

33-GH1343\S
Bergerud
3/21/23

CS FOR HOUSE BILL NO. 60(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the licensing of runaway shelters; relating to advisors to the board
2 of trustees of the Alaska Mental Health Trust Authority; relating to the sharing of
3 confidential health information between the Department of Health and the Department
4 of Family and Community Services; relating to the duties of the Department of Health
5 and the Department of Family and Community Services; and providing for an effective
6 date."

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

8 * **Section 1.** AS 12.62.400(a) is amended to read:

9 (a) To obtain a national criminal history record check for determining a
10 person's qualifications for a license, permit, registration, employment, or position, a
11 person shall submit the person's fingerprints to the department with the fee established
12 by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau
13 of Investigation to obtain a national criminal history record check of the person for the

purpose of evaluating a person's qualifications for

(1) a license or conditional contractor's permit to manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage under AS 04.09;

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

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

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

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

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

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

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

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

(10) a teacher certificate under AS 14.20;

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

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

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

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

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

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

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

(18) licensure as an operator or an instructor for a commercial driver

training school under AS 28.17;

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

(20) licensure, license renewal, certification, certification renewal, or payment from the Department of Health of an individual and an entity subject to the requirements for a criminal history check under AS 47.05.310, including

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

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

(C) a case manager to coordinate community mental health services under AS 47.30.530;

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

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

(21) employment as a village public safety officer under AS 18.65.672 or certification as a village public safety officer under AS 18.65.682;

(22) licensure, license renewal, certification, or certification renewal by the Department of Family and Community Services of an individual or entity, or payment from the Department of Family and Community Services to an individual or entity, subject to the requirements for a criminal history check under AS 47.05.310 [FOR A FOSTER HOME, CHILD PLACEMENT AGENCY, AND RUNAWAY SHELTER LISTED IN AS 47.32.010(c)], including an entity listed in AS 47.32.010(c) and an owner, officer, director, member, partner, employee, volunteer, or contractor of an entity.

* **Sec. 2.** AS 18.65.340(f)(1) is amended to read:

(1) "department" means a department of state government listed in AS 44.17.005(2) - (16) [AS 44.17.005(2) - (15)];

* **Sec. 3.** AS 44.25.260 is amended to read:

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

* **Sec. 4.** AS 47.05 is amended by adding a new section to article 1 to read:

Sec. 47.05.115. Access to identifiable health information. Notwithstanding a contrary provision of law, the Department of Health and the Department of Family and Community Services shall share identifiable health information, regardless of the confidential nature of the information, between and within the departments as necessary to enable administration or operation of the sending or receiving department. Information shared in accordance with this section shall be acquired, used, disclosed, and stored in a confidential manner that safeguards the security of the information in a physically, administratively, and technologically secure environment. In this section, "identifiable health information" has the meaning given in AS 18.15.395.

* **Sec. 5.** AS 47.10.300 is amended to read:

Sec. 47.10.300. Powers and duties [OF THE DEPARTMENT]. The Department of Health [DEPARTMENT] shall

(1) review, inspect, and approve or disapprove for licensing proposed or established programs for runaway minors to ensure the health and safety of minors in the program;

(2) [MAINTAIN A REGISTER OF LICENSED PROGRAMS FOR RUNAWAY MINORS;

(3) AWARD NONPROFIT CORPORATIONS OR MUNICIPALITIES GRANTS FOR THE ESTABLISHMENT OR OPERATION OF LICENSED PROGRAMS FOR RUNAWAY MINORS;

(4)] adopt regulations for the administration of AS 47.10.300 - 47.10.390, including regulations providing for the coordination of services to be provided by licensed programs for runaway minors and by the Department of Health

1 [DEPARTMENT].

2 * **Sec. 6.** AS 47.10.300 is amended by adding a new subsection to read:

3 (b) The Department of Family and Community Services shall

4 (1) maintain a register of licensed programs for runaway minors;

5 (2) award nonprofit corporations or municipalities grants for the
6 establishment or operation of licensed programs for runaway minors.

7 * **Sec. 7.** AS 47.10.310(b) is amended to read:

8 (b) The **Department of Health** [DEPARTMENT] may license a program for
9 runaway minors under AS 47.10.300 - 47.10.390 only if the program

10 (1) is operated by a corporation or a municipality; and

11 (2) meets the requirements of (c) of this section.

12 * **Sec. 8.** AS 47.10.310(c) is amended to read:

13 (c) A program for runaway minors shall

14 (1) explain to a minor who seeks assistance from the program the legal
15 rights and responsibilities of runaway minors and the services and assistance provided
16 for runaway minors by the program and by the state or local municipality;

17 (2) upon admission of a minor to the program, attempt to determine
18 why the minor is a runaway and what services may be necessary or appropriate for
19 reuniting the minor with the minor's family;

20 (3) provide or help arrange for the provision of services necessary to
21 promote the health and welfare of a minor in the program and, if appropriate, members
22 of the minor's family; services may include, but are not limited to, the provision of
23 food, shelter, clothing, medical care, and individual, group, or family counseling;

24 (4) within one state working day after admission of a minor to the
25 program inform the **Department of Family and Community Services**
26 [DEPARTMENT] of a minor in the program

27 (A) who claims to be the victim of child abuse or neglect, as
28 defined in AS 47.17.290;

29 (B) whom an employee of the program has cause to believe has
30 been a victim of child abuse or neglect; or

31 (C) whom an employee of the program has reason to believe is

evading the supervision of the department, the person to whom the department has entrusted supervision, or the minor's legal guardian;

(5) be operated with the goal of reuniting runaway minors with their families, except in cases in which reunification is clearly contrary to the best interest of the minor; and

(6) maintain adequate staffing and accommodations to ensure physical security and to provide crisis services to minors residing in a facility operated by the program; a program that, as determined by the **Department of Health** [DEPARTMENT], regularly receives state money in an amount that exceeds one-fourth of the program's costs shall maintain semi-secure portions of its facilities in a proportion that meets regulations established by the **Department of Health** [DEPARTMENT]; residents under 18 years of age shall be segregated from residents who are 18 years of age or older.

* **Sec. 9.** AS 47.10.390(1) is amended to read:

(1) "licensed program for runaway minors" means a residential or nonresidential program licensed by the **Department of Health** [DEPARTMENT] under AS 47.10.310;

* **Sec. 10.** AS 47.10.396 is amended to read:

Sec. 47.10.396. Confidentiality of records. If the **Department of Health or the Department of Family and Community Services** [DEPARTMENT] requires record keeping by a shelter for runaways or by a corporation that is licensed to designate shelters for runaways, records of the shelter and the corporation that identify a runaway minor who has been sheltered in a shelter for runaways or has sought assistance from a shelter for runaways are confidential and are not subject to inspection or copying under AS 40.25.110 - 40.25.120 unless

(1) after being informed of the minor's right to privacy, the minor consents in writing to the disclosure of the records;

(2) the records are relevant to an investigation or proceeding involving child abuse or neglect or a child in need of aid petition; or

(3) disclosure of the records is necessary to protect the life or health of the minor.

1 * **Sec. 11.** AS 47.10.398(a) is amended to read:

2 (a) A person in a shelter for runaways, or in a home for which an application
3 to be designated a shelter for runaways is being considered by a corporation licensed
4 for that purpose by the **Department of Health** [DEPARTMENT], that is operated in a
5 manner that is consistent with AS 47.10.392 - 47.10.399 and regulations adopted
6 under those sections is not criminally liable under AS 11.51.130(a)(4).

7 * **Sec. 12.** AS 47.10.398(b) is amended to read:

8 (b) Except as provided in (c) of this section, the provider of a shelter for
9 runaways, or of a home for which an application to be designated a shelter for
10 runaways is being considered by a corporation approved for that purpose by the
11 **Department of Health** [DEPARTMENT], that is operated in a manner that is
12 consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those
13 sections and the members of the provider's household, other than a runaway minor, are
14 not liable for civil damages as a result of an act or omission

15 (1) in admitting or refusing to admit a runaway minor to the shelter or
16 home; or

17 (2) by a runaway minor who is sheltered in the shelter or home.

18 * **Sec. 13.** AS 47.10.399(2) is amended to read:

19 (2) "shelter for runaways" or "shelter for runaway minors" means a
20 private residence whose legal occupant agrees to shelter, with or without
21 compensation, a runaway minor accepted into the residence by the legal occupant and
22 that

23 (A) is not simultaneously licensed under AS 47.10.310 as a
24 program for runaway minors;

25 (B) has been designated a shelter for runaways by a corporation
26 licensed for that purpose under AS 47.32; and

27 (C) has a permit issued by the **Department of Health**
28 [DEPARTMENT] under AS 47.32.

29 * **Sec. 14.** AS 47.32.010(b) is amended to read:

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

- (1) ambulatory surgical centers;
- (2) assisted living homes;
- (3) child care facilities;
- (4) freestanding birth centers;
- (5) home health agencies;
- (6) hospices, or agencies providing hospice services or operating hospice programs;
- (7) hospitals;
- (8) intermediate care facilities for individuals with an intellectual disability or related condition;
- (9) maternity homes;
- (10) nursing facilities;
- (11) residential child care facilities;
- (12) residential psychiatric treatment centers;
- (13) rural health clinics;
- (14) subacute mental health facilities;
- (15) runaway shelters.**

* **Sec. 15.** AS 47.32.032 is amended to read:

Sec. 47.32.032. Foster care license; variance. (a) The **Department of Family and Community Services** [DEPARTMENT] shall streamline the application and licensing paperwork necessary for a person to be approved as a foster parent or relative placement to the extent consistent with federal law.

(b) The **Department of Family and Community Services** [DEPARTMENT] shall approve a variance of the applicable building code requirements for licensure of a foster care home to the extent permitted by federal law if an applicant does not meet the requirements at the time of inspection and

(1) the home design and construction is consistent with homes located in the community; and

(2) the home is otherwise a safe environment for a child.

(c) To the extent feasible, the **Department of Family and Community Services** [DEPARTMENT] shall approve or deny a foster care home license,

including a request for a variance under this section, not more than 45 days after the date the department receives the application for a foster care home license. If it is not feasible to approve or deny a foster care home license not more than 45 days after receiving the application, a supervisory-level employee may authorize a longer period of time for the decision, but the period must be the shortest period feasible.

* **Sec. 16.** AS 47.32.060(e) is amended to read:

(e) The applicable department shall adopt regulations establishing the grounds for nonrenewal of a license for each entity that department licenses under AS 47.32.010 for purposes of AS 47.32.050 and this section.

* **Sec. 17.** AS 47.32.150(b) is amended to read:

(b) Upon receipt of a timely request for a hearing by an entity regarding an enforcement action under AS 47.05.310, AS 47.32.070, or 47.32.140(d)(1), (2), (4), (8), (10), (11), or (12) or (f), the applicable department shall conduct a hearing in front of an officer appointed by that department's [THE] commissioner. A hearing under this subsection may be conducted on the record, in an informal manner, and may not be conducted under AS 44.62 or AS 44.64. The appointed hearing officer may be a state employee.

* **Sec. 18.** AS 47.32.180(b) is amended to read:

(b) With the exception of information that identifies a complainant or a recipient of services from an entity, a copy of a department's report of investigation or inspection under AS 47.32.120, an entity's written response to the report, and information regarding a department's imposition of an enforcement action under AS 47.32.130 or 47.32.140 are public records under AS 40.25.100 - 40.25.295. The Department of Health and the Department of Family and Community Services [DEPARTMENTS] shall make this information available to the public for inspection and copying within time frames specified in AS 40.25.100 - 40.25.295 or regulations adopted under AS 40.25.100 - 40.25.295 after the

(1) entity receives its copy of the report of investigation under AS 47.32.120, if the applicable department has determined that an enforcement action under AS 47.32.130 or 47.32.140 will not be taken regarding the entity;

(2) applicable department's notice of enforcement action under

AS 47.32.130 or 47.32.140 becomes a final administrative order without a hearing under AS 47.32.130(c) or 47.32.140(i); or

(3) issuance of a decision following a hearing under AS 47.32.150.

* **Sec. 19.** AS 47.32.900(2) is amended to read:

(2) "assisted living home"

(A) means a residential facility that serves three or more adults who are not related to the owner by blood or marriage, or that receives state or federal payment for services regardless of the number of adults served; the Department of Health [DEPARTMENT] shall consider a facility to be an assisted living home if the facility

(i) provides housing and food services to its residents;

(ii) offers to provide or obtain for its residents assistance with activities of daily living;

(iii) offers personal assistance as defined in AS 47.33.990; or

(iv) provides or offers any combination of these services;

(B) does not include

(i) a correctional facility;

(ii) an emergency shelter;

(iii) a program licensed under AS 47.10.310 for runaway minors;

(iv) a type of entity listed in AS 47.32.010(b)(6) - (10) or (c)(2);

* **Sec. 20.** AS 47.32.900 is amended by adding a new paragraph to read:

(24) "applicable department" means the department with licensing authority for an entity under AS 47.32.010.

* **Sec. 21.** AS 47.32.010(c)(3) is repealed.

* **Sec. 22.** This Act takes effect immediately under AS 01.10.070(c).