

HOUSE BILL NO. 440

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/5/04

Referred: House Special Committee on Military and Veterans' Affairs, Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Pioneers' Home, and the Alaska Veterans' Home;**
2 **relating to eligibility for admission to the Alaska Pioneers' Home and Alaska Veterans'**
3 **Home; relating to state veterans' home facilities; making conforming amendments; and**
4 **providing for an effective date."**

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

6 * **Section 1.** AS 08.68.395(g)(2) is amended to read:

7 (2) "health care facility" means a private, municipal, state, or federal
8 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney
9 disease treatment center (excluding freestanding hemodialysis units), intermediate care
10 facility, or Alaska Pioneers' Home or Alaska Veterans' Home administered by the
11 Department of Health and Social Services [ADMINISTRATION] under AS 47.55.

12 * **Sec. 2.** AS 15.05.020 is amended to read:

13 **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose
14 of determining residence for voting, the place of residence is governed by the

1 following rules:

2 (1) A person may not be considered to have gained a residence solely
3 by reason of presence nor may a person lose it solely by reason of absence while in the
4 civil or military service of this state or of the United States or of absence because of
5 marriage to a person engaged in the civil or military service of this state or the United
6 States, while a student at an institution of learning, while in an institution or asylum at
7 public expense, while confined in public prison, while engaged in the navigation of
8 waters of this state, or the United States or of the high seas, while residing upon an
9 Indian or military reservation, or while residing in the Alaska Pioneers' Home **or the**
10 **Alaska Veterans' Home**.

11 (2) The residence of a person is that place in which the person's
12 habitation is fixed, and to which, whenever absent, the person has the intention to
13 return. If a person resides in one place, but does business in another, the former is the
14 person's place of residence. Temporary construction camps do not constitute a
15 dwelling place.

16 (3) A change of residence is made only by the act of removal joined
17 with the intent to remain in another place. There can only be one residence.

18 (4) A person does not lose residence if the person leaves home and
19 goes to another country, state or place in this state for temporary purposes only and
20 with the intent of returning.

21 (5) A person does not gain residence in any place to which the person
22 comes without the present intention to establish a permanent dwelling at that place.

23 (6) A person loses residence in this state if the person votes in another
24 state's election, either in person or by absentee ballot, and will not be eligible to vote
25 in this state until again qualifying under AS 15.05.010.

26 (7) [REPEALED

27 (8)] The term of residence is computed by including the day on which
28 the person's residence begins and excluding the day of election.

29 **(8)** [(9) REPEALED

30 (10)] The address of a voter as it appears on an official voter
31 registration card is presumptive evidence of the person's voting residence. This

1 presumption is negated only by the voter notifying the director in writing of a change
2 of voting residence.

3 * **Sec. 3.** AS 17.37.070(6) is amended to read:

4 (6) "facility monitored by the department or the Department of
5 Administration" means an institution, building, office, or home operated by the
6 department or the Department of Administration, funded by the department or the
7 Department of Administration, under contract with the department or the Department
8 of Administration, inspected by the department or the Department of Administration,
9 designated by the department or the Department of Administration, or licensed by the
10 department or the Department of Administration, for the care of

11 (A) juveniles; for the purposes of this subparagraph,
12 "institution" includes a foster home and a group home, and a juvenile detention
13 facility, a juvenile detention home, a juvenile work camp, and a treatment
14 facility, as those terms are defined in AS 47.14.990;

15 (B) the elderly; for the purposes of this subparagraph,
16 "institution" includes

17 (i) an assisted living home as defined in AS 47.33.990;

18 and

19 (ii) the Alaska [A] Pioneers' Home or the Alaska
20 **Veterans' Home**, operated under AS 47.55;

21 (C) the mentally ill; for the purposes of this subparagraph,
22 "institution" includes a designated treatment facility and an evaluation facility,
23 as those terms are defined in AS 47.30.915;

24 * **Sec. 4.** AS 18.07.111(8) is amended to read:

25 (8) "health care facility" means a private, municipal, state or federal
26 hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney
27 disease treatment center (including freestanding hemodialysis units), intermediate care
28 facility, and ambulatory surgical facility; the term excludes

29 (A) the [AN] Alaska Pioneers' Home and the Alaska
30 **Veterans' Home** administered by the Department of **Health and Social**
31 **Services** [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55; and

1 (B) the offices of private physicians or dentists whether in
 2 individual or group practice;

3 * **Sec. 5.** AS 18.35.300 is amended to read:

4 **Sec. 18.35.300. Places where smoking is regulated.** Smoking in any form is
 5 a nuisance and a public health hazard and is prohibited in the following vehicles and
 6 indoor places, except as allowed under AS 18.35.310:

7 (1) a vehicle of public transportation and a waiting, baggage, or
 8 boarding area for a vehicle of public transportation, including a bus, ferry vessel, train,
 9 limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when
 10 consistent with federal law;

11 (2) a place of employment, a building or other structure, or a portion of
 12 them, owned, leased, or operated by the state or a political subdivision of the state,
 13 including an office, library, museum, theater, concert hall, convention hall,
 14 gymnasium, swimming pool, or other place of entertainment or recreation;

15 (3) a public or private postsecondary educational institution or adult
 16 day care facility;

17 (4) a courtroom or jury deliberation room;

18 (5) a room, chamber, or other place under the control of the state
 19 senate or state house of representatives while a public meeting or public assembly is
 20 not in progress;

21 (6) a nursing home, rest home, or other residential health care
 22 institution or facility, or a public or private office or facility that is engaged primarily
 23 in providing mental health services;

24 (7) a food service establishment that has a seating capacity of at least
 25 50 persons;

26 (8) a grocery store or other store maintained primarily for the retail
 27 sale of food products;

28 (9) a place of employment in which the owner, manager, proprietor, or
 29 other person who has control of the premises posts a sign stating that smoking is
 30 prohibited by law;

31 (10) a correctional facility; and

1 (11) the Alaska [A] Pioneers' Home or the Alaska Veterans' Home.

2 * **Sec. 6.** AS 36.30.990(1) is amended to read:

3 (1) "agency"

4 (A) means a department, institution, board, commission,
5 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
6 Veterans' Home, or other administrative unit of the executive branch of state
7 government;

8 (B) does not include

9 (i) the University of Alaska;

10 (ii) the Alaska Railroad Corporation;

11 (iii) the Alaska Housing Finance Corporation;

12 (iv) a regional Native housing authority created under
13 AS 18.55.996 or a regional electrical authority created under
14 AS 18.57.020;

15 (v) the Department of Transportation and Public
16 Facilities, in regard to the repair, maintenance, and reconstruction of
17 vessels, docking facilities, and passenger and vehicle transfer facilities
18 of the Alaska marine highway system;

19 (vi) the Alaska Aerospace Development Corporation;

20 (vii) the Alaska State Pension Investment Board;

21 (viii) the Alaska Seafood Marketing Institute;

22 * **Sec. 7.** AS 37.05.146(c)(31) is amended to read:

23 (31) Alaska Pioneers' Home and Alaska Veterans' Home care and
24 support receipts under AS 47.55.030;

25 * **Sec. 8.** AS 37.05.990(2) is amended to read:

26 (2) "state agency," "agency," "department," or similar term means a
27 department, office, institution, board, commission, bureau, division, or other
28 administrative unit forming the state government, and includes the Alaska Pioneers'
29 Home, the Alaska Veterans' Home, and the University of Alaska.

30 * **Sec. 9.** AS 37.07.120(1) is amended to read:

31 (1) "agency" means a department, officer, institution, board,

1 commission, bureau, division, or other administrative unit forming the state
 2 government and includes the Alaska Pioneers' Home, the Alaska Veterans' Home,
 3 and the University of Alaska, but does not include the legislature or the judiciary;

4 * **Sec. 10.** AS 39.25.120(c)(8) is amended to read:

5 (8) Alaska Pioneers' Home and Alaska Veterans' Home managers;

6 * **Sec. 11.** AS 44.29.020(a)(16) is amended to read:

7 (16) the Alaska Pioneers' Home and the Alaska Veterans' Home
 8 [HOMES];

9 * **Sec. 12.** AS 47.25.140 is amended to read

10 **Sec. 47.25.140. Residents of public institutions.** Payment under
 11 AS 47.25.120 - 47.25.300 may not be made to or on [IN] behalf of an individual who
 12 is a resident of a [THE ALASKA PIONEERS' HOME OR OTHER] public institution,
 13 except as a patient in a public medical institution, or an individual who is a patient in a
 14 public or private institution for tuberculosis or mental disease. A resident of a [THE
 15 ALASKA PIONEERS' HOME OR OTHER] public institution who is otherwise
 16 eligible to receive an allowance under AS 47.25.120 - 47.25.300 may apply for the
 17 allowance instead of the support and maintenance provided in the [HOME OR] public
 18 institution.

19 * **Sec. 13.** AS 47.25.140 is amended by adding a new subsection to read:

20 (b) In this section, "public institution" does not include the Alaska Pioneers'
 21 Home or the Alaska Veterans' Home.

22 * **Sec. 14.** AS 47.45.240(c) is amended to read:

23 (c) The commission may not investigate, review, or undertake any
 24 responsibility for the longevity bonus program under AS 47.45.010 - 47.45.160 or the
 25 Alaska Pioneers' Home or Alaska Veterans' Home [HOMES] under AS 47.55.

26 * **Sec. 15.** AS 47.55 is repealed and reenacted to read:

27 **Sec. 47.55.010. Maintenance of Alaska Pioneers' Home and Alaska**
 28 **Veterans' Home.** (a) The state may maintain facilities known as the Alaska Pioneers'
 29 Home at sites designated by the commissioner of health and social services. The state
 30 may maintain one or more facilities known as the Alaska Veterans' Home at sites
 31 designated by the commissioner of health and social services. The Alaska Pioneers'

1 Home and the Alaska Veterans' Home shall be collectively administered by the
2 Department of Health and Social Services as the Alaska Pioneers' Home and Alaska
3 Veterans' Home.

4 (b) The department shall formulate general policies for the homes designated
5 under (a) of this section. It may hold hearings and subpoena witnesses and documents
6 and may administer oaths in connection with the homes.

7 (c) The department shall

8 (1) cooperate with the federal government in matters pertaining to the
9 welfare of Alaska pioneers and of veterans who reside in the homes operated under
10 this chapter, make the reports in the form and containing the information the federal
11 government from time to time desires, and accept money allotted by the federal
12 government, its agencies, or its instrumentalities in establishing, extending, and
13 strengthening services for pioneers and veterans who reside in a home operated under
14 this chapter;

15 (2) adopt regulations necessary to conduct business and to carry out
16 the provisions of this chapter, require bonds and undertakings from persons employed
17 by a home as in its judgment are necessary, and pay the premiums on them, and
18 establish regional and local offices and the advisory groups that are necessary or
19 considered expedient to carry out or assist in carrying out a duty or authority assigned
20 to it;

21 (3) perform all executive or administrative duties necessary and
22 advisable to carry out the purpose of this chapter, including the power to make
23 contracts and to make disbursements on vouchers against appropriations for the
24 purpose of this chapter, within the limit of appropriations available;

25 (4) study the needs of pioneers and veterans of this state who reside in
26 the homes operated under this chapter and submit recommendations for new
27 regulations and proposed legislation.

28 (d) The department may employ the necessary subordinate officers and
29 employees, and shall prescribe methods for operation of the homes, standards of care
30 and service to home residents, and rules governing personnel. The methods for
31 operation and standards of care and services to residents prescribed under this

1 subsection shall be the same as the methods for operation and standards of care
2 established by the department for an assisted living home licensed under AS 47.33.

3 (e) The department may engage in activities directed to increase revenue from
4 a home. These activities may include the lease of excess bed or floor space or the sale
5 or lease of space or buildings, that are not in use or are underutilized.

6 * **Sec. 16.** AS 47.55.020 is repealed and reenacted to read:

7 **Sec. 47.55.020. Admission to a home.** (a) Every person residing in the state
8 who is 65 years of age or older, has been a resident of the state continuously for more
9 than one year immediately preceding application for admission, and is in need of
10 residence at a home because of physical disability or other reason, is eligible for
11 admission to the Alaska Pioneers' Home or the Alaska Veterans' Home under
12 conditions prescribed in regulations. The spouse of a person who is eligible for
13 admission under other provisions of this subsection is also eligible for admission to a
14 home under conditions prescribed by the department if the spouse is 65 years of age or
15 older and has been a resident of the state continuously for more than one year
16 immediately preceding application for admission.

17 (b) Every person admitted to a home who receives income from any source in
18 excess of \$100 per month shall be required by the department to pay the excess to the
19 department immediately upon receipt of the money in payment, or part payment, of
20 the cost of the person's care. However, the department may not require in any month
21 the payment of an amount greater than the monthly rate set under AS 47.55.030(b)
22 except to satisfy indebtedness incurred under AS 47.55.070. The department may not
23 evict a person from a home if the income and assets of the person are insufficient to
24 pay the monthly rate set under AS 47.55.030(b) and the person is otherwise in
25 compliance with requirements under this chapter.

26 (c) At the end of each month the payments made under (b) of this section shall
27 be transmitted to the commissioner of revenue. The department may pay to a resident
28 without money the sum of \$100 per month.

29 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home
30 whose income, assets, and other resources are insufficient to pay the monthly rate set
31 under AS 47.55.030(b), and who does not have private insurance to cover the cost of

1 care, qualifies for payment assistance if the resident is otherwise in compliance with
 2 requirements under this chapter. The amount of payment assistance shall equal the
 3 amount needed, when added to other income and assets of the resident, to pay the
 4 monthly rate set under AS 47.55.030(b). Payment assistance received by a home
 5 resident is a debt to the state. In determining the amount of payment assistance for
 6 which a home resident qualifies, the following income, assets, and other resources of
 7 the resident shall be disregarded:

8 (1) income from any source in an amount up to \$100 per month as
 9 established by the department by regulation;

10 (2) the following assets received under 43 U.S.C. 1601 - 1629g
 11 (Alaska Native Claims Settlement Act):

12 (A) cash dividends and other income equal to at least \$2,000 as
 13 established by the department by regulation;

14 (B) stock;

15 (C) noncash dividends from stock; and

16 (D) land;

17 (3) a permanent fund dividend issued under AS 43.23;

18 (4) veterans' benefits paid under 38 U.S.C. 1110;

19 (5) compensation to volunteers under the federal retired and senior
 20 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior
 21 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

22 (6) federal World War II restitution payments made under 50 U.S.C.
 23 App. 1989b-4 and c-5;

24 (7) payments under AS 18.67 (crime victim compensation);

25 (8) an amount, determined by the department by regulation, that is
 26 sufficient for burial expenses of the resident, the resident's spouse, and dependents of
 27 the resident;

28 (9) real property being used as the primary residence of the resident's
 29 spouse or a dependent of the resident;

30 (10) other real or personal property equal to at least a total value of
 31 \$5,000 as established by the department by regulation.

1 (e) As a condition for receipt of payment assistance under (d) of this section,
 2 the department, under regulations adopted by the department, may require a person to
 3 apply for other state or federally sponsored programs that may reduce the amount of
 4 the payment assistance.

5 * **Sec. 17.** AS 47.55.030(a) is amended to read:

6 (a) A person eligible for admission under AS 47.55.020 may on application be
 7 admitted to the Alaska Pioneers' Home or the Alaska Veterans' Home [HOME]
 8 upon the person's agreement to pay to the state each month an amount the department
 9 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES] considers sufficient to
 10 compensate the state for the cost of care and support of the person at the home. When
 11 this agreement is entered into, the department [DEPARTMENT OF HEALTH AND
 12 SOCIAL SERVICES] may require security for the payments.

13 * **Sec. 18.** AS 47.55.030(c) is amended to read:

14 (c) The department [DEPARTMENT OF HEALTH AND SOCIAL
 15 SERVICES] shall provide to all residents of the homes [PIONEERS' HOME] written
 16 notice of any proposed change in the rate charged for care and support of persons at
 17 the homes [HOME]. Notice under this section shall be given not less than 60 days
 18 before a change is adopted. The notice must include the time, date, and place of a
 19 hearing to be held by the department [DEPARTMENT OF HEALTH AND SOCIAL
 20 SERVICES] under (d) of this section. The department may not change the rate
 21 charged more than once in a fiscal year.

22 * **Sec. 19.** AS 47.55.040 is amended to read:

23 **Sec. 47.55.040. Transfer of mentally ill residents to an [ANOTHER]
 24 institution.** A person regularly admitted into the Alaska Pioneers' Home or the
 25 Alaska Veterans' Home [HOME] who is found to be insane may be transferred to an
 26 institution provided for the care and custody of insane persons for the state in the
 27 manner provided by law for the admission of other persons to the institution.

28 * **Sec. 20.** AS 47.55.050 is amended to read:

29 **Sec. 47.55.050. Maintenance funds.** The legislature shall each session
 30 appropriate the necessary funds for the maintenance of the Alaska Pioneers' Home
 31 and the Alaska Veterans' Home [HOME] to be expended by the department

1 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], and **the** [THAT]
 2 department may receive funds, donations and bequests from private individuals,
 3 societies or organizations, and funds from the federal government for the support and
 4 maintenance of the **homes** [HOME].

5 * **Sec. 21.** AS 47.55.060 is amended to read:

6 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money
 7 bequeathed to the Alaska Pioneers' Home **or the Alaska Veterans' Home** constitutes
 8 a special trust fund. Unless otherwise provided by the donor, interest from the special
 9 trust fund is under the control and at the disposal of the **department** [DEPARTMENT
 10 OF HEALTH AND SOCIAL SERVICES], and expenditure from it is limited to the
 11 benefit and comfort of the residents of the home.

12 * **Sec. 22.** AS 47.55.070 is repealed and reenacted to read:

13 **Sec. 47.55.070. Indebtedness of Alaska Pioneers' Home or Alaska**
 14 **Veterans' Home resident to state.** The following expenses incurred for an Alaska
 15 Pioneers' Home or Alaska Veterans' Home resident under this chapter and not
 16 recoverable from a collateral source are a debt of the resident to the state and may be
 17 recovered during the life of the resident:

18 (1) costs of standard or nursing care provided in the home each month
 19 to the resident not exceeding the rate established by the department under
 20 AS 47.55.030, with credit given for any amounts paid by or collected from the
 21 resident;

22 (2) allowances paid under AS 47.55.020(c);

23 (3) arrearages in fees for television and telephone services provided in
 24 the home; and

25 (4) prescription medicine.

26 * **Sec. 23.** AS 47.55.095 is amended to read:

27 **Sec. 47.55.095. Limitation on enforcement of claims against estate.**
 28 Notwithstanding AS 47.55.080 and 47.55.090, upon the death of **an Alaska** [A]
 29 Pioneers' Home **or Alaska Veterans' Home** resident or of a recipient of day care or
 30 respite services, a state claim for unpaid debt owed to the **home** [PIONEERS' HOME]
 31 may be satisfied only out of the decedent's estate. The state may not pursue a claim to

1 the extent doing so would work undue hardship, as determined by **the department by**
 2 regulation [OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES], on
 3 the surviving spouse or dependent of the decedent. Family portraits and heirlooms of
 4 the type identified under AS 09.38.020(a)(3), without regard to value, may not be
 5 taken by the state in satisfaction of a debt to the **home** [PIONEERS' HOME].

6 * **Sec. 24.** AS 47.55 is amended by adding a new section to read:

7 **Sec. 47.55.900. Definitions.** In this chapter, unless the context otherwise
 8 requires,

9 (1) "department" means the Department of Health and Social Services;

10 (2) "home" means

11 (A) the Alaska Pioneers' Home; or

12 (B) the Alaska Veterans' Home;

13 (3) "physical disability or other reason" means inability of an
 14 individual to maintain a household without regular assistance in shopping,
 15 housekeeping, meal preparation, dressing, or personal hygiene because of physical or
 16 medical impairment, infirmity, or disability;

17 (4) "resident of the state" has the meaning given "resident" in
 18 AS 47.25.430(a);

19 (5) "veteran" means a person who has been honorably discharged with
 20 181 days or more of active service in the armed forces of the United States, including
 21 the Alaska National Guard or the Alaska Territorial Guard.

22 * **Sec. 25.** (a) AS 44.29.020(a)(17) and AS 47.55.035 are repealed.

23 (b) Sections 1 - 15, ch. 4, SSSLA 2002 are repealed.

24 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 TRANSITION: STATUS OF CERTAIN RESIDENTS OF THE ALASKA
 27 PIONEERS' HOME OR THE ALASKA VETERANS' HOME. (a) If a resident of an Alaska
 28 Pioneers' Home facility or Alaska Veterans' Home facility was admitted to the facility before
 29 the Department of Health and Social Services received the United States Veterans
 30 Administration certification for the Alaska Veterans' Home to begin receiving per diem
 31 payments for eligible veterans, the resident may not be evicted or required to relocate to a

1 different Alaska Pioneers' Home or Alaska Veterans' Home facility solely because of that
2 certification.

3 (b) The commissioner of the Department of Health and Social Services shall promptly
4 post on the Alaska Online Public Notice System (AS 44.62.175) the date that the certification
5 described in (a) of this section was received.

6 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: REGULATIONS. The Department of Health and Social Services
9 and other state agencies affected by this Act may immediately proceed to adopt regulations
10 necessary to implement the changes made by this Act. The regulations take effect under
11 AS 44.62 (Administrative Procedure Act), but not before the effective date of the respective
12 statutory changes.

13 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
16 heading of AS 47.55 from "Pioneers' Home" to "Alaska Pioneers' Home and Alaska Veterans'
17 Home."

18 * **Sec. 29.** Section 27 of this Act takes effect immediately under AS 01.10.070(c).

19 * **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect July 1, 2004.