

**SENATE BILL NO. 135**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

**BY THE SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

**Introduced: 3/12/01**

**Referred: Health, Education and Social Services, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to mental health information and records; and providing for an**  
2 **effective date."**

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

4 \* **Section 1.** AS 08.02 is amended by adding a new section to read:

5 **Sec. 08.02.040. Access to certain mental health information and records**  
6 **by the state.** (a) Notwithstanding AS 08.29.200, AS 08.63.200, AS 08.86.200,  
7 AS 08.95.900, another provision of this title, or a regulation adopted under this title, a  
8 licensee or an entity employing or contracting with a licensee may disclose  
9 confidential patient mental health information, communications, and records to the  
10 Department of Health and Social Services when disclosure is authorized under  
11 AS 47.30.540, 47.30.590, 47.30.845, or AS 47.31.032. Information, communications,  
12 and records received by the Department of Health and Social Services under this  
13 section are confidential medical records of patients and are not open to public  
14 inspection and copying under AS 40.25.110 - 40.25.120.

1 (b) In this section, "licensee" has the meaning given in AS 08.01.110.

2 \* **Sec. 2.** AS 47.30.540(b) is amended to read:

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

11 (1) **to** give priority to mental health programs and services consistent  
12 with the priorities set out in AS 47.30.056 and that provide the maximum services for  
13 the least expenditure of money from the mental health trust settlement income  
14 account;

15 (2) **to** furnish services through a qualified staff meeting reasonable  
16 standards of experience and training;

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

21 (4) **to** maintain adequate clinical and administrative records and  
22 furnish periodic reports to the department;

23 (5) **to** furnish the authority and the department an annual report of the  
24 preceding fiscal year, including an evaluation of the effectiveness of the previous  
25 year's programs and their costs; [AND]

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

31 **(7) to furnish the department with confidential and other**

1 information about recipients of services paid for, in whole or part, under  
 2 AS 47.30.520 - 47.30.620 and comply with regulations of the department  
 3 regarding the submission of this information; and

4 (8) to notify the department immediately of emergency situations  
 5 involving recipients of services paid for, in whole or in part, under AS 47.30.520 -  
 6 47.30.620 and comply with regulations of the department regarding this  
 7 notification; for purposes of this paragraph, "emergency situations" include the  
 8 disappearance, injury, or death of a recipient.

9 \* **Sec. 3.** AS 47.30.590 is amended by adding a new subsection to read:

10 (b) Notwithstanding (a) of this section, the department is authorized to review,  
 11 obtain, and copy confidential and other records and information about the clients of  
 12 services requested or furnished under AS 47.30.520 - 47.30.620 to evaluate  
 13 compliance with those statutes. The department may obtain the records and  
 14 information regarding clients from the client or directly from an entity designated by  
 15 the department under AS 47.30.520 - 47.30.620 that furnished those services. Records  
 16 obtained by the department under this subsection are medical records, shall be handled  
 17 confidentially, and are exempt from public inspection and copying under  
 18 AS 40.25.110 - 40.25.120.

19 \* **Sec. 4.** AS 47.30.845 is amended to read:

20 **Sec. 47.30.845. Confidential records.** Information and records obtained in  
 21 the 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 47.30.660 - 47.30.915 may necessitate a different procedure. Information and  
 24 records may be copied and disclosed under regulations established by the department  
 25 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 47.30.660 - 47.30.915 are paid for, in whole or in part, by the department or in**  
13          **which a person has applied for or has received assistance from the department**  
14          **for those services.**

15          \* **Sec. 5.** AS 47.31 is amended by adding a new section to read:

16                   **Sec. 47.31.032. Access to records and information by the department.** The  
17          department is authorized to review, obtain, and copy confidential and other records  
18          and information about the patients who were eligible for or were provided financial  
19          assistance under this chapter to evaluate compliance with this chapter. The  
20          department may obtain the records and information from the patient or directly from  
21          the evaluation facility or the designated treatment facility. Records obtained by the  
22          department under this section are medical records, shall be handled confidentially, and  
23          are exempt from public inspection and copying under AS 40.25.110 - 40.25.120.

24          \* **Sec. 6.** Section 6, ch. 87, SLA 1999, is amended to read:

25                   Sec. 6. AS 47.31.005, 47.31.010, 47.31.015, 47.31.020, 47.31.025, 47.31.030,  
26                   **47.31.032**, 47.31.035, 47.31.900, and 47.31.990 are repealed.

27          \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).