shall be governed by its board of trustees.

12 (b) The board consists of seven members appointed by the governor and  
 13 confirmed by the legislature. The members appointed under this subsection shall be  
 14 appointed

15 (1) based upon their ability in financial management and investment,  
 16 in land management, or in services for the beneficiaries of the trust;

17 (2) after the governor has considered a list of persons prepared by a  
 18 panel of six persons who are beneficiaries, or who are the guardians, family members,  
 19 or representatives of beneficiaries; the panel shall consist of

20 (A) one person selected by the Alaska Mental Health Board  
 21 established by AS 44.29.800;

22 (B) one person selected by the Governor's Council on  
 23 Disabilities and Special Education established by AS 44.29.600;

24 (C) one person selected by the Advisory Board on Alcoholism  
 25 and Drug Abuse established by AS 44.29.100;

26 (D) one person selected by the Alaska Commission on Aging  
 27 established by AS 47.45.200;

28 (E) one person selected by the Alaska Native Health Board;  
 29 and

30 (F) one person selected by the authority.

31 (c) A member of the board appointed by the governor under (b) of this section

1 may not

2 (1) be an officer or employee of the state; or

3 (2) within the preceding two years or during the member's term of  
4 office have an interest in, served on the governing board of, or been employed by an  
5 organization that has received, during that same period, money from the mental health  
6 trust settlement income account under a grant or contract for services.

7 (d) A quorum of the board is four members.

8 (e) A member of the board is entitled to

9 (1) an honorarium of \$200 for each day or any part of a day spent at a  
10 meeting of the board, at a meeting of a subcommittee of the board, or as a  
11 representative of the board; and

12 (2) per diem and travel expenses authorized for boards and  
13 commissions under AS 39.20.180.

14 **Sec. 44.25.220. Term of office, vacancies, removal, and reappointment.** (a)

15 The members of the board serve staggered five-year terms. A member shall continue  
16 to serve until the member's successor is appointed and confirmed.

17 (b) A vacancy occurring in the membership of the board shall be filled within  
18 60 days by appointment of the governor for the unexpired portion of the vacated term.

19 (c) The governor may remove a member of the board only for cause, including  
20 incompetence, neglect of duty, misconduct in office, poor attendance, or lack of  
21 contribution to the board's work. A member being removed for cause shall be given a  
22 copy of the charges and afforded an opportunity to publicly present a defense in  
23 person or by counsel upon not less than 10 days' written notice. If a member is  
24 removed for cause, the governor shall file with the lieutenant governor a complete  
25 statement of all charges made against the member and the governor's findings based  
26 on the charges, together with a complete record of the proceedings. The removal of a  
27 member for cause constitutes a final administrative order. A member seeking to appeal  
28 the governor's removal of a member for cause under this subsection shall file a notice  
29 of appeal with the superior court under AS 44.62.560.

30 (d) Except for a trustee who has served two consecutive five-year terms, a  
31 member of the board may be reappointed. A member of the board who has served two

1 consecutive five-year terms is not eligible for reappointment to the board until one  
2 year has intervened.

3 **Sec. 44.25.230. Officers and staff.** (a) The board shall annually elect a  
4 presiding officer and other officers it considers necessary from among its membership.

5 (b) The board shall employ a chief executive officer who shall be selected by  
6 the board. The chief executive officer shall be compensated at no less than range 26 of  
7 the pay plan for state employees under AS 39.27.011(a). The chief executive officer  
8 may

9 (1) hire additional employees;

10 (2) appoint hearing officers to perform the responsibilities set out in  
11 AS 47.30.031(b)(4); and

12 (3) contract for the services of consultants and others.

13 (c) The chief executive officer is directly responsible to the board.

14 (d) The chief executive officer and employees hired under this section are in  
15 the exempt service under AS 39.25.110.

16 **Sec. 44.25.240. Regulations.** (a) The board shall adopt regulations under  
17 AS 44.62 (Administrative Procedure Act) consistent with state law and the fiduciary  
18 responsibilities imposed by law on members of boards of directors of corporations  
19 having trust responsibilities.

20 (b) The regulations shall address, but are not limited to,

21 (1) the requirements of AS 44.25.290(h) and (j);

22 (2) procedures by which an aggrieved person or group who believe  
23 they have not received services that should be provided from the trust may apply to the  
24 authority for redress;

25 (3) provisions that allow and encourage entities providing trust funded  
26 services to integrate those services with other community human services funded by  
27 other sources;

28 (4) administrative adjudication procedures, including but not limited to

29 (A) the acceptance of applications under (3) of this subsection;

30 (B) investigations;

31 (C) hearings; and

1 (D) the issuance of administrative orders, as necessary;

2 (5) provisions that establish a process for long-range planning for  
3 expenditures from the mental health trust settlement income account; and

4 (6) criteria for determining the nature and extent of necessary services  
5 and related expenses to be funded by the trust.

6 **Sec. 44.25.250. Duties of the board.** The board shall

7 (1) preserve and protect the trust corpus under AS 37.14.009;

8 (2) coordinate with other state agencies involved with programs  
9 affecting persons in need of mental health services;

10 (3) review and consider the recommendations submitted under  
11 AS 44.29.140(a)(2), AS 44.29.850(6), AS 47.45.240(a)(8), and AS 44.29.660(13);

12 (4) adopt bylaws governing its meetings, selection of officers,  
13 proceedings, and other aspects of board procedure;

14 (5) make an annual written report of its activities to the governor and  
15 the public and notify the legislature that the report is available; and

16 (6) fulfill its obligations under AS 44.25.270.

17 **Sec. 44.25.260. Board advisors.** The commissioners of health, family and  
18 community services, natural resources, and revenue, or their respective designees, are  
19 advisors to the board.

20 **Sec. 44.25.270. Budget recommendations; reports.** (a) The board shall  
21 annually, not later than September 15, submit to the governor and the Legislative  
22 Budget and Audit Committee a budget for the next fiscal year and a proposed plan of  
23 implementation based on the integrated comprehensive mental health program plan  
24 prepared under AS 47.30.660(a)(1). The budget must include the authority's  
25 determination of the amount

26 (1) recommended for expenditure from the general fund during the  
27 next fiscal year to meet the operating and capital expenses of the integrated  
28 comprehensive mental health program;

29 (2) in the mental health trust settlement income account, if any, that is  
30 not reasonably necessary to meet the projected operating and capital expenses of the  
31 integrated comprehensive mental health program that may be transferred into the

1 general fund; and

2 (3) of the expenditures the authority intends to make under  
3 AS 37.14.041 and 37.14.045, including the specific purposes and amounts of any  
4 grants or contracts as part of the state's integrated comprehensive mental health  
5 program.

6 (b) When the authority submits its proposed budget under (a) of this section,  
7 the authority shall also provide a report to the Legislative Budget and Audit  
8 Committee, the governor, the Office of Management and Budget, the commissioner of  
9 health, and all entities providing services with money in the mental health trust  
10 settlement income account, and shall make it available to the public. The report must  
11 describe at least the following:

12 (1) the assets, earnings, and expenditures of the trust as of the end of  
13 the preceding fiscal year;

14 (2) comparisons of the trust's assets, earnings, and expenditures with  
15 the prior five fiscal years;

16 (3) projections of the trust's assets, earnings, and expenditures for the  
17 next five fiscal years;

18 (4) the authority's budget recommendations submitted under (a) of this  
19 section, and its reasons for making those recommendations;

20 (5) the authority's guidelines for the establishment of services; the  
21 provision of services shall be based on the principle that services paid for from the  
22 trust are provided to recipients as close to the recipient's home and family as practical  
23 with due consideration of demographics, mental health service requirements, use of  
24 mental health services, economic feasibility, and capital expenditures required for  
25 provision of minimum levels of service;

26 (6) forecasts of the number of persons needing services;

27 (7) projections of the resources required to provide the necessary  
28 services and facilities; and

29 (8) reviews of the status of the integrated comprehensive mental health  
30 program, including evaluation of program goals, objectives, targets and timelines, and  
31 overall effectiveness.

1           **Sec. 44.25.280. Submissions requiring use of trust money.** An agency or  
 2 entity proposing an expenditure of money by the trust shall present its proposal to the  
 3 authority under regulations adopted under AS 44.25.240.

4           **Sec. 44.25.290. Use of money in the mental health trust settlement income**  
 5 **account.** (a) The money in the mental health trust settlement income account  
 6 established in AS 37.14.036 shall be used as provided in AS 37.14.041, including to

7                   (1) provide an integrated comprehensive mental health program as  
 8 required by this section;

9                   (2) meet the authority's annual administrative expenses; and

10                  (3) offset the effect of inflation on the mental health trust fund.

11           (b) Expenditures under (a)(1) of this section must provide for a reasonable  
 12 level of necessary services to persons who

13                   (1) are mentally ill;

14                   (2) have an intellectual disability, a developmental disability, or both;

15                   (3) are chronic alcoholics suffering from psychoses;

16                   (4) as a result of senility, suffer major mental illness; and

17                   (5) need mental health services, as the legislature may determine.

18           (c) The integrated comprehensive mental health program for which  
 19 expenditures are made under this section

20                   (1) must give priority in service delivery to persons who, as a result of  
 21 a mental disorder or of a disorder identified in (b) of this section,

22                           (A) may require or are at risk of hospitalization; or

23                           (B) experience such major impairment of self-care, self-  
 24 direction, or social and economic functioning that they require continuing or  
 25 intensive services;

26                   (2) may, at the discretion of the board, include services to persons who  
 27 are not included under (b) or (c)(1) of this section.

28           (d) In (b)(1) of this section, "the mentally ill" includes persons with the  
 29 following mental disorders:

30                   (1) schizophrenia;

31                   (2) delusional (paranoid) disorder;

- 1 (3) mood disorders;
- 2 (4) anxiety disorders;
- 3 (5) somatoform disorders;
- 4 (6) organic mental disorders;
- 5 (7) personality disorders;
- 6 (8) dissociative disorders;
- 7 (9) other psychotic or severe and persistent mental disorders
- 8 manifested by behavioral changes and symptoms of comparable severity to those
- 9 manifested by persons with mental disorders listed in this subsection; and
- 10 (10) persons who have been diagnosed by a licensed psychologist,
- 11 psychiatrist, or physician licensed to practice medicine in the state and, as a result of
- 12 the diagnosis, have been determined to have a childhood disorder manifested by
- 13 behaviors or symptoms suggesting risk of developing a mental disorder listed in this
- 14 subsection.

15 (e) In (b)(2) of this section, "persons who have an intellectual disability,

16 developmental disability, or both" includes persons with the following neurologic or

17 mental disorders:

- 18 (1) cerebral palsy;
- 19 (2) epilepsy;
- 20 (3) autistic disorder;
- 21 (4) severe organic brain impairment;
- 22 (5) significant developmental delay during early childhood indicating
- 23 risk of developing a disorder listed in this subsection;
- 24 (6) other severe and persistent intellectual disability or developmental
- 25 disability manifested by behaviors and symptoms similar to those manifested by
- 26 persons with disorders listed in this subsection.

27 (f) In (b)(3) of this section, "chronic alcoholics suffering from psychoses"

28 includes persons with the following disorders:

- 29 (1) alcohol withdrawal delirium (delirium tremens);
- 30 (2) alcohol hallucinosis;
- 31 (3) alcohol amnestic disorder;

1 (4) dementia associated with alcoholism;  
 2 (5) alcohol-induced organic mental disorder;  
 3 (6) alcoholic depressive disorder;  
 4 (7) other severe and persistent disorders associated with a history of  
 5 prolonged or excessive drinking or episodes of drinking out of control and manifested  
 6 by behavioral changes and symptoms similar to those manifested by persons with  
 7 disorders listed in this subsection.

8 (g) In (b)(4) of this section, "persons who, as a result of senility, suffer major  
 9 mental illness" includes persons with the following mental disorders:

10 (1) primary degenerative dementia of the Alzheimer type;  
 11 (2) multi-infarct dementia;  
 12 (3) senile dementia;  
 13 (4) presenile dementia;  
 14 (5) other severe and persistent mental disorders manifested by  
 15 behaviors and symptoms similar to those manifested by persons with disorders listed  
 16 in this subsection.

17 (h) The authority shall adopt regulations defining the disorders identified in  
 18 this section to reflect revisions in the diagnostic nomenclature of the health  
 19 professions serving the beneficiaries of the trust. The authority shall review and revise  
 20 the regulations as necessary. Regulations adopted under this subsection must be in the  
 21 long term best interest of the trust and of persons with disorders equivalent to those  
 22 identified in (b) and (c) of this section.

23 (i) In this section, "an integrated comprehensive mental health program"

24 (1) means public health programs and services that, on December 16,  
 25 1994, are separately recognizable and administered, without regard to the  
 26 administrative unit directly responsible for the delivery of the service; among the  
 27 services included are services for the mentally ill, community mental health services,  
 28 services for the developmentally disabled, alcoholism services, and services for  
 29 children, youth, adults, and seniors with mental disorders;

30 (2) includes, at a minimum, each of the following services as  
 31 appropriate:

- 1 (A) emergency services on a 24-hour basis;
- 2 (B) screening examination and evaluation services required to  
 3 complete the involuntary commitment process under AS 47.30.700 -  
 4 47.30.815;
- 5 (C) inpatient care;
- 6 (D) crisis stabilization services, which may include  
 7 (i) active community outreach;  
 8 (ii) in-hospital contact;  
 9 (iii) mobile crisis teams of mental health professionals;  
 10 (iv) crisis beds to provide a short term residential  
 11 program for persons experiencing an acute episode of mental illness  
 12 that requires temporary removal from a home environment;
- 13 (E) treatment services, which may include  
 14 (i) diagnosis, testing, and evaluation of medical needs;  
 15 (ii) medication monitoring;  
 16 (iii) physical examinations;  
 17 (iv) dispensing psychotropic and other medication;  
 18 (v) detoxification;  
 19 (vi) individual or group therapy;  
 20 (vii) aftercare;
- 21 (F) case management, which may include  
 22 (i) evaluation of needs;  
 23 (ii) development of individualized treatment plans;  
 24 (iii) enhancement of access to available resources and  
 25 programs;  
 26 (iv) development of interagency contacts and family  
 27 involvement;  
 28 (v) advocacy;
- 29 (G) daily structure and support, which may include  
 30 (i) daily living skills training;  
 31 (ii) socialization activities;

- 1 (iii) recreation;
- 2 (iv) transportation;
- 3 (v) day care services;
- 4 (vi) client and care provider education and support
- 5 services;
- 6 (H) residential services, which may include
- 7 (i) crisis or respite care;
- 8 (ii) board and care;
- 9 (iii) foster care, group homes, halfway houses, or
- 10 supervised apartments;
- 11 (iv) intermediate care facilities;
- 12 (v) long-term care facilities;
- 13 (vi) in-home care;
- 14 (I) vocational services, which may include
- 15 (i) prevocational services;
- 16 (ii) work adjustment;
- 17 (iii) supported work;
- 18 (iv) sheltered work;
- 19 (v) training in which participants achieve useful work
- 20 experience;
- 21 (J) outpatient screening, diagnosis, and treatment services,
- 22 including individual, family, and group psychotherapy, counseling, and
- 23 referral;
- 24 (K) prevention and education services, including consultation
- 25 with organizations, providers, and the public; and
- 26 (L) administrative services, including appropriate operating
- 27 expenses of state agencies and other service providers.
- 28 (j) The authority shall adopt regulations regarding the services described in (i)
- 29 of this section to reflect advances in the appropriate professions. The authority shall
- 30 review and revise the regulations as necessary. Regulations adopted under this
- 31 subsection must be in the long term best interest of the mental health trust.

1                   **Sec. 44.25.295.** Definitions. In AS 44.25.200 - 44.25.295,

2                   (1) "authority" means the Alaska Mental Health Trust Authority  
3 established by AS 44.25.200;

4                   (2) "board" means the board of trustees of the authority;

5                   (3) "trust" means the trust established by the Alaska Mental Health  
6 Enabling Act of 1956, P.L. 84-830, 70 Stat. 709.

7                   **Article 5. Office of the Long Term Care Ombudsman**

8                   **Sec. 44.25.300. Office established.** (a) The office of the long term care  
9 ombudsman is established in the Alaska Mental Health Trust Authority  
10 (AS 44.25.200).

11                   (b) The ombudsman shall be hired by the authority. A member of the authority  
12 who has a financial interest in a long term care facility in the state, or who has any  
13 other conflict of interest, may not participate in the hiring of the ombudsman. The  
14 ombudsman is a full-time position in the classified service. The ombudsman shall be  
15 compensated at no less than Range 21 of the pay plan for state employees under  
16 AS 39.27.011.

17                   (c) The ombudsman may not have a financial interest in a long term care  
18 facility in the state. The authority shall adopt regulations to ensure that the  
19 ombudsman, and employees and volunteers of the office, do not have a conflict of  
20 interest or an appearance of a conflict of interest.

21                   **Sec. 44.25.310. Duties and powers of the long term care ombudsman.** (a)  
22 The ombudsman shall investigate and resolve a complaint made by or on behalf of an  
23 older Alaskan who resides in a long term care facility in the state if the complaint  
24 relates to a decision, action, or failure to act by a provider or a representative of a  
25 provider of long term care services, or by a public agency or social services agency,  
26 that may adversely affect the health, safety, welfare, or rights of the older Alaskan. At  
27 the discretion of the ombudsman, the ombudsman may investigate and resolve a  
28 complaint made by or on behalf of a resident who is not an older Alaskan if the  
29 complaint relates to a decision, action, or failure to act by a provider or a  
30 representative of a provider of long term care services, or by a public agency or social  
31 services agency, that may adversely affect the health, safety, welfare, or rights of the

1 resident.

2 (b) The ombudsman may investigate and resolve a complaint made by or on  
3 behalf of an older Alaskan relating to the long term care or residential circumstances  
4 of the older Alaskan. Complaints under this subsection may relate to any issue not  
5 covered under (a) of this section, including the older Alaskan's landlord, senior citizen  
6 housing, a public assistance program, a public grant program for services to older  
7 Alaskans, public utilities, health care facilities, and health care providers.

8 (c) The ombudsman may

9 (1) subpoena witnesses, compel their attendance, require the  
10 production of evidence, administer oaths, and examine any person under oath in  
11 connection with a complaint described under (a) of this section; the powers described  
12 in this paragraph shall be enforced by the superior court;

13 (2) pursue administrative, legal, or other appropriate remedies on  
14 behalf of a resident of a long term care facility in the state.

15 **Sec. 44.25.320. Training and certification of staff.** (a) The ombudsman shall  
16 provide for the training and certification of office staff, including volunteers and other  
17 representatives of the office. Training must include instruction in federal, state, and  
18 local laws and policies relating to long term care facilities in the state, and in  
19 investigative techniques. The ombudsman may require other appropriate training. The  
20 ombudsman may decertify a person under this section for good cause in accordance  
21 with regulations adopted by the authority.

22 (b) An employee, volunteer, or other representative of the office may not  
23 investigate a complaint under AS 44.25.310 unless certified as having completed  
24 training under this section and approved by the ombudsman as qualified to investigate  
25 the complaint.

26 **Sec. 44.25.330. Access to long term care facilities, residents, and records.**

27 (a) A person may not deny access to a long term care facility or to a resident of a long  
28 term care facility by the ombudsman or an employee, volunteer, or other  
29 representative of the office.

30 (b) Notwithstanding the provisions of AS 44.25.310(c)(1), the ombudsman  
31 may obtain medical or other records of a resident of a long term care facility in the

1 state only with the consent of the resident or the person's resident representative or  
 2 legal guardian or, if the resident is unable or incompetent to consent and does not have  
 3 a resident representative, only with a subpoena or court order.

4 **Sec. 44.25.340. Confidentiality.** (a) Records obtained or maintained by the  
 5 ombudsman are confidential, are not subject to inspection or copying under  
 6 AS 40.25.110 - 40.25.120 and, except as provided in (b) of this section, may be  
 7 disclosed only at the discretion of the ombudsman.

8 (b) The identity of a complainant or an older Alaskan or resident of a long  
 9 term care facility on whose behalf a complaint is made may only be disclosed with the  
 10 consent of the identified person or the person's legal guardian or resident  
 11 representative or by court order. However, if an older Alaskan is unable to provide  
 12 consent and does not have a legal guardian, or if a resident of a long term care facility  
 13 is unable to provide consent and does not have a resident representative, the  
 14 ombudsman may disclose the identity of an identified person for the purpose of  
 15 making a referral to an agency or person, if the ombudsman or an employee or  
 16 volunteer of the office

17 (1) has reasonable cause to believe that an action, inaction, or decision,  
 18 including an action, inaction, or decision by a resident representative or a legal  
 19 guardian of an older Alaskan, may adversely affect the health, safety, welfare, or  
 20 rights of the older Alaskan or resident;

21 (2) has reasonable cause to believe the referral is in the best interest of  
 22 the older Alaskan or resident;

23 (3) obtains the approval of the ombudsman for the disclosure and  
 24 referral; and

25 (4) does not have evidence that the older Alaskan or resident would  
 26 disagree with the referral.

27 **Sec. 44.25.350. Immunity from liability.** (a) A person who, in good faith,  
 28 makes a complaint described in AS 44.25.310 is immune from civil or criminal  
 29 liability that might otherwise exist for making the complaint.

30 (b) The ombudsman, or an employee, volunteer, or other representative of the  
 31 office, is immune from civil or criminal liability for the good faith performance of

1 official duties.

2 **Sec. 44.25.360. Interference with the long term care ombudsman and**  
 3 **retaliation prohibited.** (a) A person may not intentionally interfere with the  
 4 ombudsman, or an employee, volunteer, or representative of the office, in the  
 5 performance of official duties under AS 44.25.310.

6 (b) If a person makes a good faith complaint described in AS 44.25.310, an  
 7 employer or supervisor of the person, or a public or private agency or entity that  
 8 provides benefits, services, or housing to the person, may not discharge, demote,  
 9 transfer, reduce the pay or benefits or work privileges of, prepare a negative work  
 10 performance evaluation of, deny or withhold benefits or services, evict, or take other  
 11 detrimental action against the person because of the complaint. The person making the  
 12 complaint may bring a civil action for compensatory and punitive damages against an  
 13 employer, supervisor, agency, or entity that violates this subsection. In the civil action  
 14 there is a rebuttable presumption that the detrimental action was retaliatory if it was  
 15 taken within 90 days after the complaint was made.

16 (c) A person who violates this section is guilty of a class B misdemeanor.

17 **Sec. 44.25.370. Legal counsel for the long term care ombudsman.** The  
 18 attorney general shall provide legal advice and representation in connection with any  
 19 matter relating to the powers, duties, and operation of the office, and in any legal  
 20 action brought against the ombudsman or an employee, volunteer, or other  
 21 representative of the office. If the attorney general cannot provide legal advice or  
 22 representation because of a conflict of interest, the ombudsman may employ private  
 23 legal counsel.

24 **Sec. 44.25.380. Cooperative agreements.** The authority shall enter into  
 25 cooperative agreements concerning the operations of the office, including protocols  
 26 for investigations, with state and local agencies that have jurisdiction over long term  
 27 care facilities or over the abuse and neglect of older Alaskans or residents of long term  
 28 care facilities.

29 **Sec. 44.25.390. Definitions.** In AS 44.25.300 - 44.25.390,

30 (1) "authority" means the Alaska Mental Health Trust Authority  
 31 established in AS 44.25.200;

1 (2) "long term care facility" means an assisted living home, as defined  
2 in AS 47.32.900, and a nursing facility, as defined in AS 47.32.900;

3 (3) "office" means the office of the long term care ombudsman;

4 (4) "older Alaskan" means a person who is 60 years of age or older and  
5 who resides in the state;

6 (5) "ombudsman" means the long term care ombudsman hired under  
7 AS 44.25.300;

8 (6) "resident" means a person who resides in a long term care facility in  
9 the state;

10 (7) "resident representative" means

11 (A) an individual chosen by a resident to act on behalf of the  
12 resident to

13 (i) support the resident in decision making;

14 (ii) access medical, social, or other personal information  
15 of the resident;

16 (iii) manage financial matters; or

17 (iv) receive notifications;

18 (B) a person authorized by federal or state law to act on behalf  
19 of a resident.

20 (8) "senior citizen housing" has the meaning given "senior housing" in  
21 AS 18.56.799.

22 \* **Sec. 29.** AS 44.29.020 is amended to read:

23 **Sec. 44.29.020. Duties of department.** (a) The Department of Health [AND  
24 SOCIAL SERVICES] shall administer the state programs of public health and **public**  
25 **assistance** [SOCIAL SERVICES], including

26 (1) maternal and child health services;

27 (2) preventive medical services;

28 (3) public health nursing services;

29 (4) nutrition services;

30 (5) health education;

31 (6) laboratories;

1 (7) mental health treatment and diagnosis, **except for mental health**  
 2 **treatment and diagnosis under AS 47.30.670 - 47.30.915;**

3 (8) [MANAGEMENT OF STATE INSTITUTIONS, EXCEPT FOR  
 4 ADULT PENAL INSTITUTIONS;

5 (9)] medical facilities;

6 **(9)** [(10)] adult public assistance;

7 **(10)** [(11)] the Alaska temporary assistance program;

8 **(11)** [(12)] [CHILD WELFARE SERVICES;

9 (13)] general relief;

10 **(12)** [(14)] a comprehensive smoking education, tobacco use  
 11 prevention, and tobacco control program; to the maximum extent possible, the  
 12 department shall administer the program required under this paragraph by grant to or  
 13 contract with one or more organizations in the state; the department's program must  
 14 include

15 (A) a community-based tobacco use prevention and cessation  
 16 component addressing the needs of youth and adults that includes use of  
 17 cessation aids such as a nicotine patch or a nicotine gum tobacco substitute;

18 (B) youth-based efforts that involve youth in the design and  
 19 implementation of tobacco control efforts;

20 (C) anti-tobacco counter-marketing targeting both youth and  
 21 adult populations designed to communicate messages to help prevent youth  
 22 initiation of tobacco use, promote cessation among tobacco users, and educate  
 23 the public about the lethal effects of exposure to secondhand smoke;

24 (D) tobacco use surveys of youth and adult populations  
 25 concerning knowledge, awareness, attitude, and use of tobacco products; and

26 (E) an enforcement component;

27 **(13)** [(15)] THE ALASKA PIONEERS' HOME AND THE ALASKA  
 28 VETERANS' HOME;

29 (16)] licensure and regulation of **all** [CHILD CARE] facilities  
 30 **requiring a license under AS 47.32.010(b);**

31 **(14)** [(17)] a comprehensive marijuana use education and treatment

1 program; to the extent possible, the department shall administer the program required  
2 under this paragraph by grant to or contract with one or more organizations in the  
3 state; the department's program must include

4 (A) a community-based marijuana misuse prevention  
5 component; the community-based component must provide for a youth  
6 services grant program to

7 (i) reduce initiation and promote cessation of marijuana  
8 use by youth, reduce youth access to marijuana products, and reduce  
9 exposure of youth to impaired driving dangers related to marijuana use;

10 (ii) provide recreational, educational, and character-  
11 building programs for youth outside school hours; and

12 (iii) address marijuana use prevention through outcome-  
13 based curricula, adult and peer mentoring, and opportunities for  
14 positive, prosocial leisure and recreational activities;

15 (B) marijuana public education designed to communicate  
16 messages to help prevent youth initiation of marijuana use, educate the public  
17 about the effects of marijuana use, and educate the public about marijuana  
18 laws;

19 (C) surveys of

20 (i) youth and adult populations concerning knowledge,  
21 awareness, attitude, and use of marijuana products;

22 (ii) the need for trained professionals working in  
23 organizations described in this paragraph;

24 (D) the development of plans to address the need for trained  
25 professionals and to assist in implementing a training program for those  
26 professionals;

27 (E) monitoring of population health status related to the  
28 consequences of marijuana use; and

29 (F) substance abuse screening, brief intervention, and referral  
30 to treatment.

31 \* **Sec. 30.** AS 44.29.022(a) is amended to read:

1 (a) The commissioner of health [AND SOCIAL SERVICES] may establish by  
 2 regulation a schedule of reasonable fees for services provided by the Department of  
 3 Health [AND SOCIAL SERVICES] under AS 44.29.020(a)(1) - (7) and (12), for  
 4 services provided under [AS 44.29.020(a)(1) (8) AND (14), AS 47.10, AS 47.12,  
 5 AS 47.14, AS 47.30.655 - 47.30.910, AND] AS 47.80.100 - 47.80.170, and for the  
 6 administration of public health programs under AS 18. The fee established for a  
 7 service may not exceed the actual cost of providing the service. The commissioner  
 8 may define or establish the "actual cost of providing a service" by regulation. The  
 9 Department of Health [AND SOCIAL SERVICES] shall charge and collect the fees  
 10 established under this subsection. The department may waive collection of a fee upon  
 11 a finding that collection is not economically feasible or in the public interest.

12 \* **Sec. 31.** AS 44.29.022(d) is amended to read:

13 (d) A regulation that establishes a fee for services under AS 44.29.020(a)(7)  
 14 that are part of the integrated comprehensive mental health program under  
 15 AS 47.30.470 – 47.30.620 [AS 47.30] may be adopted under this section after  
 16 consultation with the Alaska Mental Health Trust Authority.

17 \* **Sec. 32.** AS 44.29.022(e) is amended to read:

18 (e) The commissioner of health [AND SOCIAL SERVICES] shall consult  
 19 with stakeholders regarding the reasonableness of fees when developing a schedule of  
 20 reasonable fees under (a) of this section for services under AS 44.29.020(a)(12)  
 21 [AS 44.29.020(a)(14)] or programs under AS 18 for which there is no regulation in  
 22 effect establishing a schedule of reasonable fees. The consultation must include at  
 23 least one public meeting and must occur before the commissioner provides notice of  
 24 proposed action under AS 44.62.190. The commissioner shall provide notice of the  
 25 public meeting at least 30 days before the meeting in the same manner as required  
 26 under AS 44.62.190(a) for a notice of proposed action.

27 \* **Sec. 33.** AS 44.29.024(c) is amended to read:

28 (c) A regulation that establishes a schedule of reasonable fees for services  
 29 provided by a contractor or grantee that are part of the integrated comprehensive  
 30 mental health program established under AS 47.30.470 – 47.30.620 [AS 47.30] may  
 31 be adopted under this section after consultation with the Alaska Mental Health Trust

1 Authority.

2 \* **Sec. 34.** AS 44.29.140(a) is amended to read:

3 (a) The board shall

4 (1) act in an advisory capacity to the legislature, the governor, and  
5 state agencies in the following matters:

6 (A) special problems affecting mental health that alcoholism or  
7 drug abuse may present;

8 (B) educational research and public informational activities in  
9 respect to the problems presented by alcoholism or drug abuse;

10 (C) social problems that affect rehabilitation of alcoholics and  
11 drug abusers;

12 (D) legal processes that affect the treatment and rehabilitation  
13 of alcoholics and drug abusers;

14 (E) development of programs of prevention, treatment, and  
15 rehabilitation for alcoholics and drug abusers; and

16 (F) evaluation of effectiveness of alcoholism and drug abuse  
17 programs in the state;

18 (2) provide to the Alaska Mental Health Trust Authority for its review  
19 and consideration recommendations concerning the integrated comprehensive mental  
20 health program for the people who are described in AS 44.25.290(b)(3)  
21 [AS 47.30.056(b)(3)], and concerning the use of money in the mental health trust  
22 settlement income account in a manner consistent with regulations adopted under  
23 AS 44.25.240 [AS 47.30.031].

24 \* **Sec. 35.** AS 44.29 is amended by adding new sections to read:

25 **Article 8. Governor's Council on Disabilities and Special Education**

26 **Sec. 44.29.600. Governor's council on disabilities and special education.**

27 There is established the Governor's Council on Disabilities and Special Education. For  
28 budgetary purposes, the council is located within the Department of Health but is the  
29 interdepartmental planning and coordinating agency of the Department of Health, the  
30 Department of Education and Early Development, and other departments that deliver  
31 services to persons who are experiencing a disability. In addition, except as provided

1 in AS 44.29.700 - 44.29.730, the council is the state planning council and interagency  
2 coordinating council for purposes of federal laws relating to persons who are  
3 experiencing a disability.

4 **Sec. 44.29.610. Composition.** (a) The council consists of no fewer than 18 nor  
5 more than 26 members appointed by the governor in a manner that satisfies the  
6 requirements for a state interagency coordinating council under 20 U.S.C. 1482 and a  
7 state planning council under 42 U.S.C. 6024.

8 (b) In the appointment of all members other than state agency members, due  
9 regard shall be given to geographically balanced representation of areas of the state  
10 and to representation of persons with a variety of different mental and physical  
11 disabilities.

12 **Sec. 44.29.620. Term of office.** (a) Council members serve staggered terms of  
13 three years.

14 (b) A vacancy occurring in the membership of the council shall be filled by  
15 appointment of the governor for the unexpired portion of the vacated term.

16 (c) Council members serve at the pleasure of the governor, notwithstanding  
17 their terms of office.

18 (d) It is the legislative intent that the governor replace any member who, by  
19 poor attendance or lack of contribution to the council's work, demonstrates  
20 ineffectiveness as a council member.

21 **Sec. 44.29.630. Compensation; per diem.** Members of the council receive no  
22 salary but are entitled to per diem and reimbursement for travel and other expenses as  
23 authorized by law for boards.

24 **Sec. 44.29.640. Officers and staff.** (a) The council, by a majority of its  
25 membership, shall elect a chairman and other officers it considers necessary from  
26 among its membership, to serve on a yearly basis.

27 (b) The council shall have a paid staff provided by the department, including  
28 an executive director selected by the council. The executive director is in the partially  
29 exempt service and may hire additional employees in the classified service of the state.  
30 The department shall provide for the assignment of personnel to the council to ensure  
31 that the council has the capacity to fulfill its responsibilities. The personnel shall be

1 directly responsible to the council for performance of their duties.

2 **Sec. 44.29.650. Bylaws.** The council, on approval of a majority of its  
3 membership, shall adopt and amend bylaws governing its composition, proceedings  
4 and other activities consistent with AS 44.29.610 - 44.29.670 and including, but not  
5 limited to, provisions concerning a quorum to transact council business and other  
6 aspects of procedure, frequency and location of meetings, and establishment, functions  
7 and membership of council committees.

8 **Sec. 44.29.660. Responsibilities.** The council shall

9 (1) serve as a forum by which issues and benefits regarding current and  
10 potential services to disabled persons may be discussed by consumer, public, private,  
11 professional, and lay interests;

12 (2) advocate the needs of disabled persons before the executive and  
13 legislative branches of the state government and before the public;

14 (3) advise the executive and legislative branches of the state  
15 government and the private sector on programs and policies pertaining to current and  
16 potential services to disabled persons and their families;

17 (4) submit periodic reports to the commissioner of health, the  
18 commissioner of education and early development, and to other appropriate  
19 departments, on the effects of current federal and state programs regarding services to  
20 disabled persons; these reports must include program performance reports to the  
21 governor, the federal government, and state agencies as required under 20 U.S.C. 1482  
22 and 42 U.S.C. 15025;

23 (5) in conjunction with the Departments of Health and Education and  
24 Early Development, develop, prepare, adopt, periodically review, and revise as  
25 necessary an annual state plan prescribing programs that meet the needs of persons  
26 with developmental disabilities as required under 42 U.S.C. 15024;

27 (6) review and comment to commissioners of state departments on all  
28 state plans and proposed regulations relating to programs for persons who are  
29 experiencing disabilities before the adoption of a plan or regulation; for this purpose,  
30 the appropriate departments shall submit the plans and proposed regulations to the  
31 council;

1 (7) recommend the priorities and specifications for the use of funds  
2 received by the state under 20 U.S.C. 1471 - 1482 and 42 U.S.C. 15001 - 15083;

3 (8) submit annually to the commissioner of health, the commissioner  
4 of education and early development, and the commissioner of commerce, community,  
5 and economic development a proposed interdepartmental program budget for services  
6 to disabled persons that includes, insofar as possible, projected revenues and  
7 expenditures for programs implemented by state agencies, local governmental  
8 agencies, and private organizations; the interdepartmental program budget is an  
9 informational supplement to the regular annual budgetary submissions of the  
10 departments to the Office of the Governor;

11 (9) provide information and guidance for the development of  
12 appropriate special educational programs and services for a child with a disability as  
13 defined in AS 14.30.350;

14 (10) monitor and evaluate budgets or other implementation plans and  
15 programs for disabled persons to assure nonduplication of services and encourage  
16 efficient and coordinated use of federal, state, and private resources in the provision of  
17 services; members of the council, with the approval of the council, have access to  
18 information in the possession of state agencies subject to disclosure restrictions  
19 imposed by state or federal confidentiality or privacy laws;

20 (11) perform other duties required under applicable federal laws or  
21 AS 14.30.231 and as the governor may assign;

22 (12) govern the special education service agency and may hire  
23 personnel necessary to operate the agency; and

24 (13) provide to the Alaska Mental Health Trust Authority for its  
25 review and consideration recommendations concerning the integrated comprehensive  
26 mental health program for the people of the state who are described in  
27 AS 44.25.290(b)(2) and the use of the money in the mental health trust settlement  
28 income account in a manner consistent with regulations adopted under AS 44.25.240.

29 **Sec. 44.29.670. Legislative findings related to persons with disabilities;**  
30 **policy.** (a) The legislature finds that

31 (1) self-direction and autonomy enhance quality of life, support

1 independence, build self-confidence, and generate skills that help people protect  
2 themselves from abuse;

3 (2) the people of the state share a vision of a flexible system of support  
4 for persons with physical and mental disabilities that allows persons with physical and  
5 mental disabilities to participate actively, with assistance based on each person's  
6 strengths and abilities, in managing their own support services so that all persons with  
7 physical and mental disabilities can achieve a meaningful life in their homes, jobs, and  
8 communities; and

9 (3) as a part of this vision, professional staff and support services  
10 should be made available to families of persons with physical and mental disabilities  
11 throughout the state now and into the future.

12 (b) It is the policy of the state that the department and the legislature consider  
13 the vision of support services described in (a) of this section when determining the  
14 need for new and existing services for persons with physical and mental disabilities  
15 and establishing priorities among those needs. It is also the policy of the state to  
16 encourage and enable persons with physical and mental disabilities to participate fully  
17 in the social and economic life of the state.

18 (c) Nothing in this section

19 (1) creates a right;

20 (2) supersedes another law relating to eligibility for programs for  
21 persons with physical or mental disabilities; or

22 (3) authorizes the department to apply for a waiver under 42 U.S.C.  
23 1396n(j) to provide medical assistance payments for self-directed personal assistance  
24 services.

## 25 **Article 9. Statewide Independent Living Council**

26 **Sec. 44.29.700. Statewide independent living council.** There is established  
27 the Statewide Independent Living Council. For budgetary purposes, the council is  
28 located in the Department of Health. The department shall provide reasonable and  
29 necessary professional and technical assistance when requested by the council.

30 **Sec. 44.29.710. Composition; terms; compensation.** (a) The governor shall  
31 appoint members to the council who meet the applicable requirements of 29 U.S.C.

1 796d after soliciting personal applications and after soliciting recommendations from  
2 the public, from organizations representing a broad range of individuals experiencing  
3 disabilities, and from organizations interested in individuals experiencing disabilities.  
4 The council shall select a chairperson from among its voting members.

5 (b) The members shall be appointed to staggered terms of three years, except  
6 that a person appointed to fill a vacancy shall be appointed for the remaining years of  
7 the prior member's term. A member may not serve more than two consecutive full  
8 terms. Notwithstanding their terms of office, the members serve at the pleasure of the  
9 governor.

10 (c) Members of the council who are not state employees are entitled to per  
11 diem and travel expenses as authorized for members of boards and commissions under  
12 AS 39.20.180. In addition, if required by federal law, a member is entitled to

13 (1) reimbursement of the necessary expenses of attending council  
14 meetings and performing council duties, including expenses for child care and  
15 personal assistance services;

16 (2) compensation of up to \$150 for each day of performing council  
17 duties and each day spent traveling to attend a council meeting if the member is not  
18 employed or must forfeit wages from other employment in order to perform council  
19 duties or travel to a council meeting.

20 **Sec. 44.29.720. Powers and duties.** (a) The council shall perform the duties  
21 set out in 29 U.S.C. 796d in a manner that will maximize the state's receipt of federal  
22 financial assistance for independent living services and centers of independent living  
23 for residents with severe disabilities, including the following duties:

24 (1) joint development of the state plan required under 29 U.S.C. 796c  
25 and evaluation of the implementation of the plan;

26 (2) development of a plan for the provision of resources, including  
27 staff and personnel, that may be necessary to carry out the council's functions with  
28 funds from the federal government and other public and private sources; and

29 (3) coordination of the council's activities with other state agencies that  
30 address the needs of specific disability populations and issues under federal law.

31 (b) The council may

1 (1) hold hearings and forums as determined by the council to be  
2 necessary to carry out its duties;

3 (2) solicit and accept money or other resources on behalf of the state  
4 from any public or private source.

5 **Sec. 44.29.730. Definition.** In AS 44.29.700 - 44.29.730, "council" means the  
6 Statewide Independent Living Council established under AS 44.29.700.

### 7 **Article 10. Alaska Mental Health Board**

8 **Sec. 44.29.800. Alaska Mental Health Board.** The Alaska Mental Health  
9 Board is established. For budgetary purposes, the board is located within the  
10 Department of Health. The board is the state planning and coordinating agency for the  
11 purposes of federal and state laws relating to the mental health program of the state.  
12 The purpose of the board is to assist the state in ensuring an integrated comprehensive  
13 mental health program.

14 **Sec. 44.29.810. Composition; non-voting members.** (a) The board consists of  
15 not fewer than 12 nor more than 16 members appointed by the governor, with due  
16 regard for the demographics of the state and balanced geographic representation of the  
17 state. The membership and committees of the board shall fulfill the requirements of  
18 P.L. 99-660, as amended.

19 (b) Not less than one-half of the members shall be persons with a mental  
20 disorder identified in AS 44.25.290(b)(1) or members of their families.

21 (c) The board members

22 (1) shall include the director of the division of the department  
23 responsible for mental health; and

24 (2) may include representatives of the principal state agencies with  
25 respect to education, vocational rehabilitation, criminal justice, housing, social  
26 services, medical assistance, substance abuse, and aging.

27 (d) Board members appointed under (c) of this section may not vote on  
28 matters before the board.

29 (e) The board members shall include at least two licensed mental health  
30 professionals who represent public and private providers of mental health services and  
31 at least one member who is admitted to practice law in the state. Members appointed

1 under this subsection may also be family members identified under (b) of this section.

2 (f) For the purpose of this section, "mental health professional" has the  
3 meaning provided in AS 47.30.915.

4 **Sec. 44.29.820. Terms of office; vacancies; removal.** (a) Board members  
5 serve staggered terms of three years.

6 (b) A vacancy occurring in the membership of the board shall be filled by  
7 appointment of the governor for the unexpired portion of the vacated term.

8 (c) Members may be removed only for cause, including, but not limited to,  
9 poor attendance or lack of contribution to the board's work.

10 **Sec. 44.29.830. Officers and staff.** (a) The board, by a majority of its  
11 membership, shall annually elect a chair and other officers it considers necessary from  
12 among its membership.

13 (b) The board shall have a paid staff provided by the Department of Health,  
14 including, but not limited to, an executive director who shall be selected by the board.  
15 The executive director is in the partially exempt service and may hire additional  
16 employees in the classified service of the state. The department shall provide for the  
17 assignment of personnel to the board to ensure the board has the capacity to fulfill its  
18 responsibilities. The executive director of the board shall be directly responsible to the  
19 board in the performance of the director's duties.

20 **Sec. 44.29.840. Bylaws.** The board, on approval of a majority of its  
21 membership and consistent with state law, shall adopt and amend bylaws governing its  
22 composition, proceedings, and other activities consistent with state law and including,  
23 but not limited to, provisions concerning a quorum to transact board business and  
24 other aspects of procedure, frequency and location of meetings, and establishment,  
25 functions, and membership of committees.

26 **Sec. 44.29.850. Duties of the board.** The board is the state planning and  
27 coordinating body for the purpose of federal and state laws relating to mental health  
28 services for persons with mental disorders identified in AS 44.25.290(b)(1). On behalf  
29 of those persons, the board shall

30 (1) prepare and maintain a comprehensive plan of treatment and  
31 rehabilitation services;

1 (2) propose an annual implementation plan consistent with the  
2 comprehensive plan and with due regard for the findings from evaluation of existing  
3 programs;

4 (3) provide a public forum for the discussion of issues related to the  
5 mental health services for which the board has planning and coordinating  
6 responsibility;

7 (4) advocate the needs of persons with mental disorders before the  
8 governor, executive agencies, the legislature, and the public;

9 (5) advise the legislature, the governor, the Alaska Mental Health Trust  
10 Authority, and other state agencies in matters affecting persons with mental disorders,  
11 including, but not limited to,

12 (A) development of necessary services for diagnosis, treatment,  
13 and rehabilitation;

14 (B) evaluation of the effectiveness of programs in the state for  
15 diagnosis, treatment, and rehabilitation;

16 (C) legal processes that affect screening, diagnosis, treatment,  
17 and rehabilitation;

18 (6) provide to the Alaska Mental Health Trust Authority for its review  
19 and consideration recommendations concerning the integrated comprehensive mental  
20 health program for those persons who are described in AS 44.25.290(b)(1) and the use  
21 of money in the mental health trust settlement income account in a manner consistent  
22 with regulations adopted under AS 44.25.240; and

23 (7) submit periodic reports regarding its planning, evaluation,  
24 advocacy, and other activities.

25 **Sec. 44.29.860. Compensation, per diem, and expenses.** The board members  
26 appointed under AS 44.29.810(b) and (e) are not entitled to a salary, but are entitled to  
27 per diem, reimbursement for travel, and other expenses authorized by law for boards  
28 and commissions under AS 39.20.180.

29 **Sec. 44.29.890. Definitions.** In AS 44.29.800 - 44.29.890,

30 (1) "board" means the Alaska Mental Health Board established in  
31 AS 44.29.800;

- 1 (2) "department" means Department of Health;
- 2 (3) "inpatient" means
- 3 (4) "least restrictive alternative" has the meaning given in
- 4 AS 47.30.915;
- 5 (5) "mental illness" has the meaning given in AS 47.30.915;
- 6 (6) "persons with mental disorders" has the meaning given in
- 7 AS 47.30.610;
- 8 (7) "state" means a state of the United States, the District of Columbia,
- 9 the territories and possessions of the United States, and the Commonwealth of Puerto
- 10 Rico, and, with the approval of the United States Congress, Canada.

11 \* **Sec. 36.** AS 44 is amended by adding a new chapter to read:

12 **AS 44.30. Department of Family and Community Services**

13 **Article 1. Organization**

14 **Sec. 44.30.010. Commissioner of Family and Community Services.** The

15 principal executive officer of the Department of Family and Community Services is

16 the commissioner of family and community services.

17 **Sec. 44.30.020. Duties of department.** (a) The Department of Family and

18 Community Services shall administer the state programs of child welfare, institutional

19 management, and delinquency including:

- 20 (1) mental health treatment and diagnosis under AS 47.30.670 –
- 21 48.30.915;
- 22 (2) management of state institutions, except for adult penal institutions;
- 23 (3) child welfare and delinquency services;
- 24 (4) the Alaska Pioneers' Home and the Alaska Veterans' Home.

25 (b) As applicable, the Department of Family and Community Services shall

26 cooperate with the Department of Public Safety in enforcement of the prohibition on

27 the possession, offer, display, marketing, advertising, or sale of illicit synthetic drugs

28 under AS 17.21.

29 **Sec. 44.30.030. Fees for department services.** (a) The commissioner of

30 family and community services may establish by regulation a schedule of reasonable

31 fees for services provided by the Department of Family and Community Services

1 under AS 44.30.020(1) - (3), AS 47.10, AS 47.12, AS 47.14, and AS 47.30.670 -  
 2 47.30.915. The fee established for a service may not exceed the actual cost of  
 3 providing the service. The commissioner may define or establish the "actual cost of  
 4 providing a service" by regulation. The Department of Family and Community  
 5 Services shall charge and collect the fees established under this subsection. The  
 6 department may waive collection of a fee upon a finding that collection is not  
 7 economically feasible or in the public interest.

8 (b) The commissioner of family and community services may establish by  
 9 regulation and the department may charge reasonable fees for department publications  
 10 and research data to cover the cost of reproduction, printing, mailing, and distribution.

11 (c) A regulation that establishes a fee for services under AS 44.30.020(a)(1)  
 12 related to the community behavioral health system of care that are part of the  
 13 integrated comprehensive mental health program under AS 47.30.655, 47.30.660, and  
 14 47.30.670 - 47.30.915 may be adopted under this section after consultation with the  
 15 Alaska Mental Health Trust Authority.

16 **Sec. 44.30.040. Fees for services of contractors or grantees.** (a) The  
 17 commissioner of family and community services may establish by regulation a  
 18 schedule of reasonable fees for services provided by a contractor or grantee of the  
 19 Department of Family and Community Services under AS 47. The fee established for  
 20 a service may not exceed the actual cost of providing the service. The commissioner  
 21 may define or establish the "actual cost of providing a service" by regulation.

22 (b) The Department of Family and Community Services may require the  
 23 recipient of a grant or a contractor under a grant to charge the fees established under  
 24 (a) of this section for services provided by the recipient or contractor and to use the  
 25 fees collected for the program providing the services.

26 (c) A regulation that establishes a schedule of reasonable fees for services  
 27 provided by a contractor or grantee that are part of the integrated comprehensive  
 28 mental health program established under AS 47.30.655, 47.30.660, and 47.30.670 -  
 29 47.30.915 may be adopted under this section after consultation with the Alaska Mental  
 30 Health Trust Authority.

## 31 **Article 2. Alaska Pioneers' Home Advisory Board**

1           **Sec. 44.30.100. Alaska Pioneers' Homes Advisory Board.** There is created  
2 the Alaska Pioneers' Homes Advisory Board in the Department of Family and  
3 Community Services.

4           **Sec. 44.30.110. Purpose of the board.** The board shall conduct annual  
5 inspections of the property and procedures of the Alaska Pioneers' Homes and  
6 recommend to the governor changes and improvements. The board shall meet on an  
7 annual basis to review admissions procedures and to consider complaints.

8           **Sec. 44.30.120. Composition of the board.** (a) The Alaska Pioneers' Homes  
9 Advisory Board consists of

10                   (1) five members appointed by the governor from among citizens of  
11 the state;

12                   (2) one member appointed by the governor who is a veteran of active  
13 service in the armed forces of the United States, including the Alaska National Guard  
14 or the Alaska Territorial Guard;

15                   (3) one member who is the chair of the Alaska Commission on Aging  
16 established in AS 47.45.200; and

17                   (4) one member who is chair of the Alaska Veterans Advisory Council  
18 established in AS 44.35.

19           (b) The term of office of a member of the board appointed under (a)(1) of this  
20 section is four years. A member of the board may not serve more than eight  
21 consecutive years. A chair shall be elected by the voting members of the board. The  
22 members of the board appointed under (a)(1) and (2) of this section serve at the  
23 pleasure of the governor.

24           **Sec. 44.30.130. Compensation, per diem, or expenses.** Members of the  
25 advisory board receive no salary, but are entitled to per diem and travel expenses  
26 authorized by law for other boards.

27 \* **Sec. 37.** AS 44.62.330(a)(41) is amended to read:

28                   (41) Department of Health and Department of Family and  
29 Community Services [AND SOCIAL SERVICES] relating to the civil history  
30 databases under AS 47.05.330- 47.05.390;

31 \* **Sec. 38.** AS 44.64.030(a)(47) is amended to read:

1 (47) AS 47.32 (licensing by the Department of Health and the  
 2 Department of Family and Community Services [Social Services]);

3 \* **Sec. 39.** AS 47.05.010 is amended to read:

4 **Sec. 47.05.010. Duties of Department of Health [DEPARTMENT].** The  
 5 Department of Health [AND SOCIAL SERVICES] shall

6 (1) administer adult public assistance, the Alaska temporary assistance  
 7 program, and all other assistance programs, and receive and spend money made  
 8 available to it;

9 (2) adopt regulations necessary for the conduct of its business and for  
 10 carrying out federal and state laws granting adult public assistance, temporary cash  
 11 assistance, diversion payments, or self-sufficiency services for needy families under  
 12 the Alaska temporary assistance program, and other assistance;

13 (3) establish minimum standards for personnel employed by the  
 14 department and adopt necessary regulations to maintain those standards;

15 (4) require those bonds and undertakings from persons employed by it  
 16 that, in its judgment, are necessary, and pay the premiums on them;

17 (5) cooperate with the federal government in matters of mutual  
 18 concern pertaining to adult public assistance, the Alaska temporary assistance  
 19 program, and other forms of public assistance;

20 (6) make the reports, in the form and containing the information, that  
 21 the federal government from time to time requires;

22 (7) [COOPERATE WITH THE FEDERAL GOVERNMENT, ITS  
 23 AGENCIES, OR INSTRUMENTALITIES IN ESTABLISHING, EXTENDING,  
 24 AND STRENGTHENING SERVICES FOR THE PROTECTION AND CARE OF  
 25 HOMELESS, DEPENDENT, AND NEGLECTED CHILDREN IN DANGER OF  
 26 BECOMING DELINQUENT, AND RECEIVE AND EXPEND FUNDS  
 27 AVAILABLE TO THE DEPARTMENT BY THE FEDERAL GOVERNMENT, THE  
 28 STATE, OR ITS POLITICAL SUBDIVISIONS FOR THAT PURPOSE;

29 (8)] cooperate with the federal government in adopting state plans to  
 30 make the state eligible for federal matching in appropriate categories of assistance, and  
 31 in all matters of mutual concern, including adoption of the methods of administration

1 that are found by the federal government to be necessary for the efficient operation of  
2 welfare programs;

3 (8) [(9)] adopt regulations, not inconsistent with law, defining need,  
4 prescribing the conditions of eligibility for assistance, and establishing standards for  
5 determining the amount of assistance that an eligible person is entitled to receive; the  
6 amount of the assistance is sufficient when, added to all other income and resources  
7 available to an individual, it provides the individual with a reasonable subsistence  
8 compatible with health and well-being; an individual who meets the requirements for  
9 eligibility for assistance shall be granted the assistance promptly upon application for  
10 it;

11 (9) [(10)] grant to a person claiming or receiving assistance and who is  
12 aggrieved because of the department's action or failure to act, reasonable notice and an  
13 opportunity for a fair hearing by the office of administrative hearings (AS 44.64.010),  
14 and the department shall adopt regulations relative to this;

15 (10) [(11)] enter into reciprocal agreements with other states relative to  
16 public assistance, [WELFARE SERVICES, AND INSTITUTIONAL CARE] that is  
17 [ARE] considered advisable;

18 (11) [(12)] establish the requirements of residence for public  
19 assistance, [WELFARE SERVICES, AND INSTITUTIONAL CARE] that is [ARE]  
20 considered advisable, subject to the limitations of other laws of the state, or law or  
21 regulation imposed as conditions for federal financial participation;

22 (12) [(13)] establish the divisions and local offices that are considered  
23 necessary or expedient to carry out a duty or authority assigned to it and appoint and  
24 employ the assistants and personnel that are necessary to carry on the work of the  
25 divisions and offices, and fix the compensation of the assistants or employees, except  
26 that a person engaged in business as a retail vendor of general merchandise, or a  
27 member of the immediate family of a person who is so engaged, may not serve as an  
28 acting, temporary, or permanent local agent of the department, unless the  
29 commissioner of health [AND SOCIAL SERVICES] certifies in writing to the  
30 governor, with relation to a particular community, that no other qualified person is  
31 available in the community to serve as local welfare agent; for the purposes of this

1 paragraph, a "member of the immediate family" includes a spouse, child, parent,  
2 brother, sister, parent-in-law, brother-in-law, or sister-in-law;

3 **(13)** [(14)] provide education and health-related services and referrals  
4 designed to reduce the number of out-of-wedlock pregnancies and the number of  
5 induced pregnancy terminations in the state;

6 **(14)** [(15)] investigate reports of abuse, neglect, or misappropriation of  
7 property by certified nurse aides in facilities licensed by the department under  
8 AS 47.32;

9 **(15)** [(16)] establish state policy relating to and administer federal  
10 programs subject to state control as provided under 42 U.S.C. 3001 - 3058ee (Older  
11 Americans Act of 1965), as amended, and related federal regulations;

12 **(16)** [(17)] administer the older Alaskans service grants under  
13 AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants under  
14 AS 47.65.100;

15 **(17) cooperate with and facilitate programs administered by the**  
16 **Department of Family and Community Services**

17 [(18) ACTIVELY SEEK TO RECRUIT QUALITY FOSTER  
18 PARENTS AND ADOPTIVE PARENTS WHEN A SHORTAGE OF QUALITY  
19 FOSTER PARENTS OR ADOPTIVE PARENTS EXISTS].

20 \* **Sec. 40.** AS 47.05.290 is amended to read:

21 **Sec. 47.05.290. Definitions.** In **AS 47.05.070 - 47.05.290** [AS 47.05.200 -  
22 47.05.290],

23 (1) "benefit" has the meaning given in AS 11.81.900;

24 (2) "claim" includes a request for payment for medical assistance  
25 services under applicable state or federal law or regulations, whether the request is in  
26 an electronic format or paper format or both;

27 (3) "commissioner" means the commissioner of health [AND SOCIAL  
28 SERVICES];

29 (4) "department" means the Department of Health [AND SOCIAL  
30 SERVICES];

31 (5) "falsely alters" has the meaning given in AS 11.46.580;

1 (6) "knowingly" has the meaning given in AS 11.81.900;

2 (7) "makes a false entry" has the meaning given in AS 11.56.820;

3 (8) "medical assistance agency" means the department, an agency of  
4 the department, and an agent, contractor, or designee of the department or of one of its  
5 agencies that performs one or more of the activities of the department or an agency of  
6 the department;

7 (9) "medical assistance program" means a program under AS 47.07 or  
8 AS 47.08;

9 (10) "medical assistance provider" or "provider" means a person or  
10 organization that provides, attempts to provide, or claims to have provided services or  
11 products to a medical assistance recipient that may qualify for reimbursement under  
12 AS 47.07 or AS 47.08 or a person or organization that participates in or has applied to  
13 participate in a medical assistance program as a supplier of a service or product;

14 (11) "medical assistance recipient" means a person on whose behalf  
15 another claims or receives a payment from a medical assistance agency, without  
16 regard to whether the individual was eligible for benefits under a medical assistance  
17 program;

18 (12) "medical assistance record" means records required to be kept by  
19 state or federal law or regulation regarding claims to a medical assistance agency;

20 (13) "organization" has the meaning given in AS 11.81.900;

21 (14) "person" has the meaning given in AS 11.81.900;

22 (15) "property" has the meaning given in AS 11.81.900;

23 (16) "reckless disregard" means acting recklessly, as that term is  
24 defined in AS 11.81.900;

25 (17) "services" or "medical assistance services" means a health care  
26 benefit that may qualify for reimbursement under AS 47.07 or AS 47.08, including  
27 health care benefits provided, attempted to be provided, or claimed to have been  
28 provided to another, by a medical assistance provider, or "services" as defined in  
29 AS 11.81.900;

30 (18) "unconditional discharge" has the meaning given in AS 12.55.185.

31 \* **Sec. 41.** AS 47.05.300(a) is amended to read:

1 (a) The provisions of AS 47.05.310 - 47.05.390 apply to any individual or  
 2 entity that is required by statute or regulation to be licensed or certified [by the  
 3 department] or that is eligible to receive payments, in whole or in part, from the  
 4 **Department of Health or the Department of Family and Community Services**  
 5 [DEPARTMENT] to provide for the health, safety, and welfare of persons who are  
 6 served by the programs administered by **those departments** [THE DEPARTMENT].

7 \* **Sec. 42.** AS 47.05.310(a) is amended to read:

8 (a) If an individual has been charged with, convicted of, found not guilty by  
 9 reason of insanity for, or adjudicated as a delinquent for, a crime that is inconsistent  
 10 with the standards for licensure or certification established by the department **with**  
 11 **licensing or certification authority for the individual** by regulation, that individual  
 12 may not own an entity, or be an officer, director, partner, member, or principal of the  
 13 business organization that owns an entity. In addition, an entity may not

14 (1) allow that individual to operate the entity;

15 (2) hire or retain that individual at the entity as an employee,  
 16 independent contractor, or unsupervised volunteer of the entity;

17 (3) allow that individual to reside in the entity if not a recipient of  
 18 services; or

19 (4) allow that individual to be present in the entity if the individual  
 20 would have regular contact with individuals who receive services from the entity,  
 21 unless that individual is a family member of or visitor of an individual who receives  
 22 services from the entity.

23 \* **Sec. 43.** AS 47.05.310(b) is amended to read:

24 (b) The department **with licensing or certification authority for an entity or**  
 25 **individual** may not issue or renew a license or a certification for an entity or an  
 26 individual that is in violation of (a) of this section or that would be in violation based  
 27 on the information received as part of the application process.

28 \* **Sec. 44.** AS 47.05.310(d) is amended to read:

29 (d) An entity or an individual shall provide to the department **with licensing**  
 30 **or certification authority for the entity or individual** a release of information  
 31 authorization for a criminal history check under this section for each individual who is

1 not a recipient of services from the entity, who is not in the custody of the **applicable**  
 2 department, and, after the entity applies for or has been issued a license, license  
 3 renewal, certification, or certification renewal by the **applicable** department,

4 (1) who intends to become an owner of the entity, or an officer,  
 5 director, partner, member, or principal of the business organization that owns the  
 6 entity;

7 (2) whom the entity intends to hire or retain as the operator of the  
 8 entity's business;

9 (3) whom the entity intends to hire or retain as an employee,  
 10 independent contractor, or unsupervised volunteer of the entity; or

11 (4) who will be present in the entity or at the places of operation of the  
 12 entity, and would have regular contact with individuals who receive services from the  
 13 entity, but who is not a family member or visitor of an individual who receives  
 14 services from the entity.

15 \* **Sec. 45.** AS 47.05.310(e) is amended to read:

16 (e) An individual for whom a release of information authorization has been  
 17 provided to the department **with licensing or certification authority for the**  
 18 **individual** shall submit the individual's fingerprints to **that** [THE] department, with  
 19 the fee established under AS 12.62.160, for a report of criminal justice information  
 20 under AS 12.62 and for submission by the Department of Public Safety to the Federal  
 21 Bureau of Investigation for a national criminal history record check. The Department  
 22 of Public Safety shall provide the report of criminal justice information and the results  
 23 of the national criminal history record check to the **applicable** department for its use  
 24 in considering an application for a license, license renewal, certification, or  
 25 certification renewal, or in considering other approval or selection regarding an entity  
 26 or individual, for compliance with the standards established in this section. The  
 27 department **with licensing or certification authority for the individual** may waive  
 28 the requirement for fingerprint submission if an individual is unable to provide  
 29 fingerprints due to a medical or physical condition that is documented by a licensed  
 30 physician.

31 \* **Sec. 46.** AS 47.05.310(f) is amended to read:

1 (f) The provisions of this section do not apply if the department **with licensing**  
 2 **or certification authority for the individual or entity** grants an exception from a  
 3 requirement of (a) - (e) of this section under a regulation adopted by **that** [THE]  
 4 department or if the department **with licensing or certification authority for the**  
 5 **individual or entity** grants a variance under AS 47.05.360.

6 \* **Sec. 47.** AS 47.05.310(g) is amended to read:

7 (g) The **Department of Health and the Department of Family and**  
 8 **Community Services** [DEPARTMENT] shall adopt regulations listing those criminal  
 9 offenses that are inconsistent with the standards for licensure or certification by **each**  
 10 [THE] department.

11 \* **Sec. 48.** AS 47.05.310(h) is amended to read:

12 (h) For purposes of this section, in place of nonissuance or nonrenewal of a  
 13 license or certification, an entity or individual that is not required to be licensed or  
 14 certified by **either** [THE] department or a person wishing to become an entity or  
 15 individual that is not required to be licensed or certified by **either** [THE] department is  
 16 ineligible to receive a payment, in whole or in part, from the **applicable** department to  
 17 provide for the health, safety, and welfare of persons who are served by the programs  
 18 administered by **that** [THE] department if the entity or individual is in violation of this  
 19 section or would be in violation of this section based on information received by the  
 20 **applicable** department as part of an application, approval, or selection process.

21 \* **Sec. 49.** AS 47.05.310(l) is amended to read:

22 (l) The **Department of Family and Community Services** [DEPARTMENT]  
 23 may issue or renew a foster home license under AS 47.32 or provide payments under  
 24 AS 47.14.100(b) or (d) to an entity, individual service provider, or person if the  
 25 applicant or a person who resides in the home is barred from licensure or payment  
 26 under (c), (i)(2), or (i)(3) of this section and

27 (1) a person in the home is an adult family member or family friend of  
 28 a child in the custody or supervision of the state under AS 47.10;

29 (2) the **Department of Family and Community Services**  
 30 [DEPARTMENT] finds that placing the child with the entity, individual service  
 31 provider, or person is in the best interests of the child; and

1 (3) the conduct that is the basis of the finding under (c), (i)(2), or (i)(3)  
 2 of this section occurred at least 10 years before the date the **Department of Family**  
 3 **and Community Services** [DEPARTMENT] receives the application for licensure or  
 4 renewal or makes a payment to the entity, individual service provider, or person.

5 \* **Sec. 50.** AS 47.05.320 is amended to read:

6 **Sec. 47.05.320. Criminal history use standards.** The **Department of Health**  
 7 **and the Department of Family and Community Services** [DEPARTMENT] shall  
 8 by regulation establish standards for the consideration and use by **that** [THE]  
 9 department, an entity, or an individual service provider of the criminal history of an  
 10 individual obtained under AS 47.05.310.

11 \* **Sec. 51.** AS 47.05.325(a) is amended to read:

12 (a) The **Department of Health and the Department of Family and**  
 13 **Community Services** [DEPARTMENT] shall establish by regulation civil history  
 14 standards for denial of issuance or renewal of a license or certification for an  
 15 individual or for an entity **within that department's licensing or certification**  
 16 **authority** if the individual who is applying for a license, license renewal, certification,  
 17 or certification renewal is

18 (1) a biological or adoptive parent, guardian, custodian, or Indian  
 19 custodian of a child who is or was the subject of a child-in-need-of-aid petition under  
 20 AS 47.10 and the individual had custody of the child at the time the child was the  
 21 subject of a petition; or

22 (2) the subject of a finding or circumstance described in  
 23 AS 47.05.330(a).

24 \* **Sec. 52.** AS 47.05.325(c) is amended to read:

25 (c) An entity or an individual shall provide to the department **with licensing**  
 26 **or certification authority for that entity or individual** a release of information  
 27 authorization for a civil history check under this section for each individual who is not  
 28 a recipient of services from the entity, who is not in the custody of the **applicable**  
 29 department, and, after the entity applies for or has been issued a license, license  
 30 renewal, certification, or certification renewal by the **applicable** department,

31 (1) who intends to become an owner of the entity, or an officer,

1 director, partner, member, or principal of the business organization that owns the  
2 entity;

3 (2) whom the entity intends to hire or retain as the operator of the  
4 entity's business;

5 (3) whom the entity intends to hire or retain as an employee,  
6 independent contractor, or unsupervised volunteer of the entity; or

7 (4) who will be present in the entity or at the places of operation of the  
8 entity, and would have regular contact with individuals who receive services from the  
9 entity, but who is not a family member of or visitor of an individual who receives  
10 services from the entity.

11 \* **Sec. 53.** AS 47.05.325(d) is amended to read:

12 (d) For purposes of this section, in place of nonissuance or nonrenewal of a  
13 license or certification, an entity or individual that is not required to be licensed or  
14 certified by **either** [THE] department or a person wishing to become an entity or  
15 individual that is not required to be licensed or certified by **either** [THE] department is  
16 instead ineligible to receive a payment, in whole or in part, from the **applicable**  
17 department to provide for the health, safety, and welfare of persons who are served by  
18 the programs administered by **that** [THE] department if the entity or individual is in  
19 violation of this section or would be in violation of this section based on information  
20 received by the **applicable** department as part of an application, approval, or selection  
21 process.

22 \* **Sec. 54.** AS 47.05.325(e) is amended to read:

23 (e) The **Department of Health and the Department of Family and**  
24 **Community Services** [DEPARTMENT] shall by regulation identify other  
25 governmental agencies or political subdivisions of the state that can request  
26 information **from that department** that is required under this section for a similar  
27 purpose.

28 \* **Sec. 55.** AS 47.05.325(f) is amended to read:

29 (f) The provisions of this section do not apply if the **applicable** department  
30 grants an exception from the requirements of (a) or (b) of this section under a  
31 regulation adopted by **that** [THE] department or if **that** [THE] department grants a

1 variance under AS 47.05.360.

2 \* **Sec. 56.** AS 47.05.325(h) is amended to read:

3 (h) The **Department of Health and the Department of Family and**  
 4 **Community Services** [DEPARTMENT] shall by regulation establish standards for  
 5 the consideration and use by **that** [THE] department, an entity, or an individual of the  
 6 civil history of an individual obtained under this section.

7 \* **Sec. 57.** AS 47.05.330(a) is amended to read:

8 (a) The **Department of Health and the Department of Family and**  
 9 **Community Services** [DEPARTMENT] shall by regulation identify each database  
 10 **that** [THE] department will review when conducting a civil history check under  
 11 AS 47.05.325 to identify each individual

12 (1) whom a court or the **applicable** department has found

13 (A) to have committed abuse, neglect, undue influence, or  
 14 exploitation of a vulnerable adult;

15 (B) under AS 47.32 or regulations adopted under AS 47.32, to  
 16 have significantly adversely affected the health, safety, or welfare of an  
 17 individual who is receiving a service from an entity licensed under AS 47.32; a  
 18 finding described in this subparagraph includes a decision to revoke, suspend,  
 19 or deny a license or license renewal, or the relinquishment of a license as part  
 20 of a settlement agreement;

21 (2) who has been subject to criminal or civil penalties for a violation of  
 22 AS 09.58, AS 47.05, **AS 47.06**, AS 47.07, AS 47.08, or regulations adopted under  
 23 AS 09.58, AS 47.05, **AS 47.06**, AS 47.07, or AS 47.08;

24 (3) about whom the **applicable** department or a court has made a  
 25 substantiated finding of child abuse or neglect under AS 47.10 or AS 47.14;

26 (4) who was a biological or adoptive parent, guardian, custodian, or  
 27 Indian custodian of a child at the time the child was the subject of a child-in-need-of-  
 28 aid petition under AS 47.10;

29 (5) who, in the course of employment with the state, has been  
 30 terminated from employment or has had an allegation of assaultive, abusive,  
 31 neglectful, or exploitive behavior or actions substantiated;

1 (6) who, in this state or another jurisdiction, for reasons related to  
 2 abuse, neglect, undue influence, exploitation, or other reasons that are inconsistent  
 3 with standards for the protection of public health, safety, or welfare, has had a  
 4 professional license, certification, or similar professional designation revoked,  
 5 suspended, or denied, or has had a request for renewal of a professional license,  
 6 certification, or similar professional designation denied;

7 (7) whom another state or jurisdiction has identified on a civil registry  
 8 or database substantially similar to the databases identified under this section for  
 9 reasons substantially similar to the reasons identified in (1) - (6) of this subsection.

10 \* **Sec. 58.** AS 47.05.340 is amended to read:

11 **Sec. 47.05.340. Regulations.** The Department of Health and the  
 12 Department of Family and Community Services [DEPARTMENT] shall adopt  
 13 regulations to implement AS 47.05.300 - 47.05.390 for the entities and individuals  
 14 for which that department has licensing or certification authority.

15 \* **Sec. 59.** AS 47.05.350 is amended to read:

16 **Sec. 47.05.350. Use of information; immunity.** An entity that obtains  
 17 information about an employee under a criminal history check under AS 47.05.310 or  
 18 a civil history check under AS 47.05.325 may use that information only as provided  
 19 for in regulations adopted by the department with licensing or certification authority  
 20 for that entity under this chapter. However, if an entity reasonably relies on the  
 21 information provided under the regulations adopted by the applicable department to  
 22 deny employment to an individual who was selected for hire as an employee,  
 23 including during a period of provisional employment, the entity is not liable in an  
 24 action brought by the individual based on the employment determination resulting  
 25 from the information.

26 \* **Sec. 60.** AS 47.05.360 is amended to read:

27 **Sec. 47.05.360. Variance request; final decision.** (a) An individual or entity  
 28 subject to the provisions of AS 47.05.310 or 47.05.325 may request a variance from  
 29 the provisions of AS 47.05.310 or 47.05.325 under procedures established by the  
 30 department with licensing or certification authority for that individual or entity by  
 31 regulation. The procedures must include the establishment of a variance committee to

1 consider requests for variances. A request for a variance may include a request that the  
 2 **applicable** department issue a written explanation of incorrect information contained  
 3 in the civil history databases identified under AS 47.05.330.

4 (b) An individual or entity that is dissatisfied with a decision by a variance  
 5 committee may, not more than 30 days after the committee issues the decision, apply  
 6 to the commissioner **of the department with licensing or certification authority for**  
 7 **that individual or entity** for reconsideration of the decision. A determination by the  
 8 **applicable** commissioner is a final agency decision for purposes of appeal to the  
 9 superior court.

10 (c) The department **with licensing or certification authority for that**  
 11 **individual or entity** shall disclose information and records pertaining to a child  
 12 subject to AS 47.10 or AS 47.17 to a variance committee as provided under  
 13 AS 47.10.093(b).

14 \* **Sec. 61.** AS 47.05.390 is repealed and reenacted to read:

15 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context  
 16 otherwise requires,

17 (1) "criminal justice information" has the meaning given in  
 18 AS 12.62.900;

19 (2) "entity" means an entity listed in AS 47.32.010(b) or (c) or an  
 20 individual service provider as described in AS 47.05.300 and includes an owner,  
 21 officer, director, member, or partner of the entity;

22 (3) "individual service provider" means an individual described in  
 23 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

24 (4) "license" includes a provisional license;

25 (5) "unsupervised" means that an individual who is licensed under  
 26 AS 47.32, after submitting a criminal history background check, is not physically  
 27 present to observe the volunteer at the entity.

28 \* **Sec. 62.** AS 47 is amended by adding a new chapter to read:

29 **Chapter 06. Child Welfare, Social Services, and Institutions**

30 **Article 1. General Administration**

31 **Sec. 47.06.010. Duties of department of family and community services.**

1 The Department of Family and Community Services shall

2 (1) administer applicable assistance programs and receive and spend  
3 money made available to it;

4 (2) adopt regulations necessary for the conduct of its business and for  
5 carrying out federal and state laws;

6 (3) establish minimum standards for personnel employed by the  
7 department and adopt necessary regulations to maintain those standards;

8 (4) require those bonds and undertakings from persons employed by it  
9 that, in its judgment, are necessary, and pay the premiums on them;

10 (5) make the reports, in the form and containing the information, that  
11 the federal government from time to time requires;

12 (6) cooperate with the federal government, its agencies, or  
13 instrumentalities in establishing, extending, and strengthening services for the  
14 protection and care of homeless, dependent, and neglected children in danger of  
15 becoming delinquent, and receive and expend funds available to the department by the  
16 federal government, the state, or its political subdivisions for that purpose;

17 (7) cooperate with the federal government in adopting state plans to  
18 make the state eligible for federal matching in appropriate categories of assistance, and  
19 in all matters of mutual concern, including adoption of the methods of administration  
20 that are found by the federal government to be necessary for the efficient operation of  
21 welfare programs;

22 (8) adopt regulations, not inconsistent with law, defining need,  
23 prescribing the conditions of eligibility for assistance, and establishing standards for  
24 determining the amount of assistance that an eligible person is entitled to receive; the  
25 amount of the assistance is sufficient when, added to all other income and resources  
26 available to an individual, it provides the individual with a reasonable subsistence  
27 compatible with health and well-being; an individual who meets the requirements for  
28 eligibility for assistance shall be granted the assistance promptly upon application for  
29 it;

30 (9) grant to a person claiming or receiving assistance and who is  
31 aggrieved because of the department's action or failure to act, reasonable notice and

1 an opportunity for a fair hearing by the office of administrative hearings  
2 (AS 44.64.010), and the department shall adopt regulations relative to this;

3 (10) enter into reciprocal agreements with other states relative to  
4 assistance, welfare services, and institutional care that are considered advisable;

5 (11) establish the requirements of residence for assistance, welfare  
6 services, and institutional care that are considered advisable, subject to the limitations  
7 of other laws of the state, or law or regulation imposed as conditions for federal  
8 financial participation;

9 (12) establish the divisions and local offices that are considered  
10 necessary or expedient to carry out a duty or authority assigned to it and appoint and  
11 employ the assistants and personnel that are necessary to carry on the work of the  
12 divisions and offices, and fix the compensation of the assistants or employees, except  
13 that a person engaged in business as a retail vendor of general merchandise, or a  
14 member of the immediate family of a person who is so engaged, may not serve as an  
15 acting, temporary, or permanent local agent of the department, unless the  
16 commissioner of family and community services certifies in writing to the governor,  
17 with relation to a particular community, that no other qualified person is available in  
18 the community to serve as local welfare agent; for the purposes of this paragraph, a  
19 "member of the immediate family" includes a spouse, child, parent, brother, sister,  
20 parent-in-law, brother-in-law, or sister-in-law;

21 (13) actively seek to recruit quality foster parents and adoptive parents  
22 when a shortage of quality foster parents or adoptive parents exists;

23 (14) cooperate with and facilitate programs administered by the  
24 Department of Health.

25 **Sec. 47.06.020. Purpose and policy related to children.** The purpose of this  
26 title as it relates to children is to secure for each child the care and guidance,  
27 preferably in the child's own home, that will serve the moral, emotional, mental, and  
28 physical welfare of the child and the best interests of the community; to preserve and  
29 strengthen the child's family ties unless efforts to preserve and strengthen the ties are  
30 likely to result in physical or emotional damage to the child, removing the child from  
31 the custody of the parents only as a last resort when the child's welfare or safety or the

1 protection of the public cannot be adequately safeguarded without removal; and, when  
 2 the child is removed from the family, to secure for the child adequate custody and care  
 3 and adequate planning for permanent placement of the child. It is the policy of the  
 4 state to acknowledge and take into account the principles of early childhood and youth  
 5 brain development and, whenever possible, consider the concepts of early adversity,  
 6 toxic stress, childhood trauma, and the promotion of resilience through protective  
 7 relationships, supports, self-regulation, and services.

8 **Sec. 47.06.025. Legislative findings related to children.** The legislature finds  
 9 that

10 (1) parents have the following rights and responsibilities relating to the  
 11 care and control of their child while the child is a minor:

12 (A) the responsibility to provide the child with food, clothing,  
 13 shelter, education, and medical care;

14 (B) the right and responsibility to protect, nurture, train, and  
 15 discipline the child, including the right to direct the child's medical care and  
 16 the right to exercise reasonable corporal discipline;

17 (C) the right to determine where and with whom the child shall  
 18 live;

19 (D) the right and responsibility to make decisions of legal or  
 20 financial significance concerning the child;

21 (E) the right to obtain representation for the child in legal  
 22 actions; and

23 (F) the responsibility to provide special safeguards and care,  
 24 including appropriate prenatal and postnatal protection for the child;

25 (2) it is the policy of the state to strengthen families and to protect  
 26 children from child abuse and neglect; the state recognizes that, in some cases,  
 27 protection of a child may require removal of the child from the child's home; however,

28 (A) except in those cases involving serious risk to a child's  
 29 health or safety, the Department of Family and Community Services should  
 30 provide time-limited family support services to the child and the child's family  
 31 in order to offer parents the opportunity to remedy parental conduct or

1 conditions in the home that placed the child at risk of harm so that a child may  
2 return home safely and permanently; and

3 (B) the state also recognizes that when a child is removed from  
4 the home, visitation between the child and the child's parents or guardian and  
5 family members reduces the trauma for the child and enhances the likelihood  
6 that the child will be able to return home; therefore, whenever a child is  
7 removed from the parental home, the Department of Family and Community  
8 Services should encourage frequent, regular, and reasonable visitation of the  
9 child with the child's parent or guardian and family members;

10 (3) it is the policy of the state to recognize that, when a child is a ward  
11 of the state, the child is entitled to reasonable safety, adequate care, and adequate  
12 treatment and that the Department of Family and Community Services as legal  
13 custodian and the child's guardian ad litem as guardian of the child's best interests and  
14 their agents and assignees, each should make reasonable efforts to ensure that the child  
15 is provided with reasonable safety, adequate care, and adequate treatment for the  
16 duration of time that the child is a ward of the state;

17 (4) it is in the best interests of a child who has been removed from the  
18 child's own home for the state to apply the following principles in resolving the  
19 situation:

20 (A) the child should be placed in a safe, secure, and stable  
21 environment;

22 (B) the child should not be moved unnecessarily;

23 (C) a planning process should be followed to lead to permanent  
24 placement of the child;

25 (D) every effort should be made to encourage psychological  
26 attachment between the adult caregiver and the child;

27 (E) frequent, regular, and reasonable visitation with the parent  
28 or guardian and family members should be encouraged;

29 (F) parents and guardians must actively participate in family  
30 support services so as to facilitate the child's being able to remain in the home;  
31 when children are removed from the home, the parents and guardians must

1 actively participate in family support services to make return of their children  
2 to the home possible; and

3 (G) to the extent practicable, the Department of Family and  
4 Community Services should enable a child's contact with previous out-of-  
5 home caregivers when appropriate and in the best interests of the child;

6 (5) numerous studies establish that

7 (A) children undergo a critical attachment process before the  
8 time they reach six years of age;

9 (B) a child who has not attached with an adult caregiver during  
10 this critical stage will suffer significant emotional damage that frequently leads  
11 to chronic psychological problems and antisocial behavior when the child  
12 reaches adolescence and adulthood; and

13 (C) it is important to provide for an expedited placement  
14 procedure to ensure that all children, especially those under the age of six  
15 years, who have been removed from their homes are placed in permanent  
16 homes expeditiously.

17 **Sec. 47.06.030. Material incorporated by reference.** Under  
18 AS 44.62.245(a)(2), in adopting or amending a regulation that incorporates a  
19 document or other material by reference, the department may incorporate future  
20 amended versions of a document that is published, compiled, or prepared by the  
21 United States Department of Health and Human Services including the federal poverty  
22 guidelines for the state.

23 **Sec. 47.06.040. Consent to conditions of federal programs.** In order to take  
24 advantage of the training grants provisions of 42 U.S.C. 301 - 1397f (Social Security  
25 Act), as amended, the state, through the department, consents and agrees to all  
26 conditions required by federal statute and regulation necessary for the state to  
27 participate fully in the training grants or other programs.

28 **Sec. 47.06.050. Authorization of the Interstate Compact on Adoption and**  
29 **Medical Assistance.** (a) The Department of Family and Community Services may, on  
30 behalf of the state, enter into the Interstate Compact on Adoption and Medical  
31 Assistance and supplementary agreements with agencies of other states for the

1 provision of adoption and medical assistance under AS 47.07 and other provisions of  
2 this title for eligible children with special needs.

3 (b) In this section, "state" includes a state, territory, possession, or  
4 commonwealth of the United States.

5 **Sec. 47.06.060. Monthly reports concerning children.** By the 15th day of  
6 each month, the Department of Family and Community Services shall provide a report  
7 summarizing child protection activities carried out during the previous calendar month  
8 and the status of children committed to the department's custody, including  
9 information on the number and type of reports of child abuse and neglect received, the  
10 outcome of investigations completed, the number of placements of children committed  
11 to the department's custody, and the number of foster homes licensed. The report shall  
12 be made accessible to the public through the Internet.

13 **Sec. 47.06.090. Definition.** In AS 47.06.010 - 47.06.090, unless the context  
14 otherwise requires, "department" means Department of Family and Community  
15 Services.

16 \* **Sec. 63.** AS 47.24.013(a) is amended to read:

17 (a) If a report received under AS 47.24.010 pertains to the undue influence,  
18 abandonment, exploitation, abuse, neglect, or self-neglect of a vulnerable adult that is  
19 alleged to have been committed by or to have resulted from the negligence of the staff  
20 or a volunteer of an out-of-home care facility, including a facility licensed under  
21 AS 47.32, in which the vulnerable adult resides, the department may forward the  
22 report to the long term care ombudsman for investigation under AS 44.25.310  
23 [AS 47.62.015].

24 \* **Sec. 64.** AS 47.24.013(c) is amended to read:

25 (c) Upon receipt of a report under (a) or (b) of this section, the long term care  
26 ombudsman and the department shall

27 (1) conduct an investigation as appropriate under AS 44.25.310  
28 [AS 47.62.015] or this title, respectively;

29 (2) coordinate and cooperate in their responses to and investigations of  
30 the report if their jurisdictions overlap;

31 (3) [REPEALED].

1 \* **Sec. 65.** AS 47.24.013(d) is amended to read:

2 (d) If the long term care ombudsman directly receives a report regarding the  
3 undue influence, abandonment, exploitation, abuse, neglect, or self- neglect of a  
4 vulnerable adult in an out-of-home care facility, the ombudsman may provide the  
5 report, and the results of the ombudsman's actions or investigations regarding the  
6 report, to the department's vulnerable adult centralized intake office. The ombudsman  
7 shall obtain the informed consent of the vulnerable adult or the vulnerable adult's  
8 resident representative before providing the report to the department. The department  
9 may investigate the report as described in AS 47.24.015 if the department determines  
10 that action is appropriate. In this subsection, "resident representative" has the meaning  
11 given in AS 44.25.390 [AS 47.62.090].

12 \* **Sec. 66.** AS 47.30.470 is amended to read:

13 **Sec. 47.30.470. Powers and duties of department.** The department shall

14 (1) ascertain and keep current a list of all institutions in the state that  
15 have available facilities for the care and treatment of alcoholics and drug abusers;

16 (2) encourage the development and advancement of standards of  
17 treatment of alcoholics and drug abusers in institutions;

18 (3) promote and encourage educational activities to make the public  
19 aware of the effects of intemperate use of alcoholic beverages and drugs, and promote  
20 and encourage the education of the general public about scientific facts regarding  
21 alcoholism and drug abuse;

22 (4) identify and utilize whatever facilities and services are available or  
23 can be made available through community organization for carrying out the purposes  
24 of this section, including identification and utilization for detoxification of under-  
25 utilized hospital beds;

26 (5) engage in research and educational activities that will aid in the  
27 understanding of alcoholism and drug abuse and in the treatment of alcoholics and  
28 drug abusers;

29 (6) administer a community grant-in-aid program for alcoholism and  
30 drug abuse;

31 (7) submit an annual report concerning alcoholism and drug abuse in

1 the state and the grant-in-aid program within 10 days after the convening of the  
2 legislature in each regular session;

3 (8) prepare that part of the plan for the integrated comprehensive  
4 mental health program under AS 44.25.290 [AS 47.30.056] that relates to the services  
5 and facilities that are necessary for the care and treatment of persons identified as  
6 chronic alcoholics suffering from psychoses, as defined in AS 44.25.290(b)(3) and (f)  
7 [AS 47.30.056(b)(3) and (f)]; in preparing the plan of services for persons identified in  
8 this paragraph, the department shall coordinate with the Alaska Mental Health Trust  
9 Authority and the Advisory Board on Alcoholism and Drug Abuse;

10 (9) use money awarded to the department by grant or contract from the  
11 mental health trust settlement income account established under AS 37.14.036 and  
12 appropriated from the general fund to provide the necessary services identified in (8)  
13 of this section and in accordance with AS 44.25.290 [AS 47.30.056].

14 \* **Sec. 67.** AS 47.30.523(a) is amended to read:

15 (a) It is the policy of the state that

16 (1) the community mental health program provide a comprehensive  
17 and integrated system of community-based facilities, supports, and mental health  
18 services, including child and adolescent screening and diagnosis, inpatient, outpatient,  
19 prevention, consultation, and education services;

20 (2) persons most in need of community mental health services receive  
21 appropriate services as provided under AS 44.25.290 [AS 47.30.056];

22 (3) the community mental health program be coordinated, to the  
23 maximum extent possible, with the programs established under AS 47.37, AS 47.65,  
24 AS 47.80, and other programs affecting the well being of persons in need of mental  
25 health services.

26 \* **Sec. 68.** AS 47.30.530(b) is amended to read:

27 (b) In performing its duties under (a) of this section, the department shall  
28 coordinate with the Alaska Mental Health Trust Authority established in AS 44.25.200  
29 [AS 47.30.011].

30 \* **Sec. 69.** AS 47.30.540(b) is amended to read:

31 (b) An entity designated by the department to receive money under

1 AS 47.30.520 - 47.30.620 shall ensure a broad base of community support as  
2 evidenced by a governing board reasonably representative of the professional, civic,  
3 and citizen groups in the community and including persons with mental disorders or  
4 family members of persons with mental disorders. No more than two members, or 40  
5 percent of the membership, whichever is greater, may be providers of services under  
6 the program. In order to receive money under AS 47.30.520 - 47.30.620, a local  
7 community entity shall agree

8 (1) to give priority to mental health programs and services consistent  
9 with the priorities set out in AS 44.25.290 [AS 47.30.056] and that provide the  
10 maximum services for the least expenditure of money from the mental health trust  
11 settlement income account;

12 (2) to furnish services through a qualified staff meeting reasonable  
13 standards of experience and training;

14 (3) to conform to a state cost accounting system showing the true cost  
15 of services rendered, collect fees for services according to a schedule based on an  
16 analysis of reasonable ability to pay, and provide that a person may not be refused  
17 services because of inability to pay for those services;

18 (4) to maintain adequate clinical and administrative records and  
19 furnish periodic reports to the department;

20 (5) to furnish the authority and the department an annual report of the  
21 preceding fiscal year, including an evaluation of the effectiveness of the previous  
22 year's programs and their costs;

23 (6) to furnish the authority and the department satisfactory needs  
24 assessments for the population and area it serves and an annual update of a long-range  
25 planning and budget statement that describes program goals for the coming year, the  
26 steps and resources necessary to implement the goals, the projected means by which  
27 these resources will be secured, and the procedures necessary to evaluate the program;

28 (7) to furnish the department with confidential and other information  
29 about recipients of services paid for, in whole or part, under AS 47.30.520 - 47.30.620  
30 and comply with regulations of the department regarding the submission of this  
31 information; and

(8) to notify the department immediately of emergency situations involving recipients of services paid for, in whole or in part, under AS 47.30.520 - 47.30.620 and comply with regulations of the department regarding this notification; for purposes of this paragraph, "emergency situations" include the disappearance, injury, or death of a recipient.

\* **Sec. 70.** AS 47.30.545 is amended to read:

**Sec. 47.30.545. Populations to be served.** The entities designated by the department to receive money under AS 47.30.540(b) shall provide one or more of the services that are set out in AS 44.25.290(i) [AS 47.30.056(i)] to persons identified in AS 44.25.290 [AS 47.30.056].

\* **Sec. 71.** AS 47.30.610(1) is amended to read:

(1) "authority" means the Alaska Mental Health Trust Authority established in AS 44.25.200 [AS 47.30.011];

\* **Sec. 72.** AS 47.30.610(4) is amended to read:

(4) "trust" has the meaning given in AS 44.25.295 [AS 47.30.061].

\* **Sec. 73.** AS 47.30.660 is amended to read:

**Sec. 47.30.660. Powers and duties of department.** (a) The department shall

(1) prepare, and periodically revise and amend, a plan for an integrated comprehensive mental health program, as that term is defined by AS 44.25.290(i) [AS 47.30.056(i)]; the preparation of the plan and any revision or amendment of it shall

(A) be made in conjunction with the Alaska Mental Health Trust Authority and the Department of Family and Community Services;

(B) be coordinated with federal, state, regional, local, and private entities involved in mental health services;

(2) in planning expenditures from the mental health trust settlement income account, conform to the regulations adopted by the Alaska Mental Health Trust Authority under AS 44.25.240(b)(5) [AS 47.30.031(b)(5)]; and

(3) implement an integrated comprehensive system of care that, within the limits of money appropriated for that purpose and using grants and contracts that are to be paid for from the mental health trust settlement income account, meets the

1 service needs of the beneficiaries of the trust established under the Alaska Mental  
2 Health Enabling Act of 1956, as determined by the plan.

3 (b) The department, in fulfilling its duties under this section and through its  
4 division responsible for mental health, shall

5 (1) administer a comprehensive program of services for persons with  
6 mental disorders, for the prevention of mental illness, and for the care and treatment of  
7 persons with mental disorders, including inpatient and outpatient care and treatment  
8 and the procurement of services of specialists or other persons on a contractual or  
9 other basis;

10 (2) take the actions and undertake the obligations that are necessary to  
11 participate in federal grants-in-aid programs and accept federal or other financial aid  
12 from whatever sources for the study, prevention, examination, care, and treatment of  
13 persons with mental disorders;

14 (3) administer **AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915**  
15 [AS 47.30.660 - 47.30.915];

16 (4) designate, operate, and maintain treatment facilities equipped and  
17 qualified to provide inpatient and outpatient care and treatment for persons with  
18 mental disorders;

19 (5) provide for the placement of patients with mental disorders in  
20 designated treatment facilities;

21 (6) enter into arrangements with governmental agencies for the care or  
22 treatment of persons with mental disorders in facilities of the governmental agencies  
23 in the state or in another state;

24 (7) enter into contracts with treatment facilities for the custody and  
25 care or treatment of persons with mental disorders; contracts under this paragraph are  
26 governed by AS 36.30 (State Procurement Code);

27 (8) enter into contracts, which incorporate safeguards consistent with  
28 **AS 47.30.655, 47.30.660, and 47.30.670 – 47.30.915** [AS 47.30.660 - 47.30.915] and  
29 the preservation of the civil rights of the patients with another state for the custody and  
30 care or treatment of patients previously committed from this state under 48 U.S.C. 46  
31 et seq., and P.L. 84-830, 70 Stat. 709;

1 (9) prescribe the form of applications, records, reports, requests for  
 2 release, and consents to medical or psychological treatment required by AS 47.30.655,  
 3 47.30.660, and 47.30.670 – 47.30.915 [AS 47.30.660 - 47.30.915];

4 \* **Sec. 74.** AS 47.30.725(a) is amended to read:

5 (a) When a respondent is detained for evaluation under AS 47.30.670 -  
 6 47.30.915 [AS 47.30.660 - 47.30.915], the respondent shall be immediately notified  
 7 orally and in writing of the rights under this section. Notification must be in a  
 8 language understood by the respondent. The respondent's guardian, if any, and if the  
 9 respondent requests, an adult designated by the respondent, shall also be notified of  
 10 the respondent's rights under this section.

11 \* **Sec. 75.** AS 47.30.735(b) is amended to read:

12 (b) The hearing shall be conducted in a physical setting least likely to have a  
 13 harmful effect on the mental or physical health of the respondent, within practical  
 14 limits. At the hearing, in addition to other rights specified in AS 47.30.670 - 47.30.915  
 15 [AS 47.30.660 - 47.30.915], the respondent has the right

16 (1) to be present at the hearing; this right may be waived only with the  
 17 respondent's informed consent; if the respondent is incapable of giving informed  
 18 consent, the respondent may be excluded from the hearing only if the court, after  
 19 hearing, finds that the incapacity exists and that there is a substantial likelihood that  
 20 the respondent's presence at the hearing would be severely injurious to the  
 21 respondent's mental or physical health;

22 (2) to view and copy all petitions and reports in the court file of the  
 23 respondent's case;

24 (3) to have the hearing open or closed to the public as the respondent  
 25 elects;

26 (4) to have the rules of evidence and civil procedure applied so as to  
 27 provide for the informal but efficient presentation of evidence;

28 (5) to have an interpreter if the respondent does not understand  
 29 English;

30 (6) to present evidence on the respondent's behalf;

31 (7) to cross-examine witnesses who testify against the respondent;

1 (8) to remain silent;

2 (9) to call experts and other witnesses to testify on the respondent's  
3 behalf.

4 \* **Sec. 76.** AS 47.30.775 is amended to read:

5 **Sec. 47.30.775. Commitment of minors.** The provisions of AS 47.30.700 -  
6 47.30.815 apply to minors. However, all notices required to be served on the  
7 respondent in AS 47.30.700 - 47.30.815 shall also be served on the parent or guardian  
8 of a respondent who is a minor, and parents or guardians of a minor respondent shall  
9 be notified that they may appear as parties in any commitment proceeding concerning  
10 the minor and that as parties they are entitled to retain their own attorney or have the  
11 office of public advocacy appointed for them by the court. A minor respondent has the  
12 same rights to waiver and informed consent as an adult respondent under  
13 **AS 47.30.670 - 47.30.915** [AS 47.30.660 - 47.30.915]; however, the minor shall be  
14 represented by counsel in waiver and consent proceedings.

15 \* **Sec. 77.** AS 47.30.795(d) is amended to read:

16 (d) If the provider of outpatient care determines that the respondent will  
17 require continued outpatient care after the expiration of the commitment period, the  
18 provider may initiate further commitment proceedings as if the provider were the  
19 professional person in charge, and the provisions of **AS 47.30.670 - 47.30.915**  
20 [AS 47.30.660 - 47.30.915] apply, except that provisions relating to inpatient  
21 treatment shall be read as applicable to outpatient treatment.

22 \* **Sec. 78.** AS 47.30.805(b) is amended to read:

23 (b) When a respondent has failed to appear or been absent through the  
24 respondent's own actions contrary to any order properly made or entered under  
25 **AS 47.30.670 - 47.30.915** [AS 47.30.660 - 47.30.915], the relevant commitment  
26 period shall be extended for a period of time equal to the respondent's absence if  
27 written notice of absence is promptly provided to the respondent's attorney and  
28 guardian, if there is one, and if, within 24 hours after the respondent has returned to  
29 the evaluation or treatment facility, written notice of the corresponding extension and  
30 the reason for it is given to the respondent and the respondent's attorney and guardian,  
31 if any, and to the court.

1 \* **Sec. 79.** AS 47.30.810 is amended to read:

2 **Sec. 47.30.810. Habeas corpus not limited.** Nothing in AS 47.30.670 -  
 3 47.30.915 [AS 47.30.660 - 47.30.915] may be construed as limiting a person's right to  
 4 a writ of habeas corpus.

5 \* **Sec. 80.** AS 47.30.825(a) is amended to read:

6 (a) A patient who is receiving services under AS 47.30.670 - 47.30.915  
 7 [AS 47.30.660 - 47.30.915] has the rights described in this section.

8 \* **Sec. 81.** AS 47.30.835 is amended to read:

9 **Sec. 47.30.835. Civil rights not impaired.** (a) A person may not deny to a  
 10 person who is undergoing evaluation or treatment under AS 47.30.670 - 47.30.915  
 11 [AS 47.30.660 - 47.30.915] a civil right, including but not limited to, the right to free  
 12 exercise of religion and the right to dispose of property, sue and be sued, enter into  
 13 contractual relationships, and vote. A person who violates this subsection commits the  
 14 crime of interference with constitutional rights under AS 11.76.110.

15 (b) Court-ordered evaluation or treatment under AS 47.30.670 - 47.30.915  
 16 [AS 47.30.660 - 47.30.915] is not a determination of legal incapacity under  
 17 AS 13.26.005- 13.26.580.

18 \* **Sec. 82.** AS 47.30.840(a) is amended to read:

19 (a) A person undergoing evaluation or treatment under AS 47.30.670 -  
 20 47.30.915 [AS 47.30.660 - 47.30.915]

21 (1) may not be photographed without the person's consent and that of  
 22 the person's guardian if a minor, except that the person may be photographed upon  
 23 admission to a facility for identification and for administrative purposes of the facility;  
 24 all photographs shall be confidential and may only be released by the facility to the  
 25 patient or the patient's designee unless a court orders otherwise;

26 (2) at the time of admission to an evaluation or treatment facility, shall  
 27 have reasonable precautions taken by the staff to inventory and safeguard the patient's  
 28 personal property; a copy of the inventory signed by the staff member making it shall  
 29 be given to the patient and made available to the patient's attorney and any other  
 30 person authorized by the patient to inspect the document;

31 (3) shall have access to an individual storage space for the patient's

1 private use while undergoing evaluation or treatment;

2 (4) shall be permitted to wear personal clothing, to keep and use  
3 personal possessions including toilet articles if they are not considered unsafe for the  
4 patient or other patients who might have access to them, and to keep and be allowed to  
5 spend a reasonable sum of the patient's own money for the patient's needs and  
6 comfort;

7 (5) shall be allowed to have visitors at reasonable times;

8 (6) shall have ready access to letter writing materials, including  
9 stamps, and have the right to send and receive unopened mail;

10 (7) shall have reasonable access to a telephone, both to make and  
11 receive confidential calls;

12 (8) has the right to be free of corporal punishment;

13 (9) has the right to reasonable opportunity for indoor and outdoor  
14 exercise and recreation;

15 (10) has the right, at any time, to have a telephone conversation with or  
16 be visited by an attorney;

17 (11) may not be retaliated against or subjected to any adverse change  
18 of conditions or treatment solely because of assertion of rights under this section.

19 \* **Sec. 83.** AS 47.30.845 is amended to read:

20 **Sec. 47.30.845. Confidential records.** Information and records obtained in the  
21 course of a screening investigation, evaluation, examination, or treatment are  
22 confidential and are not public records, except as the requirements of a hearing under  
23 **AS 47.30.670 - 47.30.915** [AS 47.30.660 - 47.30.915] may necessitate a different  
24 procedure. Information and records may be copied and disclosed under regulations  
25 established by the department only to

26 (1) a physician or a provider of health, mental health, or social and  
27 welfare services involved in caring for, treating, or rehabilitating the patient;

28 (2) the patient or an individual to whom the patient has given written  
29 consent to have information disclosed;

30 (3) a person authorized by a court order;

31 (4) a person doing research or maintaining health statistics if the

1           anonymity of the patient is assured and the facility recognizes the project as a bona  
2           fide research or statistical undertaking;

3                       (5) the Department of Corrections in a case in which a prisoner  
4           confined to the state prison is a patient in the state hospital on authorized transfer  
5           either by voluntary admission or by court order;

6                       (6) a governmental or law enforcement agency when necessary to  
7           secure the return of a patient who is on unauthorized absence from a facility where the  
8           patient was undergoing evaluation or treatment;

9                       (7) a law enforcement agency when there is substantiated concern over  
10          imminent danger to the community by a presumed mentally ill person;

11                      (8) the department in a case in which services provided under  
12          AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] are paid for, in whole or in part,  
13          by the department or in which a person has applied for or has received assistance from  
14          the department for those services;

15                      (9) the Department of Public Safety as provided in AS 47.30.907;  
16          information provided under this paragraph may not include diagnostic or clinical  
17          information regarding a patient.

18      \* **Sec. 84.** AS 47.30.860 is amended to read:

19                      **Sec. 47.30.860. Documents and notices in other languages.** When  
20          practicable, all documents and notices required by AS 47.30.670 - 47.30.915  
21          [AS 47.30.660 - 47.30.915] to be served on a respondent, or on the respondent's  
22          parents, guardian or adult designee, shall be explained in a language the person  
23          understands if the respondent is not competent in English.

24      \* **Sec. 85.** AS 47.30.875(a) is amended to read:

25                      (a) The admission papers of a person who is admitted to a treatment facility  
26          under AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] must include a statement  
27          as to the person's residence. The department may return a patient who is not a resident  
28          of the state to the state of the person's residence with court approval if the person has  
29          been committed. If the state in which the person has residence does not accept the  
30          person as a patient, the person shall be treated as a resident of this state under the  
31          provisions of AS 47.30.700 - 47.30.915 [AS 47.30.660 - 47.30.915].

1 \* **Sec. 86.** AS 47.30.885 is amended to read:

2 **Sec. 47.30.885. Rights outside state.** Nothing in AS 47.30.670 - 47.30.915  
 3 [AS 47.30.660 - 47.30.915] alters or impairs the application or availability to a patient,  
 4 while hospitalized in another state under contractual arrangements entered in  
 5 accordance with AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], of the rights,  
 6 remedies, or safeguards provided by the laws of this state.

7 \* **Sec. 87.** AS 47.30.905 is amended to read:

8 **Sec. 47.30.905. Fees and expenses for judicial proceedings.** (a) The  
 9 witnesses, expert witnesses, and the jury in commitment proceedings under  
 10 AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915] are entitled to the fees,  
 11 compensation, and mileage established by the administrative rules of court for other  
 12 jurors and witnesses. Compensation, mileage, fees, transportation expenses for a  
 13 respondent, and other expenses arising from evaluation and commitment proceedings  
 14 shall be audited and allowed by the superior court of the judicial district in which the  
 15 proceedings are held. To the extent that services of a peace officer are used to carry  
 16 out the provisions of AS 47.30.670 - 47.30.915 [AS 47.30.660 - 47.30.915], the officer  
 17 is entitled to fees and actual expenses from the same source and in the same manner as  
 18 for the officer's other official duties.

19 (b) An attorney appointed for a person under AS 47.30.670 - 47.30.915  
 20 [AS 47.30.660 - 47.30.915] shall be compensated for services as follows:

21 (1) the person for whom an attorney is appointed shall, if the person is  
 22 financially able under standards as to financial capability and indigency set by the  
 23 court, pay the costs of the legal services;

24 (2) if the person is indigent under those standards, the costs of the  
 25 services shall be paid by the state.

26 \* **Sec. 88.** AS 47.30.915 is amended to read:

27 **Sec. 47.30.915. Definitions.** In AS 47.30.670 - 47.30.915 [AS 47.30.660 -  
 28 47.30.915],

29 (1) "adjudication of mental illness or mental incompetence" means a  
 30 court order finding that a person is

31 (A) not guilty by reason of insanity or guilty but mentally ill

1 under AS 12.47.040;

2 (B) incompetent to stand trial for a criminal offense under  
3 AS 12.47.100- 12.47.120; or

4 (C) a danger to self or others, or is gravely disabled because of  
5 incapacity, incompetence, mental illness, dementia, or some other cause;

6 (2) "commissioner" means the commissioner of family and community  
7 services [HEALTH AND SOCIAL SERVICES];

8 (3) "court" means a superior court of the state;

9 (4) "department" means the Department of **Family and Community**  
10 **Services** [HEALTH AND SOCIAL SERVICES];

11 (5) "designated treatment facility" or "treatment facility" means a  
12 hospital, clinic, institution, center, or other health care facility that has been designated  
13 by the department for the treatment or rehabilitation of mentally ill persons under  
14 **AS 47.30.670 - 47.30.915** [AS 47.30.670 - 47.30.915] but does not include  
15 correctional institutions;

16 (6) "disability resulting from an involuntary commitment or an  
17 adjudication of mental illness or mental incompetence" means the prohibition against  
18 the possession of a firearm or ammunition under 18 U.S.C. 922(g)(4) that results from  
19 an involuntary commitment or adjudication of mental illness or mental incompetence;

20 (7) "evaluation facility" means a health care facility that has been  
21 designated or is operated by the department to perform the evaluations described in  
22 **AS 47.30.670 - 47.30.915** [AS 47.30.660 - 47.30.915], or a medical facility licensed  
23 under AS 47.32 or operated by the federal government;

24 (8) "evaluation personnel" means mental health professionals  
25 designated by the department to conduct evaluations as prescribed in **AS 47.30.670 -**  
26 **47.30.915** [AS 47.30.660 - 47.30.915] who conduct evaluations in places in which no  
27 staffed evaluation facility exists;

28 (9) "gravely disabled" means a condition in which a person as a result  
29 of mental illness

30 (A) is in danger of physical harm arising from such complete  
31 neglect of basic needs for food, clothing, shelter, or personal safety as to render

1 serious accident, illness, or death highly probable if care by another is not  
2 taken; or

3 (B) will, if not treated, suffer or continue to suffer severe and  
4 abnormal mental, emotional, or physical distress, and this distress is associated  
5 with significant impairment of judgment, reason, or behavior causing a  
6 substantial deterioration of the person's previous ability to function  
7 independently;

8 (10) "inpatient treatment" means care and treatment rendered inside or  
9 on the premises of a treatment facility, or a part or unit of a treatment facility, for a  
10 continual period of 24 hours or longer;

11 (11) "least restrictive alternative" means mental health treatment  
12 facilities and conditions of treatment that

13 (A) are no more harsh, hazardous, or intrusive than necessary  
14 to achieve the treatment objectives of the patient; and

15 (B) involve no restrictions on physical movement nor  
16 supervised residence or inpatient care except as reasonably necessary for the  
17 administration of treatment or the protection of the patient or others from  
18 physical injury;

19 (12) "likely to cause serious harm" means a person who

20 (A) poses a substantial risk of bodily harm to that person's self,  
21 as manifested by recent behavior causing, attempting, or threatening that harm;

22 (B) poses a substantial risk of harm to others as manifested by  
23 recent behavior causing, attempting, or threatening harm, and is likely in the  
24 near future to cause physical injury, physical abuse, or substantial property  
25 damage to another person; or

26 (C) manifests a current intent to carry out plans of serious harm  
27 to that person's self or another;

28 (13) "mental health professional" means a psychiatrist or physician who  
29 is licensed by the State Medical Board to practice in this state or is employed by the  
30 federal government; a clinical psychologist licensed by the state Board of Psychologist  
31 and Psychological Associate Examiners; a psychological associate trained in clinical

1 psychology and licensed by the Board of Psychologist and Psychological Associate  
 2 Examiners; an advanced practice registered nurse or a registered nurse with a master's  
 3 degree in psychiatric nursing, licensed by the State Board of Nursing; a marital and  
 4 family therapist licensed by the Board of Marital and Family Therapy; a professional  
 5 counselor licensed by the Board of Professional Counselors; a clinical social worker  
 6 licensed by the Board of Social Work Examiners; and a person who

7 (A) has a master's degree in the field of mental health;

8 (B) has at least 12 months of post-masters working experience  
 9 in the field of mental illness; and

10 (C) is working under the supervision of a type of licensee listed  
 11 in this paragraph;

12 (14) "mental illness" means an organic, mental, or emotional  
 13 impairment that has substantial adverse effects on an individual's ability to exercise  
 14 conscious control of the individual's actions or ability to perceive reality or to reason  
 15 or understand; intellectual disability, developmental disability, or both, epilepsy, drug  
 16 addiction, and alcoholism do not per se constitute mental illness, although persons  
 17 suffering from these conditions may also be suffering from mental illness;

18 (15) "peace officer" includes a state police officer, municipal or other  
 19 local police officer, state, municipal, or other local health officer, public health nurse,  
 20 United States marshal or deputy United States marshal, or a person authorized by the  
 21 court;

22 (16) "persons with mental disorders" has the meaning given in  
 23 AS 47.30.610;

24 (17) "professional person in charge" means the senior mental health  
 25 professional at a facility or that person's designee; in the absence of a mental health  
 26 professional it means the chief of staff or a physician designated by the chief of staff;

27 (18) "provider of outpatient care" means a mental health professional or  
 28 hospital, clinic, institution, center, or other health care facility designated by the  
 29 department to accept for treatment patients who are ordered to undergo involuntary  
 30 outpatient treatment by the court or who are released early from inpatient  
 31 commitments on condition that they undergo outpatient treatment;

1 (19) "screening investigation" means the investigation and review of  
 2 facts that have been alleged to warrant emergency examination or treatment, including  
 3 interviews with the persons making the allegations, any other significant witnesses  
 4 who can readily be contacted for interviews, and, if possible, the respondent, and an  
 5 investigation and evaluation of the reliability and credibility of persons providing  
 6 information or making allegations;

7 (20) "state" means a state of the United States, the District of  
 8 Columbia, the territories and possessions of the United States, and the Commonwealth  
 9 of Puerto Rico, and, with the approval of the United States Congress, Canada.

10 \* **Sec. 89.** AS 47.32.010 is repealed and reenacted to read

11 **Sec. 47.32.010. Purpose and applicability.** (a) The purpose of this chapter is  
 12 to establish centralized licensing and related administrative procedures for the delivery  
 13 of services in this state by the entities listed in (b) and (c) of this section. These  
 14 procedures are intended to promote safe and appropriate services by setting standards  
 15 for licensure that will reduce predictable risk; improve quality of care; foster  
 16 individual and patient rights; and otherwise advance public health, safety, and welfare.

17 (b) The following entities are subject to this chapter and regulations adopted  
 18 under this chapter by the Department of Health:

- 19 (1) ambulatory surgical centers;
- 20 (2) assisted living homes;
- 21 (3) child care facilities;
- 22 (4) freestanding birth centers;
- 23 (5) home health agencies;
- 24 (6) hospices, or agencies providing hospice services or operating  
 25 hospice programs;
- 26 (7) hospitals;
- 27 (8) intermediate care facilities for individuals with an intellectual  
 28 disability or related condition;
- 29 (9) maternity homes;
- 30 (10) nursing facilities;
- 31 (11) residential child care facilities;

1 (13) residential psychiatric treatment centers;

2 (14) rural health clinics;

3 (15) crisis stabilization centers.

4 (c) The following entities are subject to this chapter and regulations adopted  
5 under this chapter by the Department of Family and Community Services:

6 (1) child placement agencies;

7 (2) foster homes;

8 (3) runaway shelters.

9 (d) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history,  
10 criminal history checks, criminal history use standards, and civil history databases,  
11 apply to entities listed in (b) and (c) of this section, as provided in AS 47.05.300.

12 \* **Sec. 90.** AS 47.32.020(a) is amended to read:

13 (a) An entity may not operate a facility described in AS 47.32.010(b) or (c)  
14 without first obtaining a license under this chapter unless the entity is exempt under  
15 regulations adopted under AS 47.32.030 or is exempt under (c) of this section.

16 \* **Sec. 91.** AS 47.32.020(b) is amended to read:

17 (b) If an entity encompasses more than one type of activity listed in  
18 AS 47.32.010(b) or (c), the entity shall apply for and receive a separate license under  
19 this chapter **from either the Department of Health or the Department of Family**  
20 **and Community Services** before operating that type of activity unless exempt under  
21 regulations adopted **by the applicable department** under AS 47.32.030.

22 \* **Sec. 92.** AS 47.32.030 is amended to read:

23 **Sec. 47.32.030. Powers of the Department of Health and the Department of**  
24 **Family and Community Services** [DEPARTMENT]; **delegation to municipality.**

25 (a) **For each entity over which it has licensing authority under AS 47.32.010, the**  
26 **applicable** [THE] department may

27 (1) administer and enforce the provisions of this chapter;

28 (2) coordinate and develop policies, programs, and planning related to  
29 licensure and operation of entities listed in AS 47.32.010(b) or (c) as defined by  
30 regulation;

31 (3) adopt regulations necessary to carry out the purposes of this

1 chapter, including regulations that

2 (A) establish fees for licensing of each type of entity listed in  
3 AS 47.32.010(b) **or (c)**;

4 (B) impose requirements for licensure, including standards for  
5 license renewal, that are in addition to the requirements of this chapter or of  
6 any other applicable state or federal statute or regulation;

7 (C) impose requirements and standards on licensed entities that  
8 are in addition to those imposed by this chapter or by any other applicable state  
9 or federal statute or regulation, including

10 (i) requirements and standards necessary for an entity or  
11 the state to receive money from the department from any source,  
12 including federal money;

13 (ii) record-keeping requirements;

14 (iii) reporting requirements; and

15 (iv) requirements and standards regarding health, safety,  
16 and sanitation;

17 (D) provide for waivers, variances, and exemptions from the  
18 requirements of this chapter, including the requirement to obtain a license, if  
19 the **applicable** department finds it necessary for the efficient administration of  
20 this chapter; and

21 (E) establish requirements for the operation of entities licensed  
22 **by the applicable department** under this chapter;

23 (4) investigate

24 (A) entities described in AS 47.32.010(b) **or (c)**;

25 (B) applicants for licensure, including individuals named in an  
26 application; and

27 (C) other persons that the **applicable** department has reason to  
28 believe are operating an entity required to be licensed under this chapter, or are  
29 residing or working in an entity for which licensure has been sought under this  
30 chapter; this subparagraph does not apply to persons receiving services from an  
31 entity for which licensure has been sought under this chapter;

1 (5) inspect and monitor licensed entities for compliance with this  
2 chapter, regulations adopted under this chapter, and any other applicable statutes or  
3 regulations;

4 (6) enter into contracts and agreements necessary to carry out the  
5 functions, powers, and duties of the applicable department under this chapter;

6 (7) enter into agreements with private entities, municipalities, and  
7 individuals to investigate and make recommendations to the applicable department  
8 regarding the licensure and monitoring of entities under this chapter;

9 (8) require an individual who is or will be operating an entity to  
10 complete training related to the operation of the entity;

11 (9) waive the application requirements for an entity seeking licensure  
12 if the entity submits documentation to the applicable department verifying that it

13 (A) has a license issued by an organization or other agency that  
14 has licensing authority under state or federal law if the standards for that  
15 licensure are approved by the applicable department under this chapter or  
16 regulations adopted under this chapter;

17 (B) has accreditation from a nationally recognized organization  
18 if the standards for that accreditation are equal to or more stringent than the  
19 standards for licensure under this chapter or regulations adopted under this  
20 chapter; or

21 (C) is an entity that federal law does not require to be licensed.

22 (b) The Department of Health [DEPARTMENT] shall delegate the  
23 department's authority to regulate child care facilities to a municipality that has  
24 adopted an ordinance providing for child care licensing under home rule powers under  
25 AS 29.10.010 or as authorized under AS 29.35.200 - 29.35.210. The department shall  
26 make the delegation described in this subsection within 90 days after receiving a  
27 written request from the municipality to delegate the authority. A municipality  
28 receiving a delegation under this subsection may adopt additional requirements for  
29 child care facilities operating within the boundaries of the municipality if the  
30 requirements meet or exceed the requirements under state law.

31 (c) The issuance of a license by the applicable department does not obligate

1 the department to place or maintain an individual in an entity or through an entity, or  
2 to provide financial support to an entity.

3 (d) The **Department of Health** [DEPARTMENT] may not require a licensed  
4 entity to increase services for the sole purpose of accommodating a physician's  
5 practice of prescribing, dispensing, or administering an investigational drug, biological  
6 product, or device, or providing related treatment, to a patient. In this subsection  
7 , "investigational drug, biological product, or device" has the meaning given in  
8 AS 08.64.367.

9 \* **Sec. 93.** AS 47.32.040 is amended to read:

10 **Sec. 47.32.040. Application for license.** A person shall apply to the  
11 **applicable** department for a license under this chapter. The application must be made  
12 to the **applicable** department on a form provided by **that** [THE] department or in a  
13 format approved by **that** [THE] department, and must be accompanied by

14 (1) any fee established by regulation; and

15 (2) documents and information required by regulation.

16 \* **Sec. 94.** AS 47.32.050 is amended to read:

17 **Sec. 47.32.050. Provisional license; biennial license.** (a) **After an entity**  
18 **submits an application under AS 47.32.040, the department with licensing**  
19 **authority over that entity may issue a provisional license. Before issuing a**  
20 **provisional license, the department must conduct an** [THE DEPARTMENT MAY  
21 ISSUE A PROVISIONAL LICENSE TO AN ENTITY FOR WHICH  
22 APPLICATION IS MADE UNDER AS 47.32.040 IF, AFTER] inspection and  
23 investigation **to determine** [, THE DEPARTMENT DETERMINES] that the  
24 application and the entity meet the requirements of this chapter, regulations adopted  
25 under this chapter, and any other applicable statutes or regulations. A provisional  
26 license is valid for a period not to exceed one year, except that the **authorizing**  
27 department may extend a provisional license for one additional period not to exceed  
28 one year.

29 (b) Before expiration of a provisional license issued under (a) of this section,  
30 the **authorizing** department shall inspect and investigate the entity to determine  
31 whether the entity is operating in compliance with this chapter, regulations adopted

1 under this chapter, and any other applicable statutes or regulations. After inspection  
 2 and investigation under this subsection and before expiration of a provisional license,  
 3 the **authorizing** department shall issue a biennial license for the entity if the  
 4 department finds that

5 (1) the entity meets the requirements for biennial licensure established  
 6 in this chapter, regulations adopted under this chapter, and other applicable statutes  
 7 and regulations;

8 (2) a ground for nonrenewal of a license does not exist; and

9 (3) any applicable fee has been paid.

10 (c) The department **issuing a license** may place one or more conditions on a  
 11 provisional or biennial license issued under this section in order to further the purposes  
 12 of this chapter.

13 \* **Sec. 95.** AS 47.32.060 is amended to read:

14 **Sec. 47.32.060. License renewal.** (a) At least 90 days before expiration of a  
 15 biennial license, a licensed entity that intends to remain licensed shall submit an  
 16 application for renewal of the license on a form provided by the **applicable**  
 17 department or in a format approved by the **applicable** department, accompanied by

18 (1) all documents and information identified in regulation as being  
 19 required for renewal of the license; and

20 (2) any fee established by regulation.

21 (b) Before expiration of a biennial license, the **authorizing** department or its  
 22 representative may inspect an entity that is the subject of a renewal application to  
 23 determine whether the entity is operating in compliance with this chapter, regulations  
 24 adopted under this chapter, and other applicable statutes or regulations. After any  
 25 inspection and investigation under this subsection and before expiration of the biennial  
 26 license, the **authorizing** department shall renew a biennial license if the department  
 27 finds that

28 (1) the licensed entity meets the requirements for renewal;

29 (2) a ground for nonrenewal of a license does not exist; and

30 (3) any applicable fee has been paid.

31 (c) If an application for renewal of a license is submitted but the **authorizing**

1 department is unable to complete its review of the application before the expiration of  
 2 the biennial license, the license is automatically extended for six months or until the  
 3 department completes its review and either approves or denies the application,  
 4 whichever occurs earlier.

5 (d) The authorizing department may place one or more conditions on a  
 6 renewed license issued under this section to further the purposes of this section.

7 (e) The department shall adopt regulations establishing the grounds for  
 8 nonrenewal of a license for each entity that department licenses under  
 9 AS 47.32.010 for purposes of AS 47.32.050 and this section.

10 \* **Sec. 96.** AS 47.32.070 is amended to read:

11 **Sec. 47.32.070. Notice of denial or conditions; appeal.** (a) If the applicable  
 12 department denies an application for or places conditions on a provisional or biennial  
 13 license or license renewal, that [THE] department shall provide the applicant or entity  
 14 with a notice of the action by certified mail. The notice must contain a written  
 15 statement of the reason for the action and information about requesting a hearing  
 16 under (b) of this section.

17 (b) An applicant or entity that receives a notice of action under (a) of this  
 18 section may appeal the department's decision by requesting a hearing within 15 days  
 19 after receipt of the notice. The appeal must be on a form provided by the applicable  
 20 department or in a format approved by the applicable department.

21 (c) In considering whether to deny an application for or place a condition on a  
 22 license, the department reviewing the application shall consider the licensing history  
 23 of the applicant, including any enforcement action under this chapter.

24 \* **Sec. 97.** AS 47.32.080 is amended to read:

25 **Sec. 47.32.080. Posting; license not transferable.** (a) A license issued under  
 26 this chapter shall be posted in a conspicuous place on the licensed premises. Any  
 27 notice of a variance issued by the authorizing department shall be posted near the  
 28 license.

29 (b) A license issued under this chapter is not transferable unless authorized by  
 30 the authorizing department.

31 \* **Sec. 98.** AS 47.32.090(a) is amended to read:

1 (a) A person who believes that an entity has violated an applicable statute or  
 2 regulation or a condition of a license issued under this chapter may file a verbal or  
 3 written complaint with the department **that has licensing authority for that type of**  
 4 **entity under AS 47.32.010.**

5 \* **Sec. 99.** AS 47.32.090(b) is amended to read:

6 (b) The department **with licensing authority under (a) of this section** may  
 7 investigate a complaint filed under this section. The department **with licensing**  
 8 **authority under (a) of this section** may decline to investigate a complaint if **that**  
 9 [THE] department reasonably concludes and documents that the complaint is without  
 10 merit based on information available to **that** [THE] department at the time of the  
 11 complaint. The department **with licensing authority under (a) of this section** may  
 12 consolidate complaints if **that** [THE] department concludes that a single investigation  
 13 would further the efficient administration of this chapter.

14 \* **Sec. 100.** AS 47.32.090(d) is amended to read:

15 (d) The department **with licensing authority under (a) of this section** may  
 16 investigate an employee, contractor, or volunteer of a licensed entity and may  
 17 substantiate that the individual engaged in conduct that would significantly affect the  
 18 health, safety, or welfare of an individual who is receiving a service from the entity. If  
 19 the conduct is substantiated against an employee, contractor, or volunteer, the  
 20 **investigating** department shall issue a notice of the finding to the person and include  
 21 the person in the appropriate civil history database identified under AS 47.05.330.  
 22 Before a substantiated finding against an employee, contractor, or volunteer may be  
 23 included in a civil history database and provided as part of a check under  
 24 AS 47.05.325, the department **that made the finding** shall provide the applicant  
 25 notice of the finding and an opportunity to appeal the finding. The **Department of**  
 26 **Health and the Department of Family and Community Services** [DEPARTMENT]  
 27 shall adopt regulations to implement this subsection **for the entities licensed by that**  
 28 **department.** In this subsection, "volunteer" includes an individual placed in a facility  
 29 for training, educational, or internship purposes.

30 \* **Sec. 101.** AS 47.32.100 is amended to read:

31 **Sec. 47.32.100. Cooperation with investigation.** An entity shall cooperate

1 with an investigation initiated by the department **with licensing authority for that**  
 2 **entity under AS 47.32.010**. An investigated entity shall

3 (1) permit representatives of the **investigating** department to inspect  
 4 the entity; review records, including files of individuals who received services from  
 5 the entity; interview staff; and interview individuals receiving services from the entity;  
 6 and

7 (2) upon request, provide the **investigating** department with  
 8 information and documentation regarding compliance with applicable statutes and  
 9 regulations.

10 \* **Sec. 102.** AS 47.32.110 is amended to read:

11 **Sec. 47.32.110. Right of access and inspection.** (a) A designated agent or  
 12 employee of **a** [THE] department **with licensing authority under AS 47.32.010** shall  
 13 have right of access to an entity **within that department's licensing authority**

14 (1) to determine whether an application for licensure or renewal is  
 15 appropriate;

16 (2) to conduct a complaint investigation;

17 (3) to conduct a standard inspection;

18 (4) to inspect documents, including personnel records, accounts, the  
 19 building, or the premises;

20 (5) to interview staff or residents; or

21 (6) if the department **with licensing authority for that entity** has  
 22 reasonable cause to believe that the entity is operating in violation of this chapter or  
 23 the regulations adopted under this chapter.

24 (b) If an entity denies access **to an agent or employee of the department**  
 25 **with licensing authority for that entity under AS 47.32.010**, the department may  
 26 petition the court for an order permitting access, or the department may seek to revoke  
 27 the entity's license under AS 47.32.140.

28 (c) Upon petition of the department **with licensing authority for the entity**  
 29 **under AS 47.32.010** and after a hearing held upon reasonable notice to the entity, the  
 30 court shall issue an order to an officer or employee of **that** [THE] department  
 31 authorizing the officer or employee to enter for any of the purposes described in (a) of

1 this section.

2 \* **Sec. 103.** AS 47.32.120 is amended to read:

3 **Sec. 47.32.120. Report.** (a) Within 10 working days after completing an  
4 investigation or inspection under AS 47.32.090 - 47.32.110, the department **that**  
5 **conducted the investigation or inspection** shall prepare a report of the results of the  
6 investigation or inspection and mail a copy of the report to the entity. The report shall  
7 include a description of

8 (1) any violation, including a citation to each statute or regulation that  
9 has been violated; and

10 (2) any enforcement action the department intends to take under  
11 AS 47.32.130 or 47.32.140.

12 (b) An entity that receives a copy of a report under this section may submit a  
13 written response to the report to the department **that prepared the report.** The  
14 **applicable** department may require an entity to submit a response to a report received  
15 under this section.

16 (c) Within 14 days after the entity receives a copy of the report under this  
17 section, upon request of the complainant, the department **that prepared the report**  
18 shall provide a copy of the report to the complainant.

19 \* **Sec. 104.** AS 47.32.130 is amended to read:

20 **Sec. 47.32.130. Enforcement action: immediate revocation or suspension.**

21 (a) If the **applicable** department's report of investigation or inspection under  
22 AS 47.32.120 concludes that the department **with licensing authority for the entity**  
23 **under AS 47.32.010** has reasonable cause to believe that a violation of an applicable  
24 statute or regulation has occurred that presents an immediate danger to the health,  
25 safety, or welfare of an individual receiving services from the entity, the department  
26 **with licensing authority,** without an administrative hearing and without providing an  
27 opportunity to cure or correct the violation, may immediately revoke or suspend the  
28 entity's license or, if the entity is not licensed under this chapter, may revoke the  
29 entity's ability to become licensed under this chapter or to provide services as an entity  
30 exempted under this chapter. A suspension or revocation under this subsection takes  
31 effect immediately upon initial notice to the entity from the **applicable** department, is

1 in addition to any enforcement action under AS 47.32.140, and continues until a final  
2 determination under (c) of this section or AS 47.32.150.

3 (b) Notice under this section shall be provided as follows:

4 (1) the department with licensing authority shall provide initial notice  
5 to the entity at the time the department determines that an immediate suspension or  
6 revocation is required; initial notice may be oral, except that, if an entity representative  
7 is not present at the entity, the department shall post written notice on the front door of  
8 the entity; the initial notice must provide information regarding the entity's appeal  
9 rights;

10 (2) the department with licensing authority shall provide formal  
11 written notice to the entity within 14 working days after the immediate revocation or  
12 suspension decision; formal written notice must include

13 (A) a copy of the applicable department's report under  
14 AS 47.32.120, a statement of the entity's right to submit a written response to  
15 the report, and any regulatory [DEPARTMENT] requirement that the entity  
16 submit a written response to the report;

17 (B) a description of any enforcement action the department  
18 with licensing authority intends to take under AS 47.32.140(d) or (f); and

19 (C) information regarding the entity's appeal rights.

20 (c) An entity to which a notice has been provided under this section may  
21 appeal the applicable department's decision to impose the enforcement action,  
22 including an enforcement action the department with licensing authority intends to  
23 take under AS 47.32.140(d) or (f), by filing a written request for a hearing, on a form  
24 provided by the applicable department, within 15 days after receipt of the notice. If a  
25 hearing is not timely requested under this subsection, the [department's] notice  
26 provided under (b) of this section constitutes a final administrative order for which  
27 the department may seek the court's assistance in enforcing.

28 \* **Sec. 105.** AS 47.32.140(a) is amended to read:

29 (a) If the [DEPARTMENT'S] report of investigation or inspection under  
30 AS 47.32.120 concludes that the department with licensing authority has reasonable  
31 cause to believe that a violation of an applicable statute or regulation has occurred,

1        **that** [THE] department shall provide notice to the entity of the violation and an  
2        opportunity to cure the violation within a reasonable time specified **in the notice** [BY  
3        THE DEPARTMENT]. The notice **also** must include a copy of the **applicable**  
4        department's report under AS 47.32.120, a statement that the entity may submit a  
5        written response to the report, any **regulatory** [DEPARTMENT] requirement that the  
6        entity submit a written response to the report, a description of any enforcement action  
7        **that** [THE] department intends to take under (d) or (f) of this section, and information  
8        regarding the entity's appeal rights.

9        \* **Sec. 106.** AS 47.32.140(b) is amended to read:

10            (b) An entity receiving a notice under (a) of this section, or a notice under  
11            AS 47.32.130(b)(2) that contains the information specified in AS 47.32.130(b)(2)(B),  
12            shall submit a plan of correction to the **applicable** department for approval. Once it  
13            has cured its violations, the entity shall submit to **that** [THE] department an allegation  
14            of compliance. Upon receipt of the allegation of compliance, the **applicable**  
15            department may conduct a follow-up investigation or inspection to determine  
16            compliance. The department **that provides notice of a violation** may take one or  
17            more enforcement actions under (d) and (f) of this section regardless of whether the  
18            entity achieves compliance under this subsection.

19        \* **Sec. 107.** AS 47.32.140(c) is amended to read:

20            (c) If the department **that provides notice of a violation** believes that an  
21            entity has not voluntarily corrected the violation or entered into a plan of correction  
22            **approved under (b) of this section** [WITH THE APPROVAL OF THE  
23            DEPARTMENT], **that** [THE] department may require that the entity participate in a  
24            plan of correction under **that department's** regulations [OF THE DEPARTMENT].  
25            Once the entity has cured its violations, it shall submit to **that** [THE] department an  
26            allegation of compliance. Upon receipt of the allegation of compliance, the **applicable**  
27            department may conduct a follow-up investigation or inspection to determine  
28            compliance. The department **that provides notice of a violation** may take one or  
29            more enforcement actions under (d) and (f) of this section regardless of whether the  
30            entity achieves compliance under this subsection.

31        \* **Sec. 108.** AS 47.32.140(d) is amended to read:

1 (d) The department **with licensing authority for an entity** may take one or  
2 more of the following enforcement actions under this section:

3 (1) delivery of a warning notice to the licensed entity and to any  
4 additional person who was the subject of the investigation or inspection;

5 (2) modification of the term or scope of the entity's existing license,  
6 including changing a biennial license to a provisional license or adding a condition to  
7 the license;

8 (3) suspension of the entity's operations for a period of time set by the  
9 department **with licensing authority**;

10 (4) suspension of or a ban on the entity's provision of services to  
11 individuals not already receiving services from the entity for a period of time set by  
12 the department **with licensing authority**;

13 (5) nonrenewal of the entity's license;

14 (6) revocation of the entity's license or, if the entity is not licensed  
15 under this chapter, revocation of the entity's ability to become licensed under this  
16 chapter;

17 (7) issuance of an order requiring closure, immediate or otherwise, of  
18 the entity regardless of whether the entity is licensed or unlicensed;

19 (8) denial of payments under AS 47.07 for the entity's provision of  
20 services to an individual not already receiving services from the entity;

21 (9) assumption of either temporary or permanent management of the  
22 entity or pursuit of a court-ordered receiver for the entity;

23 (10) reduction of the number of individuals receiving services from the  
24 entity under the license;

25 (11) imposition of a penalty authorized under law;

26 (12) inclusion in a civil history database identified under  
27 AS 47.05.330.

28 \* **Sec. 109.** AS 47.32.140(e) is amended to read:

29 (e) The department **with licensing authority** may not take action under (d)(9)  
30 of this section unless the commissioner **of that department** has reasonable cause to  
31 believe that continued management by the entity while the entity is attempting to cure

1 a violation would be injurious to the health, safety, or welfare of an individual who is  
2 receiving a service from the entity.

3 \* **Sec. 110.** AS 47.32.140(f) is amended to read:

4 (f) In addition to any other enforcement actions the department **with licensing**  
5 **authority** may take under this section, **that** [THE] department may assess a civil fine  
6 against an entity for a violation of an applicable statute or regulation, taking into  
7 account the type and size of the entity and the type and severity of the violation. A fine  
8 assessed under this subsection may not exceed \$2,500 a day for each day of violation  
9 for a continuing violation or \$25,000 for a single violation.

10 \* **Sec. 111.** AS 47.32.140(g) is amended to read:

11 (g) An entity to which a notice has been provided under this section regarding  
12 an enforcement action under (d) or (f) of this section may appeal **that** [THE]  
13 department's decision to impose the enforcement action by filing a written request for  
14 a hearing, on a form provided by the **applicable** department, **not later than**  
15 [WITHIN] 15 days after receipt of the notice of the enforcement action.

16 \* **Sec. 112.** AS 47.32.140(i) is amended to read:

17 (i) If a hearing is not timely requested under AS 47.32.130(c) or under (g) of  
18 this section, as applicable, the **applicable** department's notice regarding an  
19 enforcement action under (d) or (f) of this section constitutes a final administrative  
20 order. The **applicable** department may seek the court's assistance in enforcing the  
21 final administrative order.

22 \* **Sec. 113.** AS 47.32.140(j) is amended to read:

23 (j) An entity against which an enforcement action under (d) or (f) of this  
24 section has been taken may not apply for a license or license renewal until after the  
25 time period set by the **applicable** department in its final administrative order under  
26 AS 47.32.130(c), this section, or AS 47.32.150, as applicable. If a time period has not  
27 been set, a final administrative order against the entity has the effect of a permanent  
28 revocation, and the entity may not apply for a license or license renewal. If the  
29 ownership, control, or management of an entity changes, the department **with**  
30 **licensing authority** may allow the entity to seek licensure if the entity submits  
31 documents showing the change.

1 \* **Sec. 114.** AS 47.32.150(a) is amended to read:

2 (a) Upon receipt of a timely request for a hearing by an entity regarding an  
3 enforcement action under AS 47.32.130(a) or 47.32.140(d)(3), (5), (6), (7), or (9), the  
4 **applicable** department shall request the chief administrative law judge appointed  
5 under AS 44.64.020 to appoint an administrative law judge employed or retained by  
6 the office of administrative hearings to preside over a hearing conducted under this  
7 section. AS 44.62.330- 44.62.630 and AS 44.64.060 apply to the hearing.

8 \* **Sec. 115.** AS 47.32.150(b) is amended to read:

9 (b) Upon receipt of a timely request for a hearing by an entity regarding an  
10 enforcement action under AS 47.05.310, AS 47.32.070, or 47.32.140(d)(1), (2), (4),  
11 (8), (10), (11), or (12) or (f), the **applicable** department shall conduct a hearing in  
12 front of an officer appointed by the commissioner. A hearing under this subsection  
13 may be conducted on the record, in an informal manner, and may not be conducted  
14 under AS 44.62 or AS 44.64. The appointed hearing officer may be a state employee.

15 \* **Sec. 116.** AS 47.32.150(d) is amended to read:

16 (d) A hearing conducted under this section shall take place within 120 days  
17 after the **applicable** department's receipt of the request for hearing. A hearing may be  
18 held on an expedited basis upon a showing of good cause. An expedited hearing shall  
19 be held within 60 days after the **applicable** department's receipt of the request for a  
20 hearing.

21 \* **Sec. 117.** AS 47.32.160(a) is amended to read:

22 (a) The **Department of Health and the Department of Family and**  
23 **Community Services and the employees and agents of both departments**  
24 [DEPARTMENT, ITS EMPLOYEES, AND ITS AGENTS] are not liable for civil  
25 damages as a result of an act or omission in the licensure process, the monitoring of a  
26 licensed entity, or any activities under this chapter.

27 \* **Sec. 118.** AS 47.32.180(b) is amended to read:

28 (b) With the exception of information that identifies a complainant or a  
29 recipient of services from an entity, a copy of **a** [THE] department's report of  
30 investigation or inspection under AS 47.32.120, an entity's written response to the  
31 report, and information regarding **either department's** [ANY DEPARTMENT]

1 imposition of an enforcement action under AS 47.32.130 or 47.32.140 are public  
 2 records under AS 40.25.100 - 40.25.295. The **departments** [DEPARTMENT] shall  
 3 make this information available to the public for inspection and copying within time  
 4 frames specified in AS 40.25.100 - 40.25.295 or regulations adopted under  
 5 AS 40.25.100 - 40.25.295 after the

6 (1) entity receives its copy of the report of investigation under  
 7 AS 47.32.120, if the **applicable** department has determined that an enforcement action  
 8 under AS 47.32.130 or 47.32.140 will not be taken regarding the entity;

9 (2) **applicable** department's notice of enforcement action under  
 10 AS 47.32.130 or 47.32.140 becomes a final administrative order without a hearing  
 11 under AS 47.32.130(c) or 47.32.140(i); or

12 (3) issuance of a decision following a hearing under AS 47.32.150.

13 \* **Sec. 119.** AS 47.32.180(c) is amended to read:

14 (c) Notwithstanding any other provision of law, **a** [THE] department  
 15 **conducting a licensing investigation under this chapter** may, upon request, share  
 16 information **obtained during the investigation** with a law enforcement agency that is  
 17 investigating a crime that is [ALSO] the subject of **the** [A] licensing investigation  
 18 [OBTAINED DURING A CURRENT INVESTIGATION].

19 \* **Sec. 120.** AS 47.32.190 is amended to read:

20 **Sec. 47.32.190. Access to information.** Notwithstanding any contrary  
 21 provision of law, the divisions of **each** [THE] department assigned to implement this  
 22 chapter shall have access to any information compiled or retained by other divisions of  
 23 **that** [THE] department, regardless of the nature of the information or whether the  
 24 information is considered confidential, in order to assist in administering the  
 25 provisions of this chapter.

26 \* **Sec. 121.** AS 47.32.200 is amended to read:

27 **Sec. 47.32.200. Notices required of entities.** (a) An entity shall provide the  
 28 department **with licensing authority for that entity** with written notice of a change of  
 29 mailing address at least 14 days before the effective date of the change.

30 (b) An entity shall notify the department **with licensing authority for that**  
 31 **entity** within 24 hours after having knowledge that an administrator, employee,

1 volunteer, or household member, as required by the type of entity under department  
2 regulations, has been

3 (1) convicted of, has been charged by information or complaint with,  
4 or is under indictment or presentment for an offense listed in regulations adopted  
5 under AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar  
6 elements; or

7 (2) found to have neglected or abused a child as described in AS 47.10.

8 (c) An entity shall notify the department **with licensing authority for that**  
9 **entity** within 24 hours after having knowledge of any allegation or suspicion of abuse,  
10 neglect, or misappropriation of money or other property of an individual receiving  
11 services from the entity. The entity shall conduct an investigation and make a written  
12 report to **that** [THE] department within five days following notification to the  
13 department under this subsection.

14 (d) Not less than 20 days before the effective date of a decision to relinquish  
15 the entity's license, the entity shall notify the department **with licensing authority for**  
16 **that entity** of the decision.

17 (e) Not more than one day after signing a contract for sale of the licensed  
18 entity, the entity shall notify the department **with licensing authority for that entity**  
19 of the sale.

20 (f) Not less than 30 days before an entity wishes to change the location of the  
21 entity, the entity shall notify the department **with licensing authority for that entity**  
22 of the change.

23 \* **Sec. 122.** AS 47.32.900(6) is amended to read:

24 (6) "entity" means an entity listed in AS 47.32.010(b) **or (c)**;

25 \* **Sec. 123.** AS 47.33.310(b) is amended to read:

26 (b) An assisted living home shall post in a prominent place in the home

27 (1) a copy of the rights set out in AS 47.33.300;

28 (2) the name, address, and phone number of the long term care  
29 ombudsman hired under **AS 44.25.300** [AS 47.62.010] and, if relevant to residents, of  
30 the advocacy agency for persons with a developmental disability or mental illness;

31 (3) the telephone number of an information or referral service for

1 vulnerable adults; and

2 (4) a copy of the grievance procedure established under AS 47.33.340.

3 \* **Sec. 124.** AS 47.40.110 is amended to read:

4 **Sec. 47.40.110. Licensing and supervision.** A person providing services  
5 purchased by the Department of Health [AND SOCIAL SERVICES] under  
6 AS 47.40.100 - 47.40.120 shall, if required to be licensed under AS 47.32, be licensed  
7 and supervised in the same manner as [FOSTER HOMES AND] maternity homes  
8 under AS 47.32.

9 \* **Sec. 125.** AS 47.45.200(a) is amended to read:

10 (a) The Alaska Commission on Aging is established in the Department of  
11 Health [AND SOCIAL SERVICES]. The members of the commission include

12 (1) the commissioner of health [AND SOCIAL SERVICES] or the  
13 commissioner's designee;

14 (2) the commissioner of commerce, community, and economic  
15 development or the commissioner's designee;

16 (3) a senior services provider, regardless of age, appointed by the  
17 governor;

18 (4) the chair of the Alaska Pioneers' Homes Advisory Board under  
19 **AS 44.30.100** [AS 44.29.500]; and

20 (5) seven persons selected on the basis of their knowledge and  
21 demonstrated interest in the concerns of older Alaskans, appointed by the governor in  
22 accordance with (b) of this section.

23 \* **Sec. 126.** AS 47.45.240(a) is amended to read

24 (a) The commission shall

25 (1) subject to review by the department, approve a comprehensive  
26 statewide plan that identifies and addresses the concerns and needs of older Alaskans  
27 and, with reference to the approved plan, prepare and submit to the governor and  
28 legislature an annual analysis and evaluation of the services that are provided to older  
29 Alaskans;

30 (2) make recommendations directly to the governor and the legislature  
31 with respect to legislation, regulations, and appropriations for programs or services

1 that benefit older Alaskans;

2 (3) encourage the development of municipal commissions serving  
3 older Alaskans and community-oriented programs and services for the benefit of older  
4 Alaskans;

5 (4) employ an executive director who serves at the pleasure of the  
6 commission;

7 (5) help older Alaskans lead dignified, independent, and useful lives;

8 (6) request and receive reports and audits from state agencies and local  
9 institutions concerned with the conditions and needs of older Alaskans;

10 (7) give assistance, on request, to the senior housing office in the  
11 Alaska Housing Finance Corporation in administration of the senior housing loan  
12 program under AS 18.56.710 - 18.56.799 and in the performance of the office's other  
13 duties under AS 18.56.700; and

14 (8) provide to the Alaska Mental Health Trust Authority, for its review  
15 and consideration, recommendations concerning the integrated comprehensive mental  
16 health program for persons who are described in (d) of this section and the use of the  
17 money in the mental health trust settlement income account in a manner consistent  
18 with regulations adopted under AS 44.25.240 [AS 47.30.031].

19 \* **Sec. 127.** AS 47.45.240(d) is amended to read:

20 (d) When the commission formulates a comprehensive statewide plan under  
21 (a) of this section, it shall include within the plan specific reference to the concerns  
22 and needs of older Alaskans who have a disorder described in AS 44.25.290(b)(4)  
23 [AS 47.30.056(b)(4)].

24 \* **Sec. 128.** AS 47.80.100(a) is amended to read:

25 (a) The Department of Health [AND SOCIAL SERVICES], the Department  
26 of Education and Early Development, and other departments of the state as  
27 appropriate, shall, in coordination, plan, develop, and implement a comprehensive  
28 system of services and facilities for persons with disabilities that is consistent with the  
29 state plan adopted under AS 44.29.660(5) [AS 47.80.090(5)] and is dispersed  
30 geographically within the state.

31 \* **Sec. 129.** AS 47.80.135(b) is amended to read:

1 (b) By December 31 of each year, the commissioner of health [AND SOCIAL  
2 SERVICES] shall provide to the Alaska Mental Health Trust Authority established by  
3 AS 44.25.200 [AS 47.30.011] a report on the department's progress toward the  
4 objective under (a) of this section.

5 \* **Sec. 130.** AS 44.29.500, 44.29.510, 44.29.520, 44.29.530; AS 47.05.060; 47.05.065,  
6 47.05.090, 47.05.100; AS 47.30.011, 47.30.016, 47.30.021, 47.30.026, 47.30.031, 47.30.036,  
7 47.30.41, 47.30.046, 47.30.051, 47.30.056, 47.30.061, 47.30.661, 47.30.662, 47.30.663,  
8 47.30.664, 47.30.665, 47.30.666, 47.30.667, 47.30.669; AS 47.32.900(4), 47.32.900(5);  
9 AS 47.62.010, 47.62.015, 47.62.020, 47.62.025, 47.62.030, 47.62.035, 47.62.040, 47.62.050,  
10 47.62.060, 47.62.090; AS 47.80.030, 47.80.040, 47.80.050, 47.80.060, 47.80.070, 47.80.080,  
11 47.80.090, 47.80.095, 47.80.300, 47.80.310, 47.80.320, and 47.80.330 are repealed.

12 \* **Sec. 131.** The uncodified law of the State of Alaska is amended by adding a new section  
13 to read:

14 TRANSITIONAL PROVISIONS. (a) Litigation, hearings, investigations, and other  
15 proceedings pending under a law repealed or amended by this Order, or in connection with a  
16 function transferred by this Order, continue in effect and may be completed, notwithstanding  
17 a transfer, under the applicable statute adopted by this Order and within the applicable agency  
18 named in this Order.

19 (b) Certificates, orders, and regulations in effect immediately before the effective date  
20 of a law affected by this Order that were issued or adopted under authority of a law amended  
21 or repealed by this Order, or in connection with a function transferred by this Order, remain in  
22 effect for the term issued and shall be enforced by the agency to which the function is  
23 transferred under this Order until revoked, vacated, or amended by the agency to which the  
24 function is transferred.

25 (c) Wherever in Alaska Statutes affected by this Order there is a reference to  
26 regulations adopted under a section of law and there are no regulations adopted under that  
27 section because previous regulations adopted under another section are being enforced under  
28 (b) of this section, the reference shall be construed to refer to the previously adopted  
29 regulations until they are amended by the new agency.

30 (d) Contracts, rights, liabilities, and obligations created by or under a law repealed or  
31 amended by this Order, and in effect on the day before the effective date of the repeal or

1 amendment, remain in effect notwithstanding this Order's taking effect.

2 (e) Records, equipment, appropriations, and other property of an agency of the state  
3 whose functions are transferred under this Order shall be transferred to implement the  
4 provisions of this Order.

5 \* **Sec. 132.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 **TRANSITION: CONTINUED ELIGIBILITY FOR CURRENT RECIPIENTS.** A  
8 person who applied, and was determined eligible, for medical, public, or other assistance  
9 under a statute repealed or amended by this Order, or a function transferred by this Order,  
10 may continue to receive that assistance without reapplying for an eligibility determination so  
11 long as the person remains eligible for that assistance.

12 \* **Sec. 133.** The uncodified law of the State of Alaska is amended by adding a new section  
13 to read:

14 **TRANSITION: CURRENTLY LICENSED OR APPROVED ENTITY OR**  
15 **FACILITY.** A facility or entity that is being operated under a valid license or under an  
16 approval issued under a statute repealed or amended by this Order, or a function transferred  
17 by this Order, may continue to operate under that license or approval as provided in this  
18 section.

19 \* **Sec. 134.** The uncodified law of the State of Alaska is amended by adding a new section  
20 to read:

21 **TRANSITION: FEDERALLY APPROVED STATE PLANS; WAIVERS.** State plans  
22 and waivers prepared by the Department of Health and Social Services and approved by the  
23 United States Department of Health and Human Services that are in effect on the day  
24 immediately before the effective date of this Order remain in effect for the term issued and  
25 shall be enforced by the agency to which the function is transferred under this Order until  
26 revoked, vacated, or amended by the agency to which the function is transferred or by the  
27 United States Department of Health and Human Services.

28 \* **Sec. 135.** The uncodified law of the State of Alaska is amended by adding a new section  
29 to read:

30 **TRANSITION: DEPARTMENT AGREEMENTS.** Agreements entered into by the  
31 Department of Health and Social Services in effect on the day before the effective date of this

1 Order, including memorandums of agreement or understanding, data use agreements, and  
2 business associate agreements, remain in effect and continue under the terms of the agreement  
3 and shall be enforced by the agency to which the function is transferred under this Order until  
4 revoked, vacated, or amended by the parties to the agreement.

5 \* **Sec. 136.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 TRANSITION: TRIBAL COMPACT. The Alaska Tribal Child Welfare Compact  
8 entered into by the Department of Health and Social Services remains in effect and continues  
9 under the terms of the agreement and shall be enforced by the agency to which the function is  
10 transferred under this Order until revoked, vacated, or amended by the parties to the  
11 agreement.

12 \* **Sec. 137.** The uncodified law of the State of Alaska is amended by adding a new section  
13 to read:

14 PENDING PAYMENTS; APPLICATIONS; REQUESTS. (a) Medical, public, or  
15 other assistance payments pending on the day before the effective date of this Order shall  
16 remain in process and be transferred to implement the provisions of this Order.

17 (b) Applications pending with the Department of Health and Social Services on the  
18 day before the effective date of this Order shall remain in process and be transferred to  
19 implement the provisions of this Order, including applications for

20 (1) medical, public, or other assistance payments;

21 (2) a license, certification, or enrollment;

22 (3) background checks;

23 (4) eligibility determinations;

24 (5) grants.

25 (c) Public records and other requests pending on the day before the effective date of  
26 this Order shall remain in process and be transferred to implement the provisions of this  
27 Order.

28 \* **Sec. 138.** The uncodified law of the State of Alaska is amended by adding a new section  
29 to read:

30 EMPLOYEES. On the effective date of this Order, employees in the Department of  
31 Health and Social Services whose duties have been transferred by law to

1 (1) the Department of Health under this Order shall be transferred to the  
2 Department of Health;

3 (2) the Department of Family and Community Services under this Order shall  
4 be transferred to the Department of Family and Community Services.

5 \* **Sec. 139.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 BOARD AND COMMISSION MEMBERS. A public member of a board or  
8 commission that is transferred by this Order whose terms have not expired by the effective  
9 date of this Order may continue to serve the remainder of the member's term on the board or  
10 commission, notwithstanding the transfer.

11 \* **Sec. 140.** The uncodified law of the State of Alaska is amended by adding a new section  
12 to read:

13 REGULATIONS. A department affected by this Order may proceed to adopt  
14 regulations to implement this Order. The regulations take effect under AS 44.62  
15 (Administrative Procedure Act) but not before the effective date of the corresponding  
16 enabling statute.

17 \* **Sec. 141.** The uncodified law of the State of Alaska is amended by adding a new section  
18 to read:

19 CONFIDENTIALITY; SHARING OF INFORMATION. Consistent with state and  
20 federal law, the Department of Health and the Department of Family and Community  
21 Services, established by this Order, shall coordinate and share information, including  
22 confidential and protected health information, to enable each department to manage,  
23 administer, and operate each department's programs and provide the services, payments, or  
24 benefits assigned to each department under the authority of this Order. Each department shall  
25 maintain the confidentiality required by state or federal law for any information shared.

26 \* **Sec. 142.** The uncodified law of the State of Alaska is amended by adding a new section  
27 to read:

28 INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the  
29 references to "Department of Health and Social Services" to read "Department of Health" in  
30 the following statutes:

31 (a) AS 04

- 1 (1) 04.16.049(i); 04.16.050(c);  
2 (2) 04.21.080(14).  
3 (b) AS 06  
4 (1) 06.65.270; 06.65.280;  
5 (c) AS 08  
6 (1) 08.02.040(a);  
7 (2) 08.11.120(b);  
8 (3) 08.65.140;  
9 (4) 08.68.700(f);  
10 (5) 08.80.261(b).  
11 (d) AS 09  
12 (1) 09.10.075;  
13 (2) 09.58.010(d); 09.58.015(a); 09.58.100(5);  
14 (3) 09.65.161; 09.65.292(c).  
15 (e) AS 11  
16 (1) 11.71.125(b);  
17 (2) 11.76.105(b); 11.76.109(b).  
18 (f) AS 12  
19 (1) 12.65.005(a); 12.65.020(g); 12.65.025(a); 12.65.025(b); 12.65.025(c);  
20 12.65.025(d); 12.65.025(f); 12.65.100; 12.65.120(a); 12.65.120(b); 12.65.120(c).  
21 (g) AS 13  
22 (1) 13.26.415(a); 13.26.615(e);  
23 (2) 13.28.040(b);  
24 (3) 13.52.300; 3.52.390(10);  
25 (4) 13.55.010(b); 13.55.100(1).  
26 (h) AS 14  
27 (1) 14.30.065; 14.30.070(b); 14.30.127(b); 14.30.360(b).  
28 (i) AS 15  
29 (1) 15.07.055(a).  
30 (j) AS 16  
31 (1) 16.43.340(a).

## 1 (k) AS 17

- 2 (1) 17.20.135(2); 17.20.175(2); 17.20.180;  
3 (2) 17.21.030(a);  
4 (3) 17.22.090(1);  
5 (4) 17.30.200(d);  
6 (5) 17.37.070(5).

## 7 (l) AS 18

- 8 (1) 18.05.070;  
9 (2) 18.07.111(7); 18.07.111(10);  
10 (3) 18.08.089(d); 18.08.200(5);  
11 (4) 18.09.010; 18.09.990(6);  
12 (5) 18.10.260(2);  
13 (6) 18.13.010(c);  
14 (7) 18.15.250(c); 18.15.900;  
15 (8) 18.16.010(a); 18.16.040;  
16 (9) 18.20.130(1); 18.20.210(2); 18.20.390(1)  
17 (10) 18.23.100; 18.23.325(2); 18.23.400(n);  
18 (11) 18.25.120;  
19 (12) 18.28.100(3);  
20 (13) 18.29.190(2);  
21 (14) 18.35.399(3);  
22 (15) 18.45.030;  
23 (16) 18.50.950(6);  
24 (17) 18.55.255(c);  
25 (18) 18.60.030; 18.60.100; 18.60.545(1); 18.60.835;  
26 (19) 18.66.300;  
27 (20) 18.68.020(a).

## 28 (m) AS 21

- 29 (1) 21.09.242;  
30 (2) 21.55.320(b);  
31 (3) 21.65.105(b);

- 1 (4) 21.86.180(b).
- 2 (n) AS 23
- 3 (1) 23.15.280;
- 4 (2) 23.30.097(p); 23.30.238(a); 23.30.395(38);
- 5 (3) 23.40.075.
- 6 (o) AS 25
- 7 (1) 25.05.111; 25.05.381(2);
- 8 (2) 25.20.055(a); 25.20.055(d);
- 9 (3) 25.24.250(b);
- 10 (4) 25.27.020(a); 25.27.063(c).
- 11 (p) AS 28
- 12 (1) 28.10.181(z)
- 13 (2) 28.15.201(d); 28.15.211(d); 28.15.241(b); 28.15.253;
- 14 (3) 28.35.030(h); 28.35.032(l); 28.35.039(1).
- 15 (q) AS 29
- 16 (1) 29.35.530(c);
- 17 (2) 29.60.600(a).
- 18 (r) AS 33
- 19 (1) 33.30.028(a).
- 20 (s) AS 34
- 21 (1) 34.35.460(b); 34.35.481.
- 22 (t) AS 36
- 23 (1) 36.30.735; 36.30.850(b)(18).
- 24 (u) AS 39
- 25 (1) 39.25.110(13).
- 26 (v) AS 42
- 27 (1) 42.05.296(b).'
- 28 (w) AS 43
- 29 (1) 43.23.170(a); 43.23.170(b); 43.23.240(a);
- 30 (2) 43.60.050(b);
- 31 (3) 43.61.010(d).

- 1 (x) AS 44
- 2 (1) 44.29.010; 44.29.020(b); 44.29.020(c); 44.29.022(b); 44.29.024(a);
- 3 44.29.024(b); 44.29.092; 44.29.094(h); 44.29.100; 44.29.230; 44.29.300(a);
- 4 (2) 44.42.410(e); 44.42.420(a); 44.42.420(b);
- 5 (3) 44.62.330(a)(15);
- 6 (4) 44.66.020(a)(2);
- 7 (5) 44.77.015(d)(2).
- 8 (y) AS 45
- 9 (1) 45.48.210(a).
- 10 (z) AS 47
- 11 (1) 47.07.040; 47.07.900(7);
- 12 (2) 47.08.010(a); 47.08.010(b); 47.08.020; 47.08.150(a); 47.08.150(c);
- 13 47.08.150(e); 47.08.150(f);
- 14 (3) 47.14.990(6);
- 15 (4) 47.17.030(e);
- 16 (5) 47.20.290(3); 47.20.390(2);
- 17 (6) 47.24.010(a); 47.24.900(6);
- 18 (7) 47.25.095(5); 47.25.300(2); 47.25.615(4); 47.25.621(a); 47.25.621(c);
- 19 47.25.622; 47.25.623(b); 47.25.623(c); 47.25.626(a); 47.25.990(1);
- 20 (8) 47.27.040(b); 47.27.200(a); 47.27.900(4); 47.27.900(8); 47.27.990(8);
- 21 (9) 47.30.500(3); 47.30.610(2);
- 22 (10) 47.33.420;
- 23 (11) 47.37.270(3);
- 24 (12) 47.38.199(2);
- 25 (13) 47.40.100; 47.40.120;
- 26 (14) 47.45.020; 47.45.030(a); 47.45.050; 47.45.290(2); 47.45.301(a);
- 27 47.45.309(1);
- 28 (15) 47.55.030(b); 47.55.030(d);
- 29 (16) 47.60.060;
- 30 (17) 47.65.290(3);
- 31 (18) 47.75.060(1);

1 (19) 47.80.030; 47.80.090(5); 47.80.900(2);

2 (20) 47.90.040.

3 \* **Sec. 143.** The uncodified law of the State of Alaska is amended by adding a new section  
4 to read:

5 INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the  
6 references to "commissioner of health and social services" to read "commissioner of health"  
7 in the following statutes:

8 (a) AS 12

9 (1) 12.65.015(a); 12.65.015(c); 12.65.015(e); 12.65.120(a); 12.62.120(b).

10 (b) AS 13.55

11 (1) 13.55.010(b).

12 (c) AS 14

13 (1) 14.30.070(c); 14.30.125;

14 (2) 14.40.088(b).

15 (d) AS 17

16 (1) 17.20.135(1); 17.20.175(1); 17.20.200(c); 17.20.220(a); 17.20.220(c);  
17 17.20.230(b); 17.20.240; 17.20.250; 17.20.260; 17.20.280; 17.20.290(c); 17.20.330;  
18 17.20.350; 17.20.360.

19 (2) 17.30.080(b); 17.30.080(c); 17.30.140.

20 (d) AS 18

21 (1) 18.05.070;

22 (2) 18.07.111(4).

23 (3) 18.08.200(3);

24 (4) 18.09.990(3);

25 (5) 18.10.260(1);

26 (6) 18.23.070(5); 18.23.325(1).

27 (7) 18.26.030;

28 (8) 18.29.190(1);

29 (9) 18.35.399(2);

30 (10) 18.50.950(4);

31 (11) 18.56.030(a).

- 1 (e) AS 19  
 2 (1) 19.40.060.
- 3 (f) AS 21  
 4 (1) 21.86.020(a); 21.86.020(b); 21.86.080(a); 21.86.100; 21.86.200(b);  
 5 21.86.220; 21.86.230(b); 21.86.290.
- 6 (g) AS 26  
 7 (1) 26.23.900(2).
- 8 (h) AS 28  
 9 (1) 28.15.081(b).
- 10 (i) AS 29  
 11 (1) 29.60.610.
- 12 (j) AS 44  
 13 (1) 44.19.642(a);  
 14 (2) 44.29.010; 44.29.024(a); 44.29.092; 44.29.110;  
 15 (3) 44.77.015(c);  
 16 (4) 44.85.010(a).
- 17 (k) AS 46  
 18 (1) 46.03.110.
- 19 (l) AS 47  
 20 (1) 47.08.010(b);  
 21 (2) 47.14.400(c);  
 22 (3) 47.20.390(1);  
 23 (4) 47.27.990(7);  
 24 (5) 47.33.050(a);  
 25 (6) 47.37.270(2);  
 26 (7) 47.38.199(1);  
 27 (8) 47.45.010(b); 47.45.020; 47.45.030(a); 47.45.040; 47.45.070(a);  
 28 47.45.080; AS 47.45.100; 47.45.130;  
 29 (9) 47.55.010(a).
- 30 (m) AS 48  
 31 (1) 47.80.090.

1     \* **Sec. 144.** The uncodified law of the State of Alaska is amended by adding a new section  
2 to read:

3           INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the  
4 references to "Department of Health and Social Services" to read "Department of Family and  
5 Community Services" in the following statutes:

6           (a) AS 09

7                 (1) 09.65.292(c).

8           (b) AS 11

9                 (1) 11.41.425(a); 11.41.425(b); 11.41.427(a); 11.41.470(3);

10                (2) 11.51.130(a);

11                (3) 11.81.900(61); 11.81.900(62).

12           (c) AS 12

13                (1) 12.47.092(a);

14                (2) 12.62.120(b);

15                (3) 12.65.005(a); 12.65.120(a); 12.65.120(b); 12.65.130(a).

16           (d) AS 13

17                (1) 13.26.460(g); 13.26.635(a);

18                (2) 13.52.300.

19           (e) AS 14

20                (1) 14.07.020(a).

21           (f) AS 18

22                (1) 18.07.111(8);

23                (2) 18.16.020(a);

24                (3) 18.20.499(2);

25                (4) 18.23.400(n);

26                (5) 18.65.086(b);

27                (6) 18.66.050.

28           (g) AS 21

29                (1) 21.36.485(b).

30           (h) AS 24

31                (1) 24.20.235(a).

1 (i) AS 25

2 (2) 25.23.240(6).

3 (j) AS 43

4 (1) 43.23.005; 43.23.150(a); 43.23.150(b).

5 (k) AS 44

6 (1) 44.12.075;

7 (2) 44.62.330(a)(41);

8 (3) 44.64.030(a)(47).

9 (l) AS 47

10 (1) 47.10.092(a); 47.10.092(c); 47.10.092(d); 47.10.093(l); 47.10.141(b);  
11 47.10.142(a); 47.10.990(8);

12 (2) 47.12.990(5); 47.12.990(9);

13 (3) 47.15.035; 47.15.022(d);

14 (4) 47.17.290(6);

15 (5) 47.18.900;

16 (6) 47.21.010(a); 47.21.010(b); 47.21.020(b);

17 (7) 47.31.100(2);

18 (8) 47.32.032(a); 47.32.032(b); 47.32.032(c);

19 (9) 47.40.091(2);

20 (10) 47.55.080; 47.55.900(1);

21 (11) 47.70.030(a); 47.70.030(b).

22 \* **Sec. 145.** The uncodified law of the State of Alaska is amended by adding a new section  
23 to read:

24 INSTRUCTIONS TO REVISOR. The revisor of statutes is requested to change the  
25 references to "commissioner of health and social services" to read "commissioner of family  
26 and community services" in the following statutes:

27 (a) AS 11

28 (1) 11.56.310(a); 11.56.320(a).

29 (b) AS 12

30 (1) 12.47.090(b); 12.47.090(c); 12.47.090(h); 12.47.092(a); 12.47.092(b);  
31 12.47.092(c); 12.47.092(e); 12.47.095(a); 12.47.095(b); 12.47.095(c); 12.47.095(d);

- 1 12.47.110(a);  
 2 (2) 12.65.120(a).  
 3 (c) AS 25  
 4 (1) 25.23.240(4).  
 5 (d) AS 29  
 6 (1) 29.25.070(e).  
 7 (e) AS 33  
 8 (1) 33.36.140(b).  
 9 (f) AS 37  
 10 (1) 37.14.225.  
 11 (g) AS 47  
 12 (1) 47.10.080(d); 47.10.092(a); 47.10.093(i); 47.10.990(5);  
 13 (2) 47.12.320(a); 47.12.990(1);  
 14 (3) 47.14.400(c);  
 15 (4) 47.15.020;  
 16 (5) 47.31.100(1);  
 17 (6) 47.55.035.

18 \* **Sec. 146.** The uncodified law of the State of Alaska is amended by adding a new section  
 19 to read:

20 **IMPLEMENTATION OF THIS ORDER.** Under AS 44.62.125(b)(6), the regulations  
 21 attorney shall implement this order, as necessary, in the administrative code.

22 \* **Sec. 147.** This Order takes effect July 1, 2021.

DATED: \_\_\_\_\_

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Mike Dunleavy  
 Governor