

**CS FOR HOUSE BILL NO. 447(STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 2/26/04

Referred: Judiciary

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act making corrective amendments to the Alaska Statutes as recommended by the**  
2 **revisor of statutes; and providing for an effective date."**

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

4 **\* Section 1.** AS 09.45.230(d) is amended to read:

5 (d) The provisions of (b) of this section remain in effect only as long as both  
6 of the following are satisfied:

7 (1) AS 46.03.900 defines "pollution" as including the contamination or  
8 altering of waters, land, or subsurface land of the state in a manner that creates a  
9 nuisance; and

10 (2) AS 46.14.990 defines "emission" as the release of one or more air  
11 **pollutants** [CONTAMINANTS] to the atmosphere.

12 **\* Sec. 2.** AS 09.65.235 is amended to read:

13 **Sec. 09.65.235. Immunity for negotiated regulation making committee**  
14 **and its members.** A civil action for damages or costs may not be brought against a

1 negotiated regulation making committee established under AS 44.62.710 - 44.62.800  
 2 or any of its members for an act or omission occurring in the course and scope of the  
 3 official duties of the committee under AS 44.62.710 - 44.62.800 [THIS CHAPTER].

4 \* **Sec. 3.** AS 11.61.195(a) is amended to read:

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

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

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

11 (A) a public or private preschool, elementary, junior high, or  
 12 secondary school without the permission of the chief administrative officer of  
 13 the school or district or the designee of the chief administrative officer; or

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

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

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

20 (B) a dwelling.

21 \* **Sec. 4.** AS 11.61.220(a) is amended to read:

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

24 (1) is 21 years of age or older and knowingly possesses a deadly  
 25 weapon, other than an ordinary pocket knife or a defensive weapon,

26 (A) that is concealed on the person, and, when contacted by a  
 27 peace officer, the person fails to

28 (i) immediately inform the peace officer of that  
 29 possession; or

30 (ii) allow the peace officer to secure the deadly weapon,  
 31 or fails to secure the weapon at the direction of the peace officer,

1 during the duration of the contact;

2 (B) that is concealed on the person within the residence of  
3 another person unless the person has first obtained the express permission of  
4 an adult residing there to bring a concealed deadly weapon within the  
5 residence;

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

15 (B) within a

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

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

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

21 (5) possesses or transports a switchblade or a gravity knife; or

22 (6) is less than 21 years of age and knowingly possesses a deadly  
23 weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed  
24 on the person.

25 \* **Sec. 5.** AS 12.55.125(l) is amended to read:

26 (l) Notwithstanding any other provision of law, a defendant convicted of an  
27 unclassified or class A felony offense, and not subject to a mandatory 99-year  
28 sentence under (a) of this section, shall be sentenced to a definite term of  
29 imprisonment of at least 40 years but not more than 99 years when the defendant has  
30 been previously convicted of two or more most serious felonies and the prosecuting  
31 attorney has filed a notice of intent to seek a definite sentence under this subsection at

1 the time the defendant was arraigned in superior court. If a defendant is sentenced to a  
 2 definite term under this **subsection** [SECTION],

3 (1) imprisonment for the prescribed definite term may not be  
 4 suspended under AS 12.55.080;

5 (2) imposition of sentence may not be suspended under AS 12.55.085;

6 (3) imprisonment for the prescribed definite term may not be reduced,  
 7 except as provided in (j) of this section.

8 \* **Sec. 6.** AS 13.26.015 is amended to read:

9 **Sec. 13.26.015. Facility of payment or delivery.** Any person under a duty to  
 10 pay or deliver money or personal property to a minor may perform this duty, in  
 11 amounts not exceeding \$5,000 a year, by paying or delivering the money or property  
 12 to, (1) the minor, if the minor [HAS ATTAINED THE AGE OF 18 YEARS OR] is  
 13 married; (2) any person having the care and custody of the minor with whom the  
 14 minor resides; (3) a guardian of the minor; or (4) a financial institution incident to a  
 15 deposit in a federally insured savings account in the sole name of the minor and giving  
 16 notice of the deposit to the minor. This section does not apply if the person making  
 17 payment or delivery has actual knowledge that a conservator has been appointed or  
 18 proceedings for appointment of a conservator of the estate of the minor are pending.  
 19 The persons, other than the minor or any financial institution under (4) of this section,  
 20 receiving money or property for a minor, are obligated to apply the money to the  
 21 support and education of the minor, but may not pay themselves except by way of  
 22 reimbursement for out-of-pocket expenses for goods and services necessary for the  
 23 minor's support. Any excess sums shall be preserved for future support of the minor  
 24 and any balance not so used and any property received for the minor must be turned  
 25 over to the minor when the minor attains majority. Persons who pay or deliver in  
 26 accordance with provisions of this section are not responsible for the proper  
 27 application thereof.

28 \* **Sec. 7.** AS 13.26.280(a) is amended to read:

29 (a) A conservator has all of the powers conferred herein and any additional  
 30 powers conferred by law on trustees in this state. In addition, a conservator of the  
 31 estate of an unmarried minor [UNDER THE AGE OF 18 YEARS], as to whom no one

1 has parental rights, has the duties and powers of a guardian of a minor described in  
 2 AS 13.26.070 until the minor attains the age of 18 or marries, but the parental rights so  
 3 conferred on a conservator do not preclude appointment of a guardian as provided by  
 4 AS 13.26.030 - 13.26.085.

5 \* **Sec. 8.** AS 14.43.148(h)(1)(B)(iii) is amended to read:

6 (iii) a license issued under [AS 14.37 OR] AS 47.35;

7 \* **Sec. 9.** AS 15.13.040(j) is amended to read:

8 (j) Except as provided in (l) of this section, each nongroup entity shall make a  
 9 full report in accordance with AS 15.13.110 upon a form prescribed by the  
 10 commission and certified by the nongroup entity's treasurer, listing

11 (1) the name and address of each officer and director of the nongroup  
 12 entity;

13 (2) the aggregate amount of all contributions made to the nongroup  
 14 entity for the purpose of influencing the outcome of an election;

15 (3) for all contributions described in (2) of this subsection, the name,  
 16 address, [AND PRINCIPAL OCCUPATION OF THE CONTRIBUTOR, AND THE]  
 17 date, and amount contributed by each contributor and, for all contributions described  
 18 in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the  
 19 **principal occupation and** employer of the contributor; and

20 (4) the date and amount of all contributions made by the nongroup  
 21 entity, and, except as provided for certain independent expenditures in  
 22 AS 15.13.135(a), all expenditures made, incurred, or authorized by the nongroup  
 23 entity, for the purpose of influencing the outcome of an election; a nongroup entity  
 24 shall report contributions made to a different nongroup entity for the purpose of  
 25 influencing the outcome of an election and expenditures made on behalf of a different  
 26 nongroup entity for the purpose of influencing the outcome of an election as soon as  
 27 the total contributions and expenditures to that nongroup entity for the purpose of  
 28 influencing the outcome of an election reach \$500 in a year and for all subsequent  
 29 contributions and expenditures to that nongroup entity in a year whenever the total  
 30 contributions and expenditures to that nongroup entity for the purpose of influencing  
 31 the outcome of an election that have not been reported under this paragraph reach

1           \$500.

2   \* **Sec. 10.** AS 15.13.110(f)(2) is amended to read:

3                   (2) a person who has filed a nominating petition under AS 15.25.140 -  
4           15.25.200 to become a candidate at the **general** [PRIMARY] election for elective state  
5           executive or legislative office;

6   \* **Sec. 11.** AS 16.43.160(e) is amended to read:

7                   (e) For an entry permit or an interim-use permit issued for calendar year 2002  
8           and following years, the annual base fee may not be less than \$10 or more than \$300.  
9           The annual base fee must reasonably reflect the different rates of economic return for  
10          different fisheries. The fee for a nonresident entry permit or a nonresident interim-use  
11          permit shall be higher than the annual base fee by an amount, established by the  
12          commission by regulation, that is as close as is practicable to the maximum allowed by  
13          law. The amount of the fee for a nonresident entry permit or a nonresident interim-use  
14          permit may reflect

15                   (1) the costs incurred by the state that are directly attributable to  
16          participation of nonresidents in the commercial fisheries of the state;

17                   (2) the costs incurred by the state for

18                           (A) direct operating expenditures for ongoing management,  
19          support, and regulation of the commercial fishing industry, including relevant  
20          expenditures of the

21   (i) [REPEALED

22   (ii)] Department of Environmental Conservation - air  
23          and water quality permitting activities and seafood inspection activities;

24   **(ii)** [(iii)] Department of Community and Economic  
25          Development - commercial fishing loan program, Alaska Seafood  
26          Marketing Institute, and community development quota program;

27   **(iii)** [(iv)] Department of Fish and Game - division of  
28          commercial fisheries, [DIVISION OF HABITAT AND  
29          RESTORATION,] board support section, division of administrative  
30          services, division of sport fish, commissioner's office, and Alaska  
31          Commercial Fisheries Entry Commission;

1                    **(iv)** [(v)] Department of Labor and Workforce  
 2                    Development - wage and hour enforcement, mechanical inspections,  
 3                    occupational safety and health activities, and fishermen's fund;

4                    **(v)** [(vi)] Department of Law;

5                    **(vi)** [(vii)] Department of Natural Resources, including  
 6                    the Alaska coastal management program **and habitat programs**;

7                    **(vii)** [(viii)] Department of Public Safety - commercial  
 8                    fisheries enforcement;

9                    **(viii)** [(ix)] Department of Revenue - fisheries business  
 10                    tax program, fishery resource landing tax program, salmon  
 11                    enhancement tax program, salmon marketing tax program, **salmon**  
 12                    **fishery assessment program, permit buy-back assessment program,**  
 13                    and dive fishery management assessment program;

14                    **(ix)** [(x)] University of Alaska - Fisheries Industrial  
 15                    Technology Center, Institute of Marine Science, Marine Advisory  
 16                    Program, Sea Grant College Program, and School of Fisheries and  
 17                    Ocean Sciences;

18                    **(x)** [(xi)] Legislature;

19                    **(xi)** [(xii)] Alaska Court System;

20                    (B) indirect operating expenditures for general overhead  
 21                    attributable to supporting the commercial fishing industry, including  
 22                    expenditures for general overhead attributable to components of agencies that  
 23                    have direct operating expenditures identified under (A) of this paragraph and to  
 24                    components of agencies for which direct operating expenditures related to the  
 25                    ongoing management, support, and regulation of the commercial fishing  
 26                    industry cannot be readily determined;

27                    (C) general government expenditures for government services  
 28                    that are used by a portion of the population attributable to the presence of the  
 29                    commercial fishing industry, including government services provided by the  
 30                    Department of Administration, Department of Corrections, Department of  
 31                    Education and Early Development, Department of Health and Social Services,

1 Department of Military and Veterans' Affairs, and Department of  
2 Transportation and Public Facilities;

3 (D) capital expenditures to support the commercial fishing  
4 industry as measured by annual depreciation of public facilities and  
5 infrastructure; and

6 (E) expenditures to subsidize the construction and operation of  
7 salmon hatcheries; and

8 (3) the amount of revenue foregone by the state due to the current  
9 management system for commercial fisheries in the state.

10 \* **Sec. 12.** AS 21.36.360(i) is amended to read:

11 (i) A criminal insurance act is committed by a person doing business in this  
12 state or relative to a subject resident, located, or to be performed in this state who  
13 knowingly

14 (1) writes, places, or causes to be written or placed in this state or  
15 relative to a subject resident, located, or to be performed in this state a policy,  
16 duplicate policy, or contract of insurance of any kind or character, or general or  
17 floating policy upon persons or property resident, situated, or located in this state,  
18 from or through a person not authorized to transact business under AS 21.27 or a risk  
19 retention group or purchasing group not registered under **AS 21.89.090**  
20 [AS 21.89.070]; or

21 (2) pays a commission or other form of remuneration to a person, firm,  
22 or organization for the writing or placing of insurance coverage in this state or relative  
23 to a subject resident, located, or to be performed in this state unless that person, firm,  
24 or organization is authorized under AS 21.27 to transact the kind or class of insurance  
25 written or placed, or, in the case of a risk retention group or purchasing group, is  
26 registered under **AS 21.89.090** [AS 21.89.070].

27 \* **Sec. 13.** AS 21.36.360(j) is amended to read:

28 (j) A criminal insurance act is committed by a person in this state or relative to  
29 a subject resident, located, or to be performed in this state who acts as an insurance  
30 producer, managing general agent, third-party administrator, reinsurance intermediary  
31 broker, reinsurance intermediary manager, surplus lines broker, or independent

1 adjuster without being licensed by the director as required under this title or as a risk  
 2 retention group or purchasing group without being registered as required under  
 3 AS 21.89.090 [AS 21.89.070]. A criminal insurance act is committed by an insurance  
 4 producer, managing general agent, third-party administrator, reinsurance intermediary  
 5 broker, reinsurance intermediary manager, or surplus lines broker who solicits or takes  
 6 application for, procures, or places for others any insurance for which the person is not  
 7 licensed as required under AS 21.27 or for which the license of the person has been  
 8 suspended or revoked. A criminal insurance act is committed by a person in this state  
 9 or relative to a subject resident, located, or to be performed in this state who acts as or  
 10 on behalf of a risk retention group or a purchasing group that is not registered under  
 11 AS 21.89.090 [AS 21.89.070].

12 \* **Sec. 14.** AS 21.36.360(k) is amended to read:

13 (k) A criminal insurance act is committed by an insurance producer, managing  
 14 general agent, third-party administrator, reinsurance intermediary broker, reinsurance  
 15 intermediary manager, or surplus lines broker who knowingly compensates or offers  
 16 to compensate in any manner a person other than an insurance producer, managing  
 17 general agent, third-party administrator, reinsurance intermediary broker, reinsurance  
 18 intermediary manager, or surplus lines broker licensed as required under this title in  
 19 this or another jurisdiction, for procuring or in any manner helping to procure  
 20 applications for or to place insurance in this state. A criminal insurance act is  
 21 committed by a person in this state or relative to a subject resident, located, or to be  
 22 performed in this state who acts as or on behalf of a risk retention group or a  
 23 purchasing group that is not registered under AS 21.89.090 [AS 21.89.070]. This  
 24 subsection does not apply to the payment of compensation that is not contingent upon  
 25 volume of business transacted in the form of salaries to the regular employees of the  
 26 insurance producer, managing general agent, third-party administrator, reinsurance  
 27 intermediary broker, reinsurance intermediary manager, or surplus lines broker.

28 \* **Sec. 15.** AS 24.08.330(b) is amended to read:

29 (b) Agencies receiving sets of the Alaska Statutes shall mark each volume or  
 30 binder received "Property of the State of Alaska."  [," AND SHALL HAVE EACH  
 31 SET RECORDED AS AN ITEM OF PROPERTY ON ITS RECORDS AND THE

1 CENTRAL PROPERTY RECORDS OF THE STATE.]

2 \* **Sec. 16.** AS 25.27.244(s)(2)(B)(ii) is amended to read:

3 (ii) a license issued under [AS 14.37 or] AS 47.35;

4 \* **Sec. 17.** AS 28.35.032(l) is amended to read:

5 (l) The court shall order a person convicted under this section to satisfy the  
6 screening, evaluation, referral, and program requirements of an alcohol safety action  
7 program if such a program is available in the community where the person resides, or  
8 a private or public treatment facility approved by [THE DIVISION OF  
9 ALCOHOLISM AND DRUG ABUSE, OF] the Department of Health and Social  
10 Services [,] under AS 47.37 to make referrals for rehabilitative treatment or to provide  
11 rehabilitative treatment. If a person is convicted under (p) of this section, the court  
12 shall order the person to be evaluated as required by this subsection before the court  
13 imposes sentence for the offense.

14 \* **Sec. 18.** AS 32.05.020(2) is amended to read:

15 (2) joint tenancy, tenancy in common, tenancy by the **entirety**  
16 [ENTIRETIES], joint property, common property, or part ownership does not of itself  
17 establish a partnership, whether or not the co-owners share any profits made by the use  
18 of the property;

19 \* **Sec. 19.** AS 32.06.202(c) is amended to read:

20 (c) In determining whether a partnership is formed, the following rules apply:

21 (1) joint tenancy, tenancy in common, tenancy by the **entirety**  
22 [ENTIRETIES], joint property, common property, or part ownership does not by itself  
23 establish a partnership, even if the co-owners share profits made by the use of the  
24 property;

25 (2) the sharing of gross returns does not by itself establish a  
26 partnership, even if the persons sharing them have a joint or common right or interest  
27 in property from which the returns are derived;

28 (3) a person who receives a share of the profits of a business is  
29 presumed to be a partner in the business, unless the profits are received in payment

30 (A) of a debt by installments or otherwise;

31 (B) for services as an independent contractor, or of wages or

1 other compensation to an employee;

2 (C) of rent;

3 (D) of an annuity or other retirement or health benefit provided  
4 to a beneficiary, representative, or designee of a deceased or retired partner;

5 (E) of interest or other charge on a loan, even if the amount of  
6 payment varies with the profits of the business, including a direct or indirect  
7 present or future ownership of the collateral, or rights to income, proceeds, or  
8 increase in value derived from the collateral; or

9 (F) for the sale of the good will of a business or other property  
10 by installments or otherwise.

11 \* **Sec. 20.** AS 36.30.850(b)(11) is amended to read:

12 (11) agreements with providers of services under [AS 47.25.007 -  
13 47.25.009;] AS 47.07; AS 47.08; AS 47.10; AS 47.12; AS 47.14; AS 47.17; AS 47.24;  
14 AS 47.25.001 - 47.25.009; and AS 47.27, including contractors under AS 47.27.050;

15 \* **Sec. 21.** AS 37.05.180 is amended to read:

16 **Sec. 37.05.180. Limitation on payment of warrants.** A warrant upon the  
17 state treasury may not be paid unless presented at the office of the commissioner of  
18 revenue within six months of the date of its issuance. A warrant not presented within  
19 that time is presumed abandoned, except where the warrant is for the payment of a  
20 permanent fund dividend or a benefit payment or refund under AS 14.25, AS 22.25,  
21 AS 26.05, AS 39.30, AS 39.35, **former** AS 39.37, or AS 39.45. Money held for an  
22 abandoned warrant shall be delivered to the custody of the Department of Revenue to  
23 be administered as unclaimed property under AS 34.45.

24 \* **Sec. 22.** AS 37.05.318 is amended to read:

25 **Sec. 37.05.318. Further regulations prohibited.** Notwithstanding AS 44.62  
26 ( [THE] Administrative Procedure Act), AS 37.07 ( [(AS 44.62), THE FISCAL  
27 PROCEDURES ACT (AS 37.05), AND THE] Executive Budget Act), **and other**  
28 **provisions of this chapter** [(AS 37.07)], a state agency may not adopt regulations or  
29 impose additional requirements or procedures to implement, interpret, make specific,  
30 or otherwise carry out the provisions of AS 37.05.315 - 37.05.317 unless required by  
31 the federal government for participation in federal programs.

1 \* **Sec. 23.** AS 37.14.270(2) is amended to read:

2 (2) "child abuse and neglect" has the meaning given **"child abuse or**  
 3 **neglect"** in AS 47.17.290;

4 \* **Sec. 24.** AS 41.17 is amended by adding a new section to read:

5 **Sec. 41.17.955. Short Title.** This chapter may be cited as the Forest  
 6 Resources and Practices Act.

7 \* **Sec. 25.** AS 44.29.520 is amended to read:

8 **Sec. 44.29.520. Composition of the board.** (a) The Alaska Pioneers' Homes  
 9 Advisory Board consists of

10 (1) **five** [SEVEN] members appointed by the governor from among  
 11 citizens of the state; [AND]

12 (2) **one member appointed by the governor who is a veteran of**  
 13 **active service in the armed forces of the United States, including the Alaska**  
 14 **National Guard or the Alaska Territorial Guard;**

15 (3) **one member who is the chair of the Alaska Commission on Aging**  
 16 **established in AS 47.44.200; and**

17 (4) **one member who is chair of the Alaska Veterans Advisory**  
 18 **Council established in AS 44.35.**

19 (b) The term of office of a member of the board appointed under (a)(1) of this  
 20 section is four years. A member of the board may not serve more than eight  
 21 consecutive years. A chair shall be elected by the voting members of the board. The  
 22 members of the board appointed under (a)(1) **and (2)** of this section serve at the  
 23 pleasure of the governor.

24 \* **Sec. 26.** AS 44.66.010(a)(10) is amended to read:

25 (10) Alaska Commission on Aging (**AS 47.44.200**) [(AS 44.21.200)] -  
 26 June 30, 2004;

27 \* **Sec. 27.** AS 46.14.120(b) is amended to read:

28 (b) Except when considered to be in compliance with this chapter under  
 29 AS 46.14.275 or under a regulation adopted under **AS 46.14.140(a)(12)**  
 30 [AS 46.14.140(a)(11)], the owner and operator shall obtain an operating permit under  
 31 this chapter before operating a stationary source subject to AS 46.14.130(b).

1 \* **Sec. 28.** AS 46.14.120(c) is amended to read:

2 (c) A permittee shall comply with the terms and conditions of a permit or a  
3 modifying compliance order issued by the department under this chapter or a court  
4 order. A person operating under the application shield available under  
5 AS 46.14.140(a)(12) [AS 46.14.140(a)(11)] and 46.14.275, shall comply with the  
6 terms and conditions of the pending application and applicable regulations.

7 \* **Sec. 29.** AS 46.14.170(a) is amended to read:

8 (a) Except as provided in AS 46.14.220 or in regulations adopted under  
9 AS 46.14.140(a)(7) [AS 46.14.140(a)(6)], after receipt of a complete application, and  
10 after notice and opportunity for public comment and hearing, the department shall  
11 issue or deny

12 (1) a construction permit within 30 days after the close of the public  
13 comment period;

14 (2) an operating permit, other than a general operating permit or  
15 temporary operating permit, within 12 months after receipt of the complete application  
16 by the department.

17 \* **Sec. 30.** AS 47.10.093(g) is amended to read:

18 (g) The department and affected law enforcement agencies shall work with  
19 school districts and private schools to develop procedures for the disclosure of  
20 information to school officials under (b)(4) [(b)(3)] of this section. The procedures  
21 must provide a method for informing the principal or the principal's designee of the  
22 school the student attends as soon as it is reasonably practicable.

23 \* **Sec. 31.** AS 47.24.070 is amended to read:

24 **Sec. 47.24.070. Required review of proposed regulations.** Before adoption  
25 by the department, regulations to implement this chapter shall be provided to the  
26 Alaska Commission on Aging established under AS 47.44.200 [AS 44.21.200] for  
27 review.

28 \* **Sec. 32.** AS 47.30.016(b)(2)(D) is amended to read:

29 (D) one person selected by the Alaska Commission on Aging  
30 established by AS 47.44.200 [AS 44.21.200];

31 \* **Sec. 33.** AS 47.30.036(3) is amended to read:

1 (3) review and consider the recommendations submitted under  
 2 [AS 44.21.230(a)(10)], AS 44.29.140(2), AS 47.30.666(6), AS 47.44.230(a)(10), and  
 3 AS 47.80.090(13);

4 \* **Sec. 34.** AS 47.35.010(a) is amended to read:

5 (a) The department may

6 (1) license and supervise child care facilities, foster homes, residential  
 7 child care facilities, semi-secure residential child care facilities, secure residential  
 8 psychiatric treatment centers, child placement agencies, and maternity homes;

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

12 (3) adopt regulations to implement the provisions of this chapter,  
 13 including regulations establishing licensure, certification, and renewal procedures,  
 14 standards, and fees; establishing requirements for operation of facilities or agencies  
 15 licensed under this chapter; and distinguishing between types of facilities;

16 (4) enter into agreements with private entities, municipalities, or  
 17 individuals to investigate and make recommendations to the department for the  
 18 licensing and supervision of child care facilities, foster homes, residential child care  
 19 facilities, semi-secure residential child care facilities, secure residential psychiatric  
 20 treatment centers, child placement agencies, and maternity homes under procedures  
 21 and standards of operation established by the department;

22 (5) accept licenses issued by other organizations or state agencies that  
 23 have licensing authority under federal or state law for the facilities listed in (1) of this  
 24 subsection, other than child care facilities.

25 \* **Sec. 35.** AS 47.35.017(b) is amended to read:

26 (b) An application submitted under this section must contain at least the  
 27 following information:

28 (1) the name and address of the applicant and, if the applicant is an  
 29 agency, corporation, partnership, association, or any other form of organization, the  
 30 name, address, and title of each individual who has an ownership or management  
 31 interest in the facility; if the applicant is an individual, the application must include the

1 name, age, and driver's license number, if any, of each member of the individual's  
2 household;

3 (2) the name, physical location, and mailing address of the facility or  
4 agency for which the license is sought;

5 (3) the name and address of the administrator of the facility or agency,  
6 if any;

7 (4) evidence that the administrator or foster parent is an adult with  
8 sufficient experience, training, or education to fulfill the duties of an administrator or  
9 foster parent;

10 (5) a release for the administrator or foster parent and for each other  
11 person who is 16 years of age or older, as specified by the department by regulation,  
12 who will have contact with individuals served by the facility or agency, authorizing  
13 the department to review all federal, state, and municipal criminal justice information,  
14 whether of this state, of a municipality of this state, or of another jurisdiction, medical  
15 records, licensing records, and protective services records, identified in regulations  
16 adopted under this chapter, that are relevant to the person who is the subject of the  
17 release and to the type of license for which the application has been submitted;

18 (6) [FOR A FACILITY OR AGENCY

19 (A) OTHER THAN A CHILD CARE FACILITY,] two sets of  
20 fingerprints and the social security number of each person required to provide  
21 a release under (5) of this subsection in order for the department to submit the  
22 fingerprints to the Department of Public Safety for the purpose of conducting  
23 state and national criminal background checks from criminal justice  
24 information received under AS 12.62 and regulations adopted under AS 12.62;  
25 the department may not approve an application under this section until the  
26 results of the criminal background check have been submitted to the  
27 department; [OR

28 (B) THAT IS A CHILD CARE FACILITY, IF REQUIRED  
29 BY REGULATIONS ADOPTED BY THE DEPARTMENT, TWO SETS OF  
30 FINGERPRINTS AND THE SOCIAL SECURITY NUMBER OF EACH  
31 PERSON REQUIRED TO PROVIDE A RELEASE UNDER (5) OF THIS

1 SUBSECTION IN ORDER FOR THE DEPARTMENT TO SUBMIT THE  
 2 FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE  
 3 PURPOSE OF CONDUCTING STATE AND NATIONAL CRIMINAL  
 4 BACKGROUND CHECKS FROM CRIMINAL JUSTICE INFORMATION  
 5 RECEIVED UNDER AS 12.62 AND REGULATIONS ADOPTED UNDER  
 6 AS 12.62;]

7 (7) for a facility, the number of individuals that will be served in the  
 8 facility;

9 (8) the type of facility or agency for which the license is sought;

10 (9) copies of all inspection reports and approvals required by state fire  
 11 prevention and environmental health and safety authorities for operation of the facility  
 12 or agency, including any variances granted by these authorities;

13 (10) a plan of operation, as required by the department by regulation;

14 (11) a staffing plan that describes the number of people who will work  
 15 at the facility or agency, staff qualifications, a description of each person's  
 16 responsibilities, and, for a facility other than a maternity home, a supervision schedule  
 17 for the children in care that meets the requirements established by the department by  
 18 regulation;

19 (12) evidence that the applicant is capable of meeting the minimum  
 20 standards of care established by the department under AS 47.14.120;

21 (13) evidence that the applicant has completed orientation or training  
 22 required by the department, by regulation, for holders of the type of license for which  
 23 the application was submitted; and

24 (14) other information required by the department, by regulation, in  
 25 order to monitor compliance with this chapter and regulations adopted under this  
 26 chapter.

27 \* **Sec. 36.** AS 47.35.021 is amended by adding a new subsection to read:

28 (b) This section does not apply to the issuance of an initial license to a child  
 29 care facility.

30 \* **Sec. 37.** AS 47.35.140 is amended by adding a new subsection to read:

31 (b) This section does not apply to a child care facility.

1 \* **Sec. 38.** Section 5, ch. 4, SSSLA 2002, is repealed and reenacted to read:

2 Sec. 5. AS 47.55.010 is amended by adding new subsections to read:

3 (e) As provided in this subsection, a certain number of beds in the Alaska  
4 Pioneers' Home shall be reserved for use by veterans who meet all other qualifications  
5 for admission to the home. The Department of Health and Social Services shall by  
6 regulation

7 (1) specify the number of beds reserved for use by veterans under this  
8 subsection; the department may not specify that more than 30 percent of the beds in a  
9 single institution are reserved for veterans, nor that more than the percentage of the  
10 occupied beds collectively comprising the Alaska Pioneers' Home system that were in  
11 use by veterans on June 30, 2002, are reserved for veterans;

12 (2) establish procedures that

13 (A) provide for a veteran to be considered for admission to an  
14 unreserved, unoccupied bed in the home under admission criteria in or under  
15 this chapter if all beds reserved under this subsection are occupied;

16 (B) provide for a person who is not a veteran to be considered  
17 for admission to an unoccupied bed reserved under this subsection if no  
18 veteran who is qualified for admission to a reserved bed has applied for  
19 admission; and

20 (C) ensure that, to the extent possible, the beds reserved for use  
21 by veterans under this subsection are occupied by veterans.

22 (f) In this section, "veteran" means a person with 181 days or more of active  
23 service in the armed forces of the United States, including the Alaska National Guard  
24 or the Alaska Territorial Guard.

25 \* **Sec. 39.** Section 8, ch. 4, SSSLA 2002, is repealed and reenacted to read:

26 Sec. 8. AS 47.55.060 is amended to read:

27 **Sec. 47.55.060. Trust fund.** Unless otherwise provided by the donor, money  
28 bequeathed to the Alaska Pioneers' Home **or to the former Alaska Pioneers' and**  
29 **Veterans' Home** constitutes a special trust fund. Unless otherwise provided by the  
30 donor, interest from the special trust fund is under the control and at the disposal of the  
31 Department of Health and Social Services, and expenditure from it is limited to the

1 benefit and comfort of the residents of the home.

2 \* **Sec. 40.** Section 9, ch. 4, SSSLA 2002, is amended to read:

3 Sec. 9. AS 47.55.010(e), enacted by sec. 5 of this Act, **as amended by sec. 38**  
 4 **of an Act passed by the Second Regular Session of the Twenty-Third Alaska**  
 5 **State Legislature implementing changes recommended by the revisor of statutes,**  
 6 is repealed.

7 \* **Sec. 41.** Section 10, ch. 4, SSSLA 2002, is amended to read:

8 Sec. 10. The uncodified law of the State of Alaska is amended by adding a  
 9 new section to read:

10 PILOT PROJECT. (a) The Department of **Health and Social Services**  
 11 [ADMINISTRATION] may negotiate with the United States Department of Veterans  
 12 Affairs for the purpose of achieving an agreement to operate a pilot project under  
 13 which, until June 30, 2005, federal veterans' per diem payments could be used by  
 14 veterans who reside in the Alaska Pioneers' Home. The agreement must also provide  
 15 that receipt by a veteran of the federal per diem payment may not reduce the total  
 16 home daily rate charged to the veteran, but that a veteran's per diem payment will  
 17 contribute to the cost of the veteran's care in the home. The agreement must also  
 18 provide that the pilot project may be conducted without any need for changes in the  
 19 state ownership and authority to operate and manage the home under the state laws as  
 20 they would exist after being amended or enacted by this Act.

21 (b) The Department of **Health and Social Services** [ADMINISTRATION]  
 22 shall report to the legislature by January 5, 2005, on the operation of the pilot project  
 23 authorized under (a) of this section. The report must include the department's  
 24 recommendations as to whether the project should continue, whether the project  
 25 should become permanent in nature, and other matters related to the project, as  
 26 determined by the department.

27 \* **Sec. 42.** Section 12(b), ch. 4, SSSLA 2002, is amended to read:

28 (b) Sections [1,] 5 [,] and 11 of this Act take effect only if an agreement is  
 29 signed between the federal Department of Veterans Affairs and the state Department  
 30 of **Health and Social Services** [ADMINISTRATION] that authorizes the pilot project  
 31 described in sec. 10 of this Act.

1 \* **Sec. 43.** Section 12, ch. 4, SSSLA 2002, is amended by adding a new subsection to read:

2 (c) Sections 8 and 9 of this Act take effect only if sec. 5, ch. 4, SSSLA 2002,  
3 as amended by sec. 38 of an Act passed by the Second Regular Session of the Twenty-  
4 Third Alaska State Legislature implementing changes recommended by the revisor of  
5 statutes, and sec. 11, ch. 4, SSSLA 2002, take effect before July 1, 2005.

6 \* **Sec. 44.** Section 13(b), ch. 4, SSSLA 2002, is amended to read:

7 (b) If secs. [1,] 5 [,] and 11 of this Act take effect, they take effect on the date  
8 the agreement described in sec. 10 of this Act is signed by both parties. The  
9 commissioner of **health and social services** [ADMINISTRATION] shall notify the  
10 revisor of statutes of this date and send a copy of the agreement to the Legislative  
11 Budget and Audit Committee and the presiding officers of the Senate and House of  
12 Representatives.

13 \* **Sec. 45.** Section 15, ch. 4, SSSLA 2002, is amended to read:

14 Sec. 15. **If secs. 8 and 9 of this Act take effect, they** [SECTIONS 8 AND 9  
15 OF THIS ACT] take effect July 1, 2005.

16 \* **Sec. 46.** AS 39.25.110(21) is repealed.

17 \* **Sec. 47.** Section 71(1), ch. 106, SLA 1980, is repealed.

18 \* **Sec. 48.** Sections 1, 2, 12(a), and 13(a), ch. 4, SSSLA 2002, are repealed.

19 \* **Sec. 49.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 APPLICABILITY OF AMENDMENTS TO AS 44.29.520. (a) Notwithstanding the  
22 provisions of AS 44.29.520, as amended by sec. 25 of this Act, the members of the Alaska  
23 Pioneers' Homes Advisory Board appointed under AS 44.29.520(a)(1) who are serving on the  
24 effective date of sec. 25 of this Act may continue to serve their terms to the extent provided  
25 by AS 44.29.520. The member described under AS 44.29.520(a)(2), as amended by sec. 25  
26 of this Act, may be appointed as soon after the effective date of sec. 25 of this Act as there is  
27 a vacancy in the members appointed under AS 44.29.520(a)(1).

28 (b) Notwithstanding the provisions of AS 44.29.520(a), as amended by sec. 25 of this  
29 Act, the member described under AS 44.29.520(a)(4), as amended by sec. 25 of this Act, shall  
30 become a member of the Alaska Pioneers' Homes Advisory Board as soon after the effective  
31 date of sec. 25 of this Act as there is a vacancy in the members appointed under

1 AS 44.29.520(a)(1) and the member described in AS 44.29.520(a)(2), as amended by sec. 25  
2 of this Act, has been appointed.

3 \* **Sec. 50.** The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5           CONDITIONAL EFFECTIVENESS OF SECTION 25. Section 25 of this Act takes  
6 effect only if an agreement is signed between the federal Department of Veterans Affairs and  
7 the state Department of Health and Social Services that authorizes the pilot project described  
8 in sec. 10, ch. 4, SSSLA 2002, as amended by sec. 41 of an Act passed by the Second Regular  
9 Session of the Twenty-Third Alaska State Legislature implementing changes recommended  
10 by the revisor of statutes. The commissioner of health and social services shall notify the  
11 revisor of statutes of this date and send a copy of the agreement to the Legislative Budget and  
12 Audit Committee and the presiding officers of the Senate and House of Representatives.

13 \* **Sec. 51.** If sec. 25 of this Act takes effect, it takes effect on the date the agreement  
14 described in sec. 10, ch. 4, SSSLA 2002, as amended by sec. 41 of an Act passed by the  
15 Second Regular Session of the Twenty-Third Alaska State Legislature implementing changes  
16 recommended by the revisor of statutes, is signed by both parties.

17 \* **Sec. 52.** Except as provided in sec. 51 of this Act, this Act takes effect immediately under  
18 AS 01.10.070(c).