

**CS FOR SENATE BILL NO. 348(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/17/98  
Referred: Judiciary

Sponsor(s): SENATE STATE AFFAIRS COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to certain rights of conscience protection for persons who  
2 directly or indirectly provide or perform health services."

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

4 \* **Section 1.** AS 18 is amended by adding a new chapter to read:

5 **Chapter 17. Rights of Conscience Protection.**

6 **Sec. 18.17.010. Policy.** It is the public policy of the state to respect and  
7 protect the rights of conscience of all persons who are involved in providing health  
8 services. It is the purpose of this chapter to protect as a basic civil right the right of  
9 all persons to refuse to counsel, advise, pay for, provide, perform, assist, or participate  
10 directly or indirectly in providing or performing certain health services that violate the  
11 persons' religious or moral convictions and to prohibit all forms of discrimination,  
12 disqualification, coercion, disability, or liability of the persons by reason of their  
13 refusals.

14 **Sec. 18.17.020. Civil rights of conscience.** (a) Subject to AS 18.12.050, a

1 person has the right not to counsel, advise, pay for, provide, perform, assist, or  
 2 participate directly or indirectly in providing or performing a health service if the  
 3 service includes a procedure that violates the person's religious or moral convictions  
 4 and the procedure is intended to end the life of an individual or involves an abortion.

5 (b) Subject to AS 18.12.050, a person may not be required to counsel, advise,  
 6 pay for, provide, perform, assist, or participate directly or indirectly in providing or  
 7 performing a health service if the service includes a procedure that violates the  
 8 person's religious or moral convictions and the procedure is intended to end the life  
 9 of an individual or involves an abortion.

10 **Sec. 18.17.030. Individual rights of conscience.** (a) Subject to  
 11 AS 18.12.050, an individual may not be required to counsel, advise, pay for, provide,  
 12 perform, assist, or participate directly or indirectly in providing or performing a health  
 13 service if the service includes a procedure that violates the individual's religious or  
 14 moral convictions and the procedure is intended to end the life of an individual or  
 15 involves an abortion.

16 (b) An individual is not civilly, criminally, or administratively liable to a  
 17 person for refusing, upon request or assignment and except as provided under  
 18 AS 18.12.050, to counsel, advise, pay for, provide, perform, assist, or participate  
 19 directly or indirectly in providing or performing a health service if the service includes  
 20 a procedure that violates the individual's religious or moral convictions and the  
 21 procedure is intended to end the life of an individual or involves an abortion, and if

22 (1) before the request or assignment, the individual notified the person  
 23 making the request or assignment of the individual's refusal to provide or perform that  
 24 type of health service and, if requested to do so, the individual stated the refusal in  
 25 writing; or

26 (2) within 24 hours after being asked or assigned to provide or perform  
 27 the health service, the individual notified the person making the request or assignment  
 28 of the individual's refusal.

29 (c) A person may not discriminate against, penalize, discipline, or retaliate  
 30 against an individual in employment; privileges; benefits; remuneration; promotion;  
 31 termination of employment; eligibility for admission to, renewal or participation in, or

1 graduation from an educational, study, or training program; or a grant, contract, or  
 2 other program because of the individual's refusal or unwillingness to counsel, advise,  
 3 pay for, provide, perform, assist, or participate directly or indirectly in providing or  
 4 performing a health service if the service includes a procedure that violates the  
 5 individual's religious or moral convictions and the procedure is not required under  
 6 AS 18.12.050 and is intended to end the life of an individual or the procedure involves  
 7 an abortion.

8 **Sec. 18.17.040. Institutional rights of conscience.** (a) A health care  
 9 institution may not be required to counsel, advise, pay for, provide, perform, assist, or  
 10 participate in providing or performing a health service if the service includes a  
 11 procedure that violates the religious or moral convictions of a majority of the board  
 12 of directors or other administrative head of the institution or of a majority of its  
 13 owners or partners and the procedure is intended to end the life of an individual or  
 14 involves an abortion. A health care institution is not required to admit or keep a  
 15 patient for the purpose of providing to that patient a health service if the service  
 16 includes a procedure that violates the religious or moral convictions of a majority of  
 17 the board of directors or other administrative head of the institution or of a majority  
 18 of its owners or partners and the procedure is intended to end the life of an individual  
 19 or involves an abortion.

20 (b) A health care institution is not civilly, criminally, or administratively liable  
 21 to a person for refusing to participate directly or indirectly in providing or performing  
 22 a health service if the service includes a procedure that violates the religious or moral  
 23 convictions of a majority of the board of directors or other administrative head of the  
 24 institution or of a majority of its owners or partners and the procedure is intended to  
 25 end the life of an individual or involves an abortion, and if the institution

26 (1) posted notice of its refusal policy in plain sight in the admission  
 27 area of the institution before the health service is requested; or

28 (2) within 24 hours after receiving the request, notified the person  
 29 requesting the health service of its refusal and there has been no irreversible change  
 30 in the circumstances of the patient or person making the request during the time  
 31 between making the request and the institution's refusal that would make it unjust for

1 the institution to refuse the request.

2 (c) A person may not discriminate or retaliate against a health care institution  
3 in a grant, contract, or program because of the institution's refusal to counsel, advise,  
4 pay for, provide, perform, assist, or participate directly or indirectly in providing or  
5 performing a health service if the service includes a procedure that violates the  
6 religious or moral convictions of a majority of the board of directors or other  
7 administrative head of the institution or of a majority of its owners or partners and the  
8 procedure is intended to end the life of an individual or involves an abortion.

9 **Sec. 18.17.050. Exceptions.** (a) This chapter does do not apply to a health  
10 service that

11 (1) is necessary to save the life of an individual in any stage or  
12 condition of existence from imminent death;

13 (2) requires for its success the immediate assistance of a person  
14 asserting religious or moral objections; and

15 (3) must be performed before a replacement for a person asserting  
16 religious or moral objections can be obtained or reasonably could have been obtained.

17 (b) This chapter does not relieve a person from liability to pay for a health  
18 service, for which the person freely and knowingly contracted to pay, that was  
19 performed before a timely conscientious objection was asserted by the person.

20 (c) A health care institution or a department or division of the institution that  
21 is established for the sole or primary purpose of providing specific types of health  
22 services may exclude an individual who objects to a procedure from employment in  
23 a position for which the performance of the services is a necessary and substantial  
24 responsibility if the individual's moral or conscience rights cannot be reasonably  
25 accommodated by diligent effort. In this paragraph, "procedure" means a medical  
26 procedure intended to end the life of an individual or involving an abortion.

27 **Sec. 18.17.060. Remedies.** (a) Notwithstanding other provisions of law, a  
28 person injured by an act or omission that violates a provision of this chapter may  
29 obtain an injunction and is entitled to receive three times the actual damages sustained  
30 by the person or \$3,000 for each violation, whichever is greater.

31 (b) Remedies provided for under this section are in addition to other remedies

1 that may be available under federal or state law.

2 **Sec. 18.17.070. Federal requirements not affected.** Nothing in this chapter  
3 changes, modifies, or otherwise affects requirements of 42 U.S.C. 1395cc, 42 U.S.C.  
4 1395dd, or 42 U.S.C. 1396a (a)(57) or (58).

5 **Sec. 18.17.080. Definitions.** In this chapter,

6 (1) "abortion" has the meaning given in AS 18.16.090;

7 (2) "health care institution" means a public or private corporation,  
8 partnership, association, organization, agency, or other entity that is involved in  
9 providing health care; in this paragraph, "entity" includes a hospital, clinic, physician's  
10 office, medical school, nursing school, other health care training institution, insurance  
11 organization, or financing organization;

12 (3) "health service" means a phase or type of service performed at a  
13 health care institution or by a health professional, paraprofessional, or pharmacist or  
14 by an employee of a health professional, paraprofessional, or pharmacist; in this  
15 paragraph, "service" includes testing, diagnosis, prognosis, research, counseling,  
16 therapy, treatment, family planning, referral, prescription, medication, surgery, the  
17 termination of or failure to perform a procedure, and any necessary support services.

18 \* **Sec. 2.** Under AS 01.10.030, if any provision of AS 18.17.010 - 18.17.080 or the  
19 application of AS 18.17.010 - 18.17.080 to any person or circumstance is held invalid, the  
20 remainder of AS 18.17.010 - 18.17.080 or the application of those statutes to other persons  
21 or circumstances is not affected.