

HOUSE BILL NO. 417

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CROFT, Wilson

Introduced: 2/13/02

Referred: Labor and Commerce, Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to adult day services facilities; relating to certain crimes occurring**
2 **near an adult day services facility; relating to certain contracts for adult day services;**
3 **relating to reports of harm regarding certain vulnerable adults; and providing for an**
4 **effective date."**

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

6 *** Section 1.** AS 47 is amended by adding a new chapter to read:

7 **Chapter 34. Licensure of Adult Day Services Facilities.**

8 **Sec. 47.34.010. Purpose; applicability.** (a) The purpose of this chapter is to
9 establish and maintain standard levels for services offered by or at adult day services
10 facilities. The licensing procedures in this chapter are intended to reduce predictable
11 risk of harm to vulnerable adults and to provide support services and technical
12 assistance to those providing adult day services.

13 (b) This chapter and regulations adopted under this chapter apply to facilities
14 whose primary purpose is to provide adult day services to adults who are experiencing

1 either

2 (1) a major health crisis; or

3 (2) gradual deterioration of mental or physical abilities due to
4 progressive diseases, such as Alzheimer's disease, or due to the aging process.

5 **Sec. 47.34.020. Powers of department.** The department is responsible for the
6 licensing of adult day services facilities. The department may

7 (1) license and supervise adult day services facilities;

8 (2) investigate applicants, licensees, and persons that the department
9 reasonably believes are operating a facility without a license in violation of this
10 chapter;

11 (3) adopt regulations to implement this chapter, including regulations
12 establishing licensure procedures, standards, and fees; establishing requirements for
13 operation of facilities licensed under this chapter; and distinguishing between types of
14 adult day services facilities; and

15 (4) enter into agreements with private entities, municipalities, or
16 individuals to investigate and make recommendations to the department for the
17 licensing and supervision of adult day services facilities under procedures and
18 standards of operation established by the department.

19 **Sec. 47.34.030. License required; exemptions.** (a) A person may not
20 operate an adult day services facility without a license issued under this chapter unless
21 that facility is exempt from licensure. The following facilities are exempt:

22 (1) a facility that serves not more than three adults;

23 (2) a facility that operates for not more than five hours a day or not
24 more than two days a week;

25 (3) a recreational program that adults attend and in which the program
26 does not assume responsibility for care of the adults;

27 (4) a temporary facility that provides adult day services for less than
28 five continuous weeks;

29 (5) a facility that is licensed under AS 47.33 as an assisted living home
30 and in which the adult day services program is part of the program plan of the home
31 for residents of the home;

1 (6) a facility that is licensed under AS 18.20 as a hospital or nursing
2 home.

3 (b) In addition to facilities that, under this section, are exempt from licensure,
4 the department, by regulation, may provide for additional exemptions that the
5 department considers appropriate.

6 (c) A person may apply for a license for a facility that is exempt from
7 licensure under this section, except for a facility described in (a)(5) or (6) of this
8 section. The department may issue a license to an applicant under this subsection if
9 the applicant meets the requirements of this chapter and regulations adopted under this
10 chapter.

11 **Sec. 47.34.040. Application for license.** (a) Application for a license to
12 operate an adult day services facility shall be made to the department on a form
13 provided by the department and must be accompanied by all applicable fees
14 established by the department by regulation.

15 (b) An application submitted under this section must be accompanied by at
16 least the following:

17 (1) copies of all inspection reports and approvals required by fire
18 prevention and environmental health and safety authorities for operation of the facility
19 in this state, including any variances granted by these authorities;

20 (2) a plan of operation, as required by the department by regulation;

21 (3) evidence that the applicant has completed orientation or training
22 required by the department by regulation;

23 (4) if the facility is located in a municipality, appropriate building
24 permits and certificates of occupancy issued by the municipality in which the facility
25 is located;

26 (5) other information required by the department by regulation in order
27 to monitor compliance with this chapter and with regulations adopted under this
28 chapter.

29 **Sec. 47.34.050. Criminal background check for employees and regular**
30 **volunteers.** (a) An adult day services facility may not employ an individual in a paid
31 position that the department has determined is covered by this section, according to its

1 regulations, and may not allow an individual to serve as a regular volunteer in a
 2 capacity that the department has determined is covered by this section, according to its
 3 regulations, unless the individual, before beginning employment or volunteering,
 4 provides to the facility

5 (1) a sworn statement as to whether the individual has been convicted
 6 of an offense described in (c) of this section; and

7 (2) the results of a name-check criminal background investigation that
 8 was completed by the Department of Public Safety not more than 30 days before the
 9 individual is employed or begins volunteer work.

10 (b) Within 30 days after employing an individual in a paid position described
 11 in (a) of this section or allowing an individual to begin to serve as a regular volunteer
 12 in a capacity described in (a) of this section, an adult day services facility shall submit
 13 to the Department of Public Safety two full sets of the individual's fingerprints. The
 14 Department of Public Safety shall submit the fingerprints to the Federal Bureau of
 15 Investigation for a national criminal history record check. When the results are
 16 received, the Department of Administration shall advise the facility as to whether the
 17 check shows that the individual has committed an offense described in (c) of this
 18 section.

19 (c) An adult day services facility may not hire or retain an employee in a
 20 position that the department has determined is covered by this section and may not
 21 allow an individual to serve as a regular volunteer in a capacity that the department
 22 has determined is covered by this section if the employee or regular volunteer has
 23 been convicted of an offense listed in the regulations of the department as being an
 24 offense covered by this section.

25 **Sec. 47.34.060. Probationary license; biennial license.** (a) The department
 26 shall issue a probationary license to a new adult day services facility that applies under
 27 AS 47.34.040 if, after inspection and investigation, the department determines that the
 28 application and plan of operation for the facility meet the requirements of this chapter
 29 and regulations adopted under this chapter. A probationary license is valid for a
 30 period not to exceed one year. The department may extend a probationary license for
 31 one additional period not to exceed one year.

1 (b) Before expiration of a probationary license issued under (a) of this section,
 2 the department shall inspect and investigate the facility in order to determine whether
 3 the facility is operating under the probationary license in compliance with this chapter
 4 and regulations adopted under this chapter. The department shall issue a biennial
 5 license for the facility if, after inspection and investigation under this subsection, the
 6 department finds that the facility is operating in compliance with and meets the
 7 licensure requirements of this chapter and regulations adopted under this chapter, none
 8 of the grounds for revocation set out in AS 47.34.180 exist, and all required fees have
 9 been paid. The department shall prepare a summary report of its findings and
 10 recommendations for issuance of a biennial license.

11 (c) The issuance of a license by the department does not entitle the facility to
 12 receive payment from the state for services provided under the license without a
 13 payment agreement entered into by the state.

14 **Sec. 47.34.070. Denial of license; right to appeal.** (a) If the department
 15 denies an application for a probationary license for an adult day services facility or
 16 decides not to issue a biennial license for a facility, it shall notify the prospective
 17 licensee in writing. Notice shall be given by hand delivery or by certified mail, return
 18 receipt requested. The notice must contain a statement of the department's reasons for
 19 denial of the license and must include a form for requesting a hearing under (b) of this
 20 section.

21 (b) A prospective licensee who is denied licensure under (a) of this section
 22 may appeal to the commissioner the department's denial by requesting a hearing on the
 23 form provided by the department within 15 days after receipt of the notice of denial of
 24 licensure.

25 **Sec. 47.34.080. Variances.** (a) The department may grant a variance from a
 26 requirement of this chapter or a regulation adopted under this chapter to an applicant
 27 for a license under this chapter or to a licensee. An applicant seeking a variance under
 28 this section shall submit the request to the department on a form provided by the
 29 department.

30 (b) A request for a variance must contain the following information:

31 (1) the statute or regulation from which the variance is sought;

- 1 (2) the reasons why the variance is requested;
- 2 (3) the period of time for which the variance is requested;
- 3 (4) the proposed alternative means of satisfying the intent of the
- 4 requirement for which the variance is requested;
- 5 (5) a statement as to how the health and safety of adults served by the
- 6 facility will be protected during the period of the variance;
- 7 (6) a statement of assurance that the conditions of the facility do not
- 8 present an imminent danger to the health or safety of adults served by the facility; and
- 9 (7) other information that the department by regulation requires.

10 (c) To evaluate a request for a variance, the department shall take one or more

11 of the following actions:

- 12 (1) review or investigate the statements in the request;
- 13 (2) inspect the facility;
- 14 (3) schedule a conference with the applicant or licensee regarding the
- 15 variance request.

16 (d) A variance may be granted if

- 17 (1) the applicant requesting the variance proposes an alternative
- 18 means, acceptable to the department, of satisfying the intent of the requirements for
- 19 which the variance is requested; and
- 20 (2) the health and safety of adults served by the facility are adequately
- 21 protected.

22 (e) The department's decision approving or denying a variance must be in

23 writing, and the department shall provide a copy of the decision to the applicant

24 requesting the variance. If the department grants the variance, the decision must state

25 the term of and the provisions of the variance.

26 (f) If a person who has been granted a variance under this section violates a

27 provision of that variance, the department may terminate the variance. If a variance is

28 terminated under this subsection, the person may appeal using the procedures

29 specified in AS 47.34.070(b).

30 **Sec. 47.34.090. Licenses not transferable.** A license may be issued under

31 this chapter only for the location and person named in the application. A license

1 issued under this chapter may not be transferred to another location or person.

2 **Sec. 47.34.100. Orientation and training.** The department, by regulation,
3 may require that an applicant for a license under this chapter or a licensee complete
4 orientation or training to assist that person in operating under the license in
5 compliance with this chapter and regulations adopted under this chapter.

6 **Sec. 47.34.110. Records required.** (a) In accordance with regulations
7 adopted by the department, a licensee shall keep the records regarding each individual
8 receiving adult day services that are necessary to show compliance with this chapter
9 and with regulations adopted under this chapter.

10 (b) The department's licensing records, with the names of all individuals
11 receiving services deleted to protect the confidentiality of those individuals, are
12 available for public inspection and copying under AS 40.25.100 - 40.25.220, except
13 for

14 (1) material made confidential by state or federal statutes or
15 regulations;

16 (2) material that is part of an uncompleted licensing or complaint
17 investigation;

18 (3) records that would deprive an applicant, licensee, or other person
19 of a fair and impartial hearing; and

20 (4) records for which the department determines that disclosure would
21 constitute an unwarranted invasion of personal privacy of individuals receiving
22 services from the facility.

23 (c) Notwithstanding (b) of this section, a government agency that provides
24 money to a facility licensed under this chapter shall have access to all of that facility's
25 records necessary for the conduct of an audit.

26 **Sec. 47.34.120. Monitoring; investigation.** (a) By the first anniversary of
27 the effective date of an initial or renewed biennial license issued under this chapter,
28 the licensee shall submit a self-monitoring report to the department. The department
29 shall, by regulation, specify the contents of the report.

30 (b) The department may conduct an investigation, including announced or
31 unannounced on-site inspections of a licensee's facility, for ongoing monitoring or to

1 assist in its review of a self-monitoring report.

2 **Sec. 47.34.130. Biennial license renewal.** (a) At least 90 days before the
3 expiration date of a biennial license issued under this chapter, a licensee who wishes to
4 remain licensed shall submit, on a form provided by the department, an application for
5 renewal of the license and any variances granted under AS 47.34.080. The application
6 shall include a self-monitoring report as provided in AS 47.34.120(a) and regulations
7 adopted under this chapter.

8 (b) Before the expiration of a biennial license, the department or its
9 representative shall inspect a facility that is the subject of a renewal application.

10 (c) The department shall renew a biennial license if the department finds that

11 (1) the licensee either is in full compliance with this chapter and with
12 regulations adopted under this chapter or is substantially in compliance and has
13 implemented a plan of correction, approved by the department, that is designed to
14 bring the licensee's facility into full compliance;

15 (2) the licensee has maintained the facility in good repair and is in
16 compliance with all fire safety and environmental health and safety code requirements
17 to operate in this state;

18 (3) grounds for revocation of a license set out in AS 47.34.180 do not
19 exist; and

20 (4) all required fees have been paid.

21 (d) If a licensee submits a renewal application for a biennial license within the
22 time period required by (a) of this section, but the department is unable to complete its
23 review before the expiration date of the biennial license, the license is automatically
24 extended for 90 days or until the department completes its review and either approves
25 or denies the application, whichever occurs first.

26 (e) If the department finds that an applicant for the renewal of a biennial
27 license is not in full compliance with a provision of this chapter, a regulation adopted
28 under this chapter, or a variance granted on the license, but finds that denial of the
29 application for renewal is not warranted, the department may issue a probationary
30 license. The provisions of AS 47.34.060 regarding the conversion of an initial
31 probationary license to a biennial license apply to a probationary license issued under

1 this subsection.

2 (f) If the department denies an application for the renewal of a biennial
3 license, the department shall provide the applicant with a notice of the denial. The
4 applicant may appeal using procedures specified in AS 47.34.070(b).

5 **Sec. 47.34.140. Notice of changes.** (a) A licensee shall provide the
6 department with written notice of a change of mailing address at least 14 days before
7 the effective date of the change.

8 (b) A licensee shall notify the department of a conviction or indictment,
9 presentment, or charging by information or complaint of a person for whom a criminal
10 background check is required under AS 47.34.050 for a violation of any offense
11 defined by regulation under AS 47.34.050(c). Notice shall be given not later than the
12 end of the business day following the day on which the licensee becomes aware of the
13 conviction, indictment, presentment, or charging.

14 (c) A licensee shall notify the department at least 30 days before the effective
15 date of a relinquishment of a license.

16 (d) A licensee shall notify the department at least 20 days before the date on
17 which the licensee proposes to change the number of adults receiving adult day
18 services at a licensed facility or the facility's hours of operation. If the licensee
19 proposes to increase the number of adults receiving adult day services or to lengthen
20 the hours of operation, the department shall conduct a review of the facility before the
21 date of the proposed change to ensure that the facility, after the proposed change, will
22 still be in compliance with this chapter, regulations adopted under this chapter, and the
23 provisions of the license, including any variance, issued or given to the facility.

24 (e) A licensee shall notify the department not later than one business day after
25 the licensee signs a contract for sale or lease of the licensee's facility.

26 (f) A licensee shall notify the department at least 30 days before the date on
27 which the licensee proposes to change the location of the licensee's facility.

28 **Sec. 47.34.150. Complaints.** (a) A person who believes that this chapter, a
29 regulation adopted under this chapter, or a provision of a license, including any
30 variance, issued or given under this chapter has been violated may file a verbal or
31 written complaint with the department.

1 (b) The department shall review all complaints filed under this section and
 2 conduct an investigation if the department considers it necessary in order to fully
 3 evaluate the complaint. The department may dismiss a complaint without
 4 investigation if the department determines from its review that the complaint is
 5 without merit.

6 (c) After a review and any investigation under this section, the department
 7 shall prepare a written report and mail a copy to the licensee of a licensed facility, to
 8 any other person who is the subject of the complaint, and to the complainant if
 9 requested. If the department determines that a violation of this chapter, a regulation
 10 adopted under this chapter, or a provision of a license, including any variance, issued
 11 or granted under this chapter has occurred, the department's report must contain the
 12 following:

13 (1) a description of the violation;

14 (2) a citation to the provision of this chapter, the regulation adopted
 15 under this chapter, or the license, including any variance, that has been violated, if
 16 applicable; and

17 (3) either

18 (A) a date by which the violation must be corrected and a
 19 verification of compliance be submitted to the department; or

20 (B) a plan for the correction of the violation.

21 (d) A licensee may submit to the department a written response regarding a
 22 report issued under (c) of this section. The department shall retain the written
 23 response in the licensing file.

24 (e) A licensee may not take retaliatory action against a person who files a
 25 complaint under this chapter. A complainant against whom retaliatory action has been
 26 taken may recover treble damages in a civil action upon a showing that the action was
 27 taken in retaliation for the filing of a complaint under this chapter.

28 **Sec. 47.34.160. Reviews and investigations; search warrants.** (a) An
 29 applicant for a license under this chapter or a licensee shall cooperate with the
 30 department for purposes of reviews and investigations for licensure, monitoring of
 31 compliance with the license, or resolution of complaints under AS 47.34.150 by

1 (1) permitting representatives of the department or the department's
2 designees to inspect the facility, review records, and interview staff and individuals
3 receiving adult day services; and

4 (2) providing to the department or the department's designee
5 information and documentation requested to determine compliance with this chapter,
6 regulations adopted under this chapter, or a provision of a license, including a
7 variance, issued or granted to the facility.

8 (b) Following a review and investigation relating to ongoing monitoring of a
9 facility or relating to a facility that the department believes is operating without a
10 license in violation of this chapter, the department shall prepare a written report as
11 described in AS 47.34.150(c). The facility may submit a written response.

12 (c) The department may seek a search warrant from the court to inspect a
13 facility if

14 (1) the department has probable cause to believe that the facility is
15 operating without a license in violation of this chapter and the facility operator refuses
16 to allow an inspection by the department; or

17 (2) the licensee of a facility refuses to allow a timely inspection of the
18 facility by the department.

19 **Sec. 47.34.170. Enforcement actions.** (a) During a review and investigation
20 under this chapter, the department, by written order, may suspend operation of a
21 facility if the department has reasonable cause to believe that a violation is occurring
22 that presents an imminent danger to the health or safety of the individuals receiving
23 adult day services. A suspension under this subsection continues for the time period
24 set by the department in the order and may continue until the department issues a
25 report under AS 47.34.160.

26 (b) If, after a review and investigation under this chapter, the department
27 determines that a violation of this chapter, a regulation adopted under this chapter, or a
28 provision of a license, including any variance, has occurred, or that a reason for
29 revocation or nonrenewal set out in AS 47.34.180 exists, the department has issued a
30 report under AS 47.34.160, and the department has determined that voluntary
31 compliance or a plan of correction is not appropriate, the department may take one or

1 more of the following enforcement actions, as the department considers appropriate:

2 (1) delivery of a warning notice to the licensee or other person who is
3 the subject of the review or investigation;

4 (2) modification of the term of an existing license or reduction of the
5 number of adults to whom adult day services may be provided under the license;

6 (3) suspension of operation of the facility for a period of time set by
7 the department;

8 (4) suspension of new enrollment of adults in the facility for a period
9 of time set by the department;

10 (5) suspension of a variance granted under this chapter;

11 (6) conversion of a biennial license into a probationary license, subject
12 to the provisions of AS 47.34.130(e);

13 (7) nonrenewal of the license;

14 (8) revocation of the license;

15 (9) issuance of an order requiring immediate closure of the facility;

16 (10) assessment of an administrative fine of up to \$500 for each day a
17 violation continues, not to exceed a total of \$5,000 for a single violation.

18 (c) The department shall provide the licensee or other person who is the
19 subject of a review and an investigation with written notice if the department decides
20 to take enforcement action under (b) of this section. The notice must include a form
21 for the licensee or other person to request a hearing under (d) of this section. The
22 notice must describe

23 (1) the condition, if any, in the facility that constitutes a violation of
24 this chapter, of a regulation adopted under this chapter, or of a provision of the license;

25 (2) each enforcement action that will be taken;

26 (3) the licensee's or other person's right to appeal the department's
27 decision to take an enforcement action described in (b) of this section.

28 (d) A licensee or other person to whom a notice has been provided under (a)
29 or (c) of this section may appeal the department's decision to impose an enforcement
30 action described in (a) or (b) of this section by filing a written request for a hearing on
31 a form provided by the department within 15 days after receipt of the order suspending

1 operations or of the notice of enforcement action.

2 (e) Unless the violation that prompted an enforcement action under (b) of this
3 section presents an imminent danger to the health or safety of the individuals receiving
4 adult day services, an enforcement action described in a notice provided under (c) of
5 this section may not be imposed until

6 (1) the time period for requesting a hearing under (d) of this section
7 has passed without a hearing being requested; or

8 (2) the department makes a final decision following a hearing
9 requested under (d) of this section.

10 (f) The department may request the assistance of the superior court to enforce
11 a final administrative order if a licensee or other person refuses to comply with that
12 order.

13 (g) A licensee whose license was revoked or not renewed under this section
14 may not reapply for licensure under this chapter until after the time period, if any, set
15 by the department in its final administrative order. If a time period is not set by the
16 department, the revocation or nonrenewal is permanent, and the former licensee may
17 not again apply for licensure under this chapter.

18 (h) Assessment of an administrative fine under this section does not preclude
19 imposition of a criminal penalty under AS 47.34.210 or the seeking of other remedies
20 available under the laws of this state.

21 (i) In this section, "final administrative order" means the department's decision
22 following a hearing if one is requested under (d) of this section, or the department's
23 notice of enforcement action if a hearing is not requested.

24 **Sec. 47.34.180. Grounds for license revocation or nonrenewal.** (a) In
25 addition to the ground of violation of this chapter, of a regulation adopted under this
26 chapter, or of a provision of a license, including any variance, the department may
27 revoke or decline to renew a license issued under this chapter on one or more of the
28 following grounds:

29 (1) failure to submit a timely and complete license renewal application;

30 (2) the indictment, or charging by information or complaint, or a
31 criminal conviction within the last 10 years, of a person for whom a criminal

1 background check is required under AS 47.34.050 for offenses listed in regulations
2 adopted under AS 47.34.050(c);

3 (3) obtaining or attempting to obtain or renew a license under this
4 chapter by fraudulent means, misrepresentation, or submission of false information;

5 (4) failure to timely correct a violation noted in a report of an
6 investigation under this chapter provided to a licensee;

7 (5) failure to comply with a final administrative order issued by the
8 department under AS 47.34.170.

9 (b) A licensee under this chapter may voluntarily relinquish a license or
10 withdraw an application for renewal of a license.

11 **Sec. 47.34.190. Administrative procedure.** The administrative adjudication
12 provisions contained in AS 44.62.330 - 44.62.640 apply to an appeal from a
13 department decision authorized under this chapter.

14 **Sec. 47.34.200. Immunity from liability.** (a) A person operating under an
15 agreement with the department under AS 47.34.020(4) is immune from civil liability
16 that might otherwise be incurred or imposed for acts or omissions that occurred during
17 the performance of the person's duties on behalf of the department if the person was
18 operating within the scope of the duties delegated to the person under the agreement.

19 (b) The department and the department's officers, agents, and employees are
20 not liable for civil damages as a result of an act or omission in the licensing,
21 monitoring, or supervision of a facility licensed under this chapter. This subsection
22 does not preclude liability for civil damages as a result of gross negligence or reckless
23 or intentional misconduct.

24 **Sec. 47.34.210. Penalty.** A person who violates this chapter or a regulation
25 adopted under this chapter regarding operation of a facility without a license or fails to
26 comply with a final administrative order of the department issued under AS 47.34.170
27 affecting the health or safety of adults served by the facility is guilty of a class B
28 misdemeanor.

29 **Sec. 47.34.900. Definitions.** In this chapter,

30 (1) "administrator" means an individual who has general
31 administrative charge and oversight of a facility;

1 (2) "adult day services" means therapeutic and support services
 2 provided at a central location to functionally or cognitively impaired adults, such as
 3 exercise programs, reminiscing and memory activities, social or cultural gatherings,
 4 and assistance with health and personal care;

5 (3) "adult day services facility" means a place where adult day services
 6 are regularly provided for individuals over 21 years of age for periods of time that are
 7 less than 24 hours in duration, unless the provision of nighttime services is authorized
 8 by the department;

9 (4) "department" means the Department of Administration;

10 (5) "facility" means an adult day services facility;

11 (6) "licensee" means a person to whom a license has been issued under
 12 this chapter.

13 * **Sec. 2.** AS 11.61.195(a) is amended to read:

14 (a) A person commits the crime of misconduct involving weapons in the
 15 second degree if the person knowingly

16 (1) possesses a firearm during the commission of an offense under
 17 AS 11.71.010 - 11.71.040;

18 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
 19 parking lot immediately adjacent to

20 (A) a public or private preschool, elementary, junior high, or
 21 secondary school without the permission of the chief administrative officer of
 22 the school or district or the designee of the chief administrative officer; [OR]

23 (B) a center, other than a private residence, licensed under
 24 AS 14.37, AS 47.33, or AS 47.35 or recognized by the federal government for
 25 the care of children; or

26 **(C) an adult day services facility licensed under AS 47.34;**

27 **or**

28 (3) discharges a firearm at or in the direction of

29 (A) a building with reckless disregard for a risk of physical
 30 injury to a person; or

31 (B) a dwelling.

1 * **Sec. 3.** AS 11.61.220(a) is amended to read:

2 (a) A person commits the crime of misconduct involving weapons in the fifth
3 degree if the person

4 (1) knowingly possesses a deadly weapon, other than an ordinary
5 pocket knife or a defensive weapon, that is concealed on the person;

6 (2) knowingly possesses a loaded firearm on the person in any place
7 where intoxicating liquor is sold for consumption on the premises;

8 (3) being an unemancipated minor under 16 years of age, possesses a
9 firearm without the consent of a parent or guardian of the minor;

10 (4) knowingly possesses a firearm

11 (A) within the grounds of or on a parking lot immediately
12 adjacent to

13 (i) a center, other than a private residence, licensed
14 under AS 14.37, AS 47.33, or AS 47.35 or recognized by the federal
15 government for the care of children; or

16 (ii) **an adult day services facility licensed under**
17 **AS 47.34;**

18 (B) within a

19 (i) courtroom or office of the Alaska Court System; or

20 (ii) courthouse that is occupied only by the Alaska
21 Court System and other justice-related agencies;

22 (C) within a domestic violence or sexual assault shelter that
23 receives funding from the state; or

24 (5) possesses or transports a switchblade or a gravity knife.

25 * **Sec. 4.** AS 36.30.850(b)(19) is amended to read:

26 (19) contracts for home health care provided under regulations adopted
27 by the Department of Health and Social Services, [AND] for adult residential care
28 services provided under regulations adopted by the Department of Health and Social
29 Services or by the Department of Administration, **and for adult day services**
30 **provided under regulations adopted by the Department of Administration;**

31 * **Sec. 5.** AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (60) the Department of Administration concerning the licensing and
 2 regulation of adult day services facilities under AS 47.34.

3 * **Sec. 6.** AS 47.24.010(a) is amended to read:

4 (a) Except as provided in (e) and (f) of this section, the following persons
 5 who, in the performance of their professional duties, have reasonable cause to believe
 6 that a vulnerable adult suffers from abandonment, exploitation, abuse, neglect, or self-
 7 neglect shall, not later than 24 hours after first having cause for the belief, report the
 8 belief to the department's central information and referral service for vulnerable
 9 adults:

- 10 (1) a physician or other licensed health care provider;
- 11 (2) a mental health professional as defined in AS 47.30.915(11) and
 12 including a marital and family therapist licensed under AS 08.63;
- 13 (3) a pharmacist;
- 14 (4) an administrator of a nursing home, residential care, or health care
 15 facility;
- 16 (5) a guardian or conservator;
- 17 (6) a police officer;
- 18 (7) a village public safety officer;
- 19 (8) a village health aide;
- 20 (9) a social worker;
- 21 (10) a member of the clergy;
- 22 (11) a staff employee of a project funded by the Department of
 23 Administration for the provision of services to older Alaskans, the Department of
 24 Health and Social Services, or the Council on Domestic Violence and Sexual Assault;
- 25 (12) an employee of a personal care or home health aide program;
- 26 (13) an emergency medical technician or a mobile intensive care
 27 paramedic;
- 28 (14) a caregiver of the vulnerable adult;
- 29 (15) a certified nurse aide;
- 30 **(16) a person holding a license for an adult day services facility**
 31 **under AS 47.34 and an employee of that person.**

1 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 TRANSITION: REGULATIONS. Notwithstanding sec. 10 of this Act, the agencies
4 affected by the changes made by this Act may proceed to adopt regulations necessary to
5 implement the changes. The regulations take effect under AS 44.62 (Administrative
6 Procedure Act), but not before the effective date of the statutory change.

7 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: EXISTING FACILITIES. (a) Notwithstanding AS 47.34.030,
10 enacted by sec. 1 of this Act, a facility that, on December 31, 2002, is operating as an adult
11 day services facility as defined in AS 47.34.900, enacted by sec. 1 of this Act, and that would
12 be required under AS 47.34.030, enacted by sec. 1 of this Act, to be licensed on January 1,
13 2003, may continue to operate as an adult day services facility without the required license
14 until April 1, 2003, or until a probationary license under AS 47.34.060(a), enacted by sec. 1 of
15 this Act, is issued or denied, whichever is earlier.

16 (b) Notwithstanding the requirements of AS 47.34.050(a) and (b), enacted by sec. 1 of
17 this Act, a facility that, on December 31, 2002, is operating as an adult day services facility as
18 defined in AS 47.34.900, enacted by sec. 1 of this Act, and that would be required under
19 AS 47.34.030, enacted by sec. 1 of this Act, to be licensed under AS 47.34, and an individual
20 employed by or serving as a regular volunteer with that facility on December 31, 2002, have
21 until April 1, 2003, to meet the applicable requirements of AS 47.34.050(a) and (b), enacted
22 by sec. 1 of this Act, and regulations implementing AS 47.34.050.

23 * **Sec. 9.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

24 * **Sec. 10.** Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2003.