

CS FOR HOUSE BILL NO. 440(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/25/04

Referred: Finance

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

1 **Sec. 15.05.020. Rules for determining residence of voter.** For the purpose
 2 of determining residence for voting, the place of residence is governed by the
 3 following rules:

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

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

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

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

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

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

28 (7) [REPEALED

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

31 **(8)** [(9) REPEALED

1 (10)] The address of a voter as it appears on an official voter
 2 registration card is presumptive evidence of the person's voting residence. This
 3 presumption is negated only by the **voter's** [VOTER] notifying the director in writing
 4 of a change of voting residence.

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

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

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

17 (B) the elderly; for the purposes of this subparagraph,
 18 "institution" includes

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

20 and

21 (ii) the Alaska [A] Pioneers' Home or the Alaska
 22 Veterans' Home, operated under AS 47.55;

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

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

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

31 (A) the [AN] Alaska Pioneers' Home and the Alaska

1 **Veterans' Home** administered by the Department of **Health and Social**
 2 **Services** [ADMINISTRATION] under [AS 44.21.02(9) AND] AS 47.55; and

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

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

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

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

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

17 (3) a public or private postsecondary educational institution or adult
 18 day care facility;

19 (4) a courtroom or jury deliberation room;

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

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

26 (7) a food service establishment that has a seating capacity of at least
 27 50 persons;

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

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

1 prohibited by law;

2 (10) a correctional facility; and

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

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

5 (1) "agency"

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

10 (B) does not include

11 (i) the University of Alaska;

12 (ii) the Alaska Railroad Corporation;

13 (iii) the Alaska Housing Finance Corporation;

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

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

21 (vi) the Alaska Aerospace Development Corporation;

22 (vii) the Alaska State Pension Investment Board;

23 (viii) the Alaska Seafood Marketing Institute;

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

25 (31) Alaska Pioneers' Home **and Alaska Veterans' Home** care and
26 support receipts under AS 47.55.030;

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

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

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

2 (1) "agency" means a department, officer, institution, board,
3 commission, bureau, division, or other administrative unit forming the state
4 government and includes the Alaska Pioneers' Home, the Alaska Veterans' Home,
5 and the University of Alaska, but does not include the legislature or the judiciary;

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

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

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

9 (16) the Alaska Pioneers' Home and the Alaska Veterans' Home
10 [HOMES];

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

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

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

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

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

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

28 * **Sec. 15.** AS 47.55.010 is repealed and reenacted to read:

29 **Sec. 47.55.010. Maintenance and operation of Alaska Pioneers' Home and**
30 **Alaska Veterans' Home.** (a) Except as otherwise provided in this subsection, the
31 state shall maintain and operate facilities known as the Alaska Pioneers' Home at

1 Sitka, Anchorage, Fairbanks, Juneau, Ketchikan, Palmer, and other sites designated by
2 the commissioner of health and social services. The state may maintain and operate
3 one or more facilities known as the Alaska Veterans' Home at sites designated by the
4 commissioner of health and social services. The only Pioneers' Home that may be
5 maintained and operated as a Veterans' Home is the Pioneer's Home located in Palmer,
6 Alaska. The Alaska Pioneers' Home and the Alaska Veterans' Home shall be
7 collectively administered by the Department of Health and Social Services as the
8 Alaska Pioneers' Home and Alaska Veterans' Home.

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

12 (c) The department shall

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

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

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

30 (4) study the needs of pioneers and veterans of this state who reside in
31 the homes operated under this chapter and submit recommendations for new

1 regulations and proposed legislation.

2 (d) The department may employ the necessary subordinate officers and
 3 employees, and shall prescribe methods for operation of the homes, standards of care
 4 and service to home residents, and rules governing personnel. The methods for
 5 operation and standards of care and services to residents prescribed under this
 6 subsection shall be the same as the methods for operation and standards of care
 7 established by the department for an assisted living home licensed under AS 47.33.

8 (e) The department may engage in activities directed to increase revenue from
 9 a home. These activities may include the lease of excess bed or floor space, up to 50
 10 percent of the total floor space in a home, or lease of space or buildings that are not in
 11 use or are underutilized.

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

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

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

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

4 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home
 5 whose income, assets, and other resources are insufficient to pay the monthly rate set
 6 under AS 47.55.030(b), and who does not have private insurance to cover the cost of
 7 care, qualifies for payment assistance if the resident is otherwise in compliance with
 8 requirements under this chapter. The amount of payment assistance equals the amount
 9 needed, when added to other income and assets of the resident, to pay the monthly rate
 10 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt
 11 to the state. In determining the amount of payment assistance for which a home
 12 resident qualifies, the following income, assets, and other resources of the resident
 13 shall be disregarded:

14 (1) income from any source in an amount up to \$100 a month as
 15 established by the department by regulation;

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

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

20 (B) stock;

21 (C) noncash dividends from stock; and

22 (D) land;

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

24 (4) compensation to volunteers under the federal retired and senior
 25 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior
 26 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

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

29 (6) payments under AS 18.67 (Violent Crimes Compensation Board);

30 (7) an amount, determined by the department by regulation, that is
 31 sufficient for burial expenses of the resident, the resident's spouse, and dependents of

1 the resident;

2 (8) real property being used as the primary residence of the resident's
3 spouse or a dependent of the resident;

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

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

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

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

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

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

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

28 **Sec. 47.55.040. Transfer of mentally ill residents to an [ANOTHER]**
29 **institution.** A person regularly admitted into the Alaska Pioneers' Home or the
30 Alaska Veterans' Home [HOME] who is found to be insane may be transferred to an
31 institution provided for the care and custody of insane persons for the state in the

1 manner provided by law for the admission of other persons to the institution.

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

3 **Sec. 47.55.050. Maintenance funds.** The legislature shall, each session,
4 appropriate the necessary funds for the maintenance of the Alaska Pioneers' Home
5 and the Alaska Veterans' Home [HOME] to be expended by the department
6 [DEPARTMENT OF HEALTH AND SOCIAL SERVICES], and the [THAT]
7 department may receive funds, donations, and bequests from private individuals,
8 societies, or organizations, and funds from the federal government for the support and
9 maintenance of the homes [HOME].

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

11 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money
12 bequeathed to the Alaska Pioneers' Home or the Alaska Veterans' Home constitutes
13 a special trust fund. Unless otherwise provided by the donor, interest from the special
14 trust fund is under the control and at the disposal of the department [DEPARTMENT
15 OF HEALTH AND SOCIAL SERVICES], and expenditure from it is limited to the
16 benefit and comfort of the residents of the homes [HOME].

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

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

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

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

28 (3) arrearages in fees for television and telephone services provided in
29 the home; and

30 (4) prescription medicine.

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

1 **Sec. 47.55.095. Limitation on enforcement of claims against estate.**

2 Notwithstanding AS 47.55.080 and 47.55.090, upon the death of an Alaska [A]
 3 Pioneers' Home or Alaska Veterans' Home resident or of a recipient of day care or
 4 respite services, a state claim for unpaid debt owed to the home [PIONEERS' HOME]
 5 may be satisfied only out of the decedent's estate. The state may not pursue a claim to
 6 the extent doing so would work undue hardship, as determined by the department by
 7 regulation [OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES], on
 8 the surviving spouse or dependent of the decedent. Family portraits and heirlooms of
 9 the type identified under AS 09.38.020(a)(3), without regard to value, may not be
 10 taken by the state in satisfaction of a debt to the home [PIONEERS' HOME].

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

12 **Sec. 47.55.900. Definitions.** In this chapter, unless the context otherwise
 13 requires,

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

15 (2) "home" means

16 (A) the Alaska Pioneers' Home; or

17 (B) the Alaska Veterans' Home;

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

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

24 (5) "veteran" means a person who has been discharged from the armed
 25 forces of the United States, including the Alaska National Guard or the Alaska
 26 Territorial Guard; the discharge from the armed forces must be other than
 27 dishonorable.

28 * **Sec. 25.** (a) AS 44.29.020(a)(17) and 44.29.400 are repealed.

29 (b) Sections 5 and 8 - 15, ch. 4, SSSLA 2002, as those sections are amended by a
 30 version of HB 447, if HB 447 is passed by the Second Session of the Twenty-Third Alaska
 31 State Legislature and enacted into law, are repealed.

1 (c) Sections 50 and 51 of HB 447 or the equivalent bill sections of a later version of
 2 HB 447, if passed by the Second Session of the Twenty-Third Alaska State Legislature and
 3 enacted into law, are repealed.

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

6 TRANSITION: STATUS OF CERTAIN RESIDENTS OF THE ALASKA
 7 PIONEERS' HOME OR THE ALASKA VETERANS' HOME. (a) If a resident of an Alaska
 8 Pioneers' Home facility or Alaska Veterans' Home facility was admitted to the facility before
 9 the Department of Health and Social Services received the United States Veterans
 10 Administration certification for the Alaska Veterans' Home to begin receiving per diem
 11 payments for eligible veterans, the resident may not be evicted or required to relocate to a
 12 different Alaska Pioneers' Home or Alaska Veterans' Home facility solely because of that
 13 certification.

14 (b) The commissioner of the health and social services shall promptly post on the
 15 Alaska Online Public Notice System (AS 44.62.175) the date that the certification described
 16 in (a) of this section was received.

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

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

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

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

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

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