

CS FOR HOUSE BILL NO. 357(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 2/1/06

Referred: Finance

Sponsor(s): REPRESENTATIVES WILSON, Hawker, Kerttula, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act updating the terminology in statutes for persons with disabilities; and
2 providing for an effective date."

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

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. The legislature intends to modernize the terminology in
7 statutes in recognition of the ability of individuals with disabilities to contribute to society and
8 to the state. The legislature does not intend to alter in any manner the substantive provisions
9 of the statutes in which the terminology is changed under this Act, including provisions
10 relating to the Alaska Mental Health Trust, provisions defining who is a trust beneficiary
11 arising under the Alaska Mental Health Enabling Act of 1956, or provisions relating to the
12 mental health trust settlement in Weiss v. State, 4FA-82-2208 Civil, under ch. 66, SLA 1991;
13 chs. 5 and 6, FSSLA 1994; and chs. 1 and 2, SSSLA 1994.

14 * **Sec. 2.** AS 14.30.630(b) is amended to read:

1 (b) The agency shall

2 (1) provide special education services including

3 (A) itinerant outreach services to students who are deaf, deaf-
4 blind, mentally retarded, hearing impaired, blind and visually impaired,
5 orthopedically disabled, [HANDICAPPED, OTHER] health-impaired in
6 other ways, and [,] severely emotionally disturbed, and to [MULTI-
7 HANDICAPPED] students with multiple disabilities;

8 (B) special education instructional support and training of local
9 school district special education personnel; and

10 (C) other services appropriate to special education needs;

11 (2) provide for an annual audit of the agency;

12 (3) provide the department with a two-year plan of operation including
13 a description of the services to be offered by the agency, the method by which the
14 services will be evaluated, information on the number of students and school district
15 personnel to be served, a schedule of funds available to the agency from all sources,
16 and other information that may be required by the department by regulation;

17 (4) present an annual budget to the department.

18 * **Sec. 3.** AS 18.15.210 is amended to read:

19 **Sec. 18.15.210. Testing for certain other heritable diseases.** The department
20 shall administer and provide services for testing for other heritable diseases that lead
21 to mental retardation and physical disabilities [HANDICAPS] as screening programs
22 accepted by current medical practice and as developed.

23 * **Sec. 4.** AS 18.55.130(b) is amended to read:

24 (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the
25 corporation shall fix the income limits for occupancy of its low-cost housing projects
26 and rents that are approved by the United States Department of Housing and Urban
27 Development after taking into consideration

28 (1) the family size, composition, age, physical disabilities
29 [HANDICAPS], and other factors that might affect the rent-paying ability of the
30 family; and

31 (2) the economic factors that affect the financial stability and solvency

1 of the project.

2 * **Sec. 5.** AS 23.15.080 is amended to read:

3 **Sec. 23.15.080. Eligibility for vocational rehabilitation service.** (a)

4 Vocational rehabilitation service shall be provided directly or through a public or
5 private instrumentality to **an** [A HANDICAPPED] individual **with a disability** who

6 (1) is a resident of the state at the time of application for the service
7 and whose vocational rehabilitation the agency determines after full investigation can
8 be satisfactorily achieved; or

9 (2) is eligible for the service under an agreement with another state or
10 with the federal government.

11 (b) In determining the types and extent of vocational rehabilitation services to
12 be provided to **an** [A HANDICAPPED] individual **with a disability**, the agency shall
13 take into consideration any similar benefits that may be available to the individual
14 under other programs. However, the agency may not take other benefits into
15 consideration when doing so would significantly delay the provision of needed
16 services to the [HANDICAPPED] individual **with a disability**. The agency need not
17 take other benefits into consideration when they are for

18 (1) diagnostic and related services, including transportation and
19 subsistence in connection with those services;

20 (2) counseling, guidance, and referral;

21 (3) training, including personal and vocational adjustment training, and
22 necessary training materials;

23 (4) services to members of families of [HANDICAPPED] individuals
24 **with disabilities**;

25 (5) job placement; and

26 (6) services necessary to assist [HANDICAPPED] individuals **with**
27 **disabilities** to maintain suitable employment.

28 * **Sec. 6.** AS 23.15.090 is amended to read:

29 **Sec. 23.15.090. Priority as to eligibility.** If vocational rehabilitation service

30 cannot be provided for all eligible [HANDICAPPED] individuals **with disabilities**
31 who apply, the agency shall provide by regulation for determining the order to be

1 followed in selecting those to whom the services will be provided.

2 * **Sec. 7.** AS 23.15.100 is amended to read:

3 **Sec. 23.15.100. Powers and duties; vending facilities.** (a) In carrying out
4 AS 23.15.010 - 23.15.210, the agency shall

5 (1) take the action it considers necessary or appropriate to carry out the
6 purposes of AS 23.15.010 - 23.15.210 [,] and adopt regulations in conformity with
7 these purposes;

8 (2) determine the eligibility of applicants for vocational rehabilitation
9 service;

10 (3) submit to the governor annual reports of activities and expenditures
11 and, before each regular session of the legislature, estimates of sums required for
12 carrying out AS 23.15.010 - 23.15.210 and estimates of the amounts to be made
13 available for this purpose from all sources;

14 (4) cooperate with public and private departments, agencies, and
15 institutions in providing for the vocational rehabilitation of [HANDICAPPED]
16 individuals with disabilities, studying the problems involved in providing this
17 rehabilitation, and establishing, developing, and providing, in conformity with the
18 purposes of AS 23.15.010 - 23.15.210, the programs, facilities, and services that may
19 be necessary or desirable;

20 (5) survey the potential for providing vending facilities on public
21 property and, when feasible, establish vending facilities operated by blind persons and
22 [SEVERELY HANDICAPPED] persons with severe disabilities on public property;

23 (6) license blind persons and [SEVERELY HANDICAPPED] persons
24 with severe disabilities in accordance with AS 23.15.133 for the operation of vending
25 facilities on public property, with blind persons having first priority for operation of
26 the vending facilities;

27 (7) provide the training and supervision necessary to enable blind
28 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to
29 operate vending facilities;

30 (8) provide the equipment and initial stock necessary to enable blind
31 persons and [SEVERELY HANDICAPPED] persons with severe disabilities to

1 operate vending facilities.

2 (b) In carrying out AS 23.15.010 - 23.15.210, the agency may

3 (1) enter into agreements with other states to provide for the vocational
4 rehabilitation of residents of the states concerned;

5 (2) establish and operate rehabilitation facilities and workshops and
6 make grants to public and other nonprofit organizations for these purposes;

7 (3) supervise the operation of vending stands and other small
8 businesses established under AS 23.15.010 - 23.15.210 to be conducted by
9 [SEVERELY HANDICAPPED] individuals **with severe disabilities**;

10 (4) make studies, investigations, demonstrations, and reports, and
11 provide training and instruction, including the establishment and maintenance of the
12 research fellowships and traineeships with the stipends and allowances that are
13 considered necessary, in matters relating to vocational rehabilitation; and

14 (5) adopt regulations necessary for carrying out the provisions of
15 AS 23.15.010 - 23.15.210.

16 * **Sec. 8.** AS 23.15.125(e)(2) is amended to read:

17 (2) "person with a disability" means [A HANDICAPPED
18 INDIVIDUAL OR] an individual having a physical or mental disability.

19 * **Sec. 9.** AS 23.15.133(a) is amended to read:

20 (a) The agency shall issue a license for the operation of a vending facility on
21 public property to a blind person or **a** [SEVERELY HANDICAPPED] person **with a**
22 **severe disability** who is a resident of the state at the time of application and who
23 qualifies for a license under

24 (1) 20 U.S.C. 107 - **107f** [107(f)] ([THE] Randolph-Sheppard Act); or

25 (2) regulations adopted by the agency providing for licensing of blind
26 persons or [SEVERELY HANDICAPPED] persons **with severe disabilities**.

27 * **Sec. 10.** AS 23.15.134 is amended to read:

28 **Sec. 23.15.134. Active participation by [SEVERELY HANDICAPPED]**
29 **licensees with severe disabilities.** The agency shall adopt regulations that ensure the
30 opportunity for active participation by a [SEVERELY HANDICAPPED] licensee
31 **with severe disabilities** in the administration of vending facilities operated by

1 [SEVERELY HANDICAPPED] licensees **with severe disabilities**. The opportunity
 2 for active participation provided under this section must be at least as extensive as the
 3 opportunity for active participation provided for a blind licensee under AS 23.15.135.

4 * **Sec. 11.** AS 23.15.170 is amended to read:

5 **Sec. 23.15.170. Maintenance not assignable.** The right of **an** [A
 6 HANDICAPPED] individual **with a disability** to maintenance under AS 23.15.010 -
 7 23.15.210 is not transferable or assignable at law or in equity.

8 * **Sec. 12.** AS 23.15.180(b) is amended to read:

9 (b) A blind person or **a** [SEVERELY HANDICAPPED] person **with a severe**
 10 **disability** aggrieved by a decision or action of the agency under AS 23.15.133 -
 11 23.15.135 shall receive a hearing on request in accordance with AS 44.62.330 -
 12 44.62.630 (Administrative Procedure Act). A blind person may also file a complaint in
 13 accordance with 20 U.S.C. 107d-1 for arbitration of a grievance.

14 * **Sec. 13.** AS 23.15.210 is amended to read:

15 **Sec. 23.15.210. Definitions.** In AS 23.15.010 - 23.15.210,

16 (1) "active participation" means a process through which the
 17 Committee of Blind Vendors or a licensee is provided the opportunity to exert a major
 18 influence in program policies, standards, and procedures affecting the operation of
 19 vending facilities, with the commissioner of education and early development having
 20 final responsibility;

21 (2) "agency" means the division of vocational rehabilitation;

22 (3) "blind person" means a person whose central visual acuity does not
 23 exceed 20/200 in the better eye with correcting lenses, or whose visual acuity, if better
 24 than 20/200, is accompanied by a limit to the field of vision in the better eye to such a
 25 degree that its widest diameter subtends an angle of **not** [NO] greater than 20 degrees;
 26 an examination by an ophthalmologist or by an optometrist is necessary before a
 27 person is found to be blind;

28 (4) [REPEALED]

29 (5) "director" means the director of the division of vocational
 30 rehabilitation;

31 **(5) "individual having a physical or mental disability" means an**

1 **individual who has a physical or mental condition that materially limits,**
 2 **contributes to limiting, or, if not corrected, will probably result in limiting the**
 3 **individual's activities or functioning;**

4 (6) "[HANDICAPPED] individual **with a disability**" means an
 5 individual having a physical or mental disability **that** [WHICH] for that individual
 6 constitutes or results in a substantial **barrier** [HANDICAP] to employment and who
 7 can reasonably be expected to benefit in terms of employability from the provision of
 8 vocational rehabilitation services;

9 (7) ["INDIVIDUAL HAVING A PHYSICAL OR MENTAL
 10 DISABILITY" MEANS AN INDIVIDUAL WHO HAS A PHYSICAL OR MENTAL
 11 CONDITION THAT MATERIALLY LIMITS, CONTRIBUTES TO LIMITING, OR,
 12 IF NOT CORRECTED, WILL PROBABLY RESULT IN LIMITING THE
 13 INDIVIDUAL'S ACTIVITIES OR FUNCTIONING;

14 (8) "licensee" means a blind **person** or **a** [SEVERELY
 15 HANDICAPPED] person **with a severe disability** licensed by the division of
 16 vocational rehabilitation under 20 U.S.C. 107 - 107b and 107d - 107f ([THE]
 17 Randolph-Sheppard Act), AS 23.15.133, and regulations adopted under federal or
 18 state law;

19 **(8) "person with a severe disability" means a person who has one**
 20 **or more physical or mental disabilities that seriously limit the person's functional**
 21 **capacities in terms of regular employment and whose vocational rehabilitation**
 22 **requires multiple vocational rehabilitation services over an extended period of**
 23 **time;**

24 (9) "public property" means real or personal property owned or leased
 25 by the state or federal government [,] or an agency of the state or federal government;

26 (10) ["SEVERELY HANDICAPPED PERSON " MEANS A
 27 PERSON WHO HAS ONE OR MORE PHYSICAL OR MENTAL DISABILITIES
 28 THAT SERIOUSLY LIMIT THE PERSON'S FUNCTIONAL CAPACITIES IN
 29 TERMS OF REGULAR EMPLOYMENT, AND WHOSE VOCATIONAL
 30 REHABILITATION REQUIRES MULTIPLE VOCATIONAL REHABILITATION
 31 SERVICES OVER AN EXTENDED PERIOD OF TIME;

1 (11)] "vending facility" means a vending machine, cafeteria, snack bar,
 2 shelter, cart, or counter where food, tobacco, newspapers, periodicals, and other
 3 articles are offered for sale to the general public and dispensed automatically or
 4 manually whether prepared on or off the premises; and excludes a facility in a
 5 hospital, school, or other institution where food or other articles are offered for sale
 6 only to patients, inmates, and persons enrolled in or employed by the institution;

7 (11) [(12)] "vocational rehabilitation service" means goods and
 8 services, including diagnostic and related services, necessary to enable an [A
 9 HANDICAPPED] individual with a disability to engage in gainful employment;

10 (12) [(13)] "workshop" means a rehabilitation facility engaged in a
 11 production or service operation that is operated for the primary purpose of providing
 12 gainful employment or professional services to persons with disabilities [THE
 13 HANDICAPPED] as an interim step in the rehabilitation process for those who cannot
 14 readily be absorbed in the competitive labor market or during times when employment
 15 opportunities for them in the competitive labor market do not exist.

16 * **Sec. 14.** AS 29.60.120(f)(1) is amended to read:

17 (1) "health facility"

18 (A) means a facility that is licensed or certified by the state or
 19 approved under regulations adopted by the department and that is owned or
 20 operated or both by a municipality or by a nonprofit corporation or other
 21 nonprofit sponsor;

22 (B) includes a public health center, maternity home,
 23 community mental health center, facility for persons with mental or physical
 24 disabilities [THE MENTALLY OR PHYSICALLY HANDICAPPED],
 25 nursing home, convalescent center, domestic violence or sexual assault shelter
 26 qualified to receive a grant or contract under AS 18.66, or alcohol or drug
 27 abuse facility that meets standards established under AS 47.37;

28 (C) excludes a facility operated or wholly supported by the
 29 state or the federal government;

30 * **Sec. 15.** AS 35.10.015(a) is amended to read:

31 (a) The department shall prepare, adopt, and enforce regulations governing the

1 construction of public buildings and facilities by or for the state, including the
 2 University of Alaska, and its political subdivisions, whether financed in whole or in
 3 part by federal funds, to ensure that public buildings and facilities are accessible to [,]
 4 and usable by **persons with disabilities and by the** [, THE PHYSICALLY
 5 HANDICAPPED,] aged [,] or infirm. The regulations of the department must conform
 6 to a standard comparable to applicable provisions of federal law, regulations, and
 7 standards.

8 * **Sec. 16.** AS 35.10.015(c) is amended to read:

9 (c) All ferries owned or operated by the state shall be equipped with elevators
 10 or other passenger lifting equipment, ramps, or other facilities and devices to ensure
 11 that these vessels are accessible to and usable by **persons with disabilities and by**
 12 [PHYSICALLY HANDICAPPED,] aged or infirm passengers. In this subsection,
 13 "accessible to and usable by" means that **a person with a disability or an** [A
 14 PHYSICALLY HANDICAPPED,] aged or infirm passenger can board, disembark and
 15 move between decks and about the public areas aboard a state ferry with personal
 16 comfort and safety [,] and with safety to [,] other passengers and members of the crew.

17 * **Sec. 17.** AS 35.10.015(d) is amended to read:

18 (d) After June 25, 1976, a ferry may not be constructed, lengthened,
 19 completely renovated, or purchased for use or entered into service by the division of
 20 marine transportation of the department as a part of the Alaska marine highway system
 21 that does not include adequate facilities and devices to ensure that the vessel is
 22 accessible to and usable by **persons with disabilities and by** [PHYSICALLY
 23 HANDICAPPED,] aged or infirm passengers. Some staterooms and all restrooms,
 24 indoor passageways, outdoor weather decks, and other public areas aboard the vessel
 25 shall be so designed and constructed as to permit access and use by **persons with**
 26 **disabilities and by** [PHYSICALLY HANDICAPPED,] aged [,] or infirm passengers,
 27 including [BUT NOT LIMITED TO] those persons occupying a wheelchair.

28 * **Sec. 18.** AS 35.10.015(e) is amended to read:

29 (e) After June 25, 1976, **a** [NO] public building or facility in the state may **not**
 30 be planned, designed, financed, constructed, opened to public use, or otherwise placed
 31 in operation unless it meets the standards established under this section. If the

1 standards for a public building or facility are not provided for in federal **statute**
 2 [LAW], regulation, or standards, the department shall determine the extent of, and
 3 adopt regulations setting the standards for, access to and use of the public building or
 4 facility by **persons with disabilities and by** the [PHYSICALLY HANDICAPPED,]
 5 aged [,] or infirm.

6 * **Sec. 19.** AS 36.30.040(b) is amended to read:

7 (b) The commissioner shall adopt regulations pertaining to

8 (1) suspension, debarment, and reinstatement of prospective bidders
 9 and contractors;

10 (2) bid protests;

11 (3) conditions and procedures for the procurement of perishables and
 12 items for resale;

13 (4) conditions and procedures for the use of source selection methods
 14 authorized by this chapter, including single source procurements, emergency
 15 procurements, and small procurements;

16 (5) the opening or rejection of bids and offers, and waiver of
 17 informalities in bids and offers;

18 (6) confidentiality of technical data and trade secrets submitted by
 19 actual or prospective bidders or offerors;

20 (7) partial, progressive, and multiple awards;

21 (8) storerooms and inventories, including determination of appropriate
 22 stock levels and the management of agency supplies;

23 (9) transfer, sale, or other disposal of supplies;

24 (10) definitions and classes of contractual services and procedures for
 25 acquiring them;

26 (11) providing for conducting price analysis;

27 (12) use of payment and performance bonds in connection with
 28 contracts for supplies, services, and construction;

29 (13) guidelines for use of cost principles in negotiations, adjustments,
 30 and settlements;

31 (14) conditions under which an agency may use the services of an

1 employment program;

2 (15) a bidder's or offeror's duties under this chapter; and

3 (16) the elimination and prevention of discrimination in state
4 contracting because of race, religion, color, national origin, sex, age, marital status,
5 pregnancy, parenthood, **disability** [HANDICAP], or political affiliation.

6 * **Sec. 20.** AS 36.30.990(11) is amended to read:

7 (11) "employment program" means a nonprofit program to increase
8 employment opportunities for individuals with physical or mental disabilities that
9 constitute substantial **barriers** [HANDICAPS] to employment;

10 * **Sec. 21.** AS 39.25.160(f) is amended to read:

11 (f) Action affecting the employment status of a state employee or an applicant
12 for state service, including appointment, promotion, demotion, suspension, or removal,
13 may not be taken or withheld on the basis of unlawful discrimination due to race,
14 religion, color, [OR] national origin, age, **disability** [HANDICAP], sex, marital status,
15 change in marital status, pregnancy, or parenthood. In addition, action affecting the
16 employment status of an employee in the classified service, including appointment,
17 promotion, demotion, suspension, or removal, may not be taken or withheld for a
18 reason not related to merit.

19 * **Sec. 22.** AS 41.21.027(b) is amended to read:

20 (b) The state may not enter into a concession contract under (a) of this section
21 if the proposed contract involves estimated annual gross receipts of more than
22 \$100,000, construction of facilities, a term longer than four years, or the provision of
23 services other than those normally provided at similar facilities managed by the state,
24 unless the commissioner finds that the proposed concession contract

25 (1) will implement the purposes of the park unit and is authorized by
26 the park management plan, if any, that applies to the park unit;

27 (2) will enhance public use and enjoyment of the park unit while
28 maintaining a high quality environment and the opportunity for high quality
29 recreational experiences;

30 (3) will provide services or facilities that are not feasible or affordable
31 for the state to provide directly;

- 1 (4) will not create unacceptable adverse environmental effects;
- 2 (5) is based on a need and desire of the public;
- 3 (6) recognizes and accommodates, at no cost, ordinary uses in a park
4 unit;
- 5 (7) requires the contractor to hire residents of the state, to the extent
6 available and qualified, when hiring persons to work in the park under the contract;
- 7 (8) provides the state with a fair and equitable portion, in money or
8 services, of the contractor's receipts from the provision of the service or the operation
9 of the facility;
- 10 (9) provides that the department retains control over the level of fees
11 and the design and appearance of any facility to be constructed;
- 12 (10) encourages the contractor to accommodate visitors with special
13 circumstances, including [HANDICAPPED] persons with disabilities, senior citizens,
14 and school children; and
- 15 (11) provides that the contract may be terminated if the contractor fails
16 to fulfill the requirements of this section or the contract.

17 * **Sec. 23.** AS 47.14.100(d) is amended to read:

18 (d) In addition to money paid for the maintenance of foster children under (b)
19 of this section, the department

20 (1) shall pay the costs of caring for [PHYSICALLY OR MENTALLY
21 HANDICAPPED] foster children with physical or mental disabilities, including the
22 additional costs of medical care, habilitative and rehabilitative treatment, services and
23 equipment, **and** special clothing, and the indirect costs of medical care, including child
24 care and transportation expenses;

25 (2) may pay for respite care; in this paragraph, "respite care" means
26 child care for the purpose of providing temporary relief from the stresses of caring for
27 a foster child; and

28 (3) may pay a subsidized guardianship payment under AS 25.23.210
29 when a foster child's foster parents or other persons approved by the department
30 become court-appointed legal guardians of the child.

31 * **Sec. 24.** AS 47.75.060(2) is amended to read:

1 (2) "social services" means child care services, protective services for
 2 children and adults, services for children and adults in foster care, services related to
 3 the management and maintenance of the home, day care services for adults,
 4 transportation services, training and related services, employment services,
 5 information, referral, and counseling services, the preparation and delivery of meals,
 6 health support services, a full range of legal services, and appropriate combinations of
 7 services designed to meet the special needs of children, the aged, persons with
 8 developmental disabilities, persons who are [THE DEVELOPMENTALLY
 9 DISABLED, THE] blind, persons with mental illness, persons with physical
 10 disabilities [THE MENTALLY ILL, THE PHYSICALLY HANDICAPPED], and
 11 persons with substance abuse disorders [ALCOHOLIC AND DRUG ADDICTS].

12 * **Sec. 25.** AS 47.80.010 is amended to read:

13 **Sec. 47.80.010. Rights of persons with disabilities [HANDICAPS].** Persons
 14 with disabilities [HANDICAPS] have the same legal rights and responsibilities
 15 guaranteed all other persons by the Constitution of the United States and federal laws
 16 and by the constitution and laws of the state. An otherwise qualified person may not
 17 be excluded, by reason of having a disability [HANDICAP], from participation in, be
 18 denied the benefits of, or be subjected to discrimination under, any program or activity
 19 that receives public funds. Some persons with disabilities [HANDICAPS] may be
 20 unable, due to the severity of their disability [HANDICAP], to exercise for
 21 themselves all of their rights in a meaningful way; for others modification of some or
 22 all of their rights is appropriate. The procedure used for modification of rights must
 23 contain proper legal safeguards against every form of abuse, must be based on an
 24 evaluation of the social capability of the person by qualified experts, and must be
 25 subject to periodic reviews and to the right of appeal to higher authorities.

26 * **Sec. 26.** AS 47.80.020 is amended to read:

27 **Sec. 47.80.020. Protection and advocacy of rights.** The department shall
 28 establish a system to protect and advocate rights of persons with disabilities
 29 [HANDICAPS]. The system

30 (1) has the authority to pursue legal, administrative, and other
 31 appropriate remedies to assure the protection of the rights of persons with disabilities

1 [HANDICAPS]; and

2 (2) shall be independent of any state agency that provides treatment,
3 services, or habilitation of persons with **disabilities** [HANDICAPS].

4 * **Sec. 27.** AS 47.80.040(f) is amended to read:

5 (f) In the appointment of all members other than state agency members, due
6 regard shall be given to geographically balanced representation of areas of the state
7 and to representation of persons with a variety of different mental and physical
8 **disabilities** [HANDICAPS].

9 * **Sec. 28.** AS 47.80.100(a) is amended to read:

10 (a) The Department of Health and Social Services, the Department of
11 Education and Early Development, and other departments of the state as appropriate,
12 shall, in coordination, plan, develop, and implement a comprehensive system of
13 services and facilities for persons with **disabilities** [HANDICAPS,] that is consistent
14 with the state plan adopted under AS 47.80.090(5) and is dispersed geographically
15 within the state.

16 * **Sec. 29.** AS 47.80.100(b) is amended to read:

17 (b) The services required in (a) of this section are specialized services or
18 special adaptations of services available to the general population and shall be directed
19 toward the social, personal, physical, or economic habilitation or rehabilitation of
20 persons with **disabilities** [HANDICAPS].

21 * **Sec. 30.** AS 47.80.110 is amended to read:

22 **Sec. 47.80.110. Program principles.** The system of services and facilities
23 required under AS 47.80.100 shall accord with the principles that service providers
24 shall

25 (1) make services available at times and locations that enable residents
26 of the provider's service area to obtain services readily;

27 (2) ensure each client's right to confidentiality and treatment with
28 dignity;

29 (3) establish staffing patterns that reflect the cultural, linguistic, and
30 other social characteristics of the community and that incorporate multidisciplinary
31 professional staff to meet client functional levels and diagnostic and treatment needs;

1 (4) promote client and family participation in formulating, delivering,
2 and evaluating treatment and rehabilitation;

3 (5) design treatment and habilitation to maximize individual potential
4 and minimize institutionalization; and

5 (6) provide services in the least restrictive setting, enabling a person to
6 live as normally as possible within the limitations of the **disability** [HANDICAP].

7 * **Sec. 31.** AS 47.80.120 is amended to read:

8 **Sec. 47.80.120. Habilitation plans.** A state agency, contractor, or grantee who
9 is directly responsible for providing services to persons with **disabilities**
10 [HANDICAPS] shall develop an individual habilitation plan for each person whose
11 program of services utilizes state funds. The plan shall be completed in writing and
12 furnished to the department within 30 days of admission of a client to the program of
13 services. The plan, its renewals, and any changes of it [,] shall have the written
14 concurrence of the client, or the client's parent or guardian when appropriate, and the
15 agency or contractor responsible for providing services. The development and content
16 of a plan shall conform to requirements established by the department by regulation.
17 Insofar as practicable, the requirements shall conform to those established for
18 individual habilitation plans under P.L. 91-517 or P.L. 94-103, as amended. Each plan
19 shall be time-limited, evaluated, and renewed at least annually.

20 * **Sec. 32.** AS 47.80.130(a) is amended to read:

21 (a) The department shall

22 (1) develop budgets and receive and distribute appropriations and
23 funds under this section;

24 (2) adopt regulations regarding standards of services and facilities for
25 persons with **disabilities** [HANDICAPS] and the quality of services and the process
26 by which services are to be delivered;

27 (3) adopt any other regulations necessary to implement this chapter;

28 (4) provide technical assistance to public and private agencies in
29 planning, developing, and implementing programs to serve [HANDICAPPED]
30 persons **with disabilities**;

31 (5) operate programs and facilities [,] and enter into agreements,

1 contracts, or grants necessary to provide services required under this chapter;

2 (6) take the actions and undertake the obligations that are necessary to
3 participate in federal grant-in-aid programs and accept federal or other financial aid
4 for the study, examination, care, and treatment of persons with disabilities [THE
5 HANDICAPPED].

6 * **Sec. 33.** AS 47.80.150(a) is amended to read:

7 (a) A person with a disability [HANDICAP] or the person's legal
8 representative acting in a representative capacity, the person's spouse, or the person's
9 parents if the person is a minor [,] shall pay or contribute to the payment of the
10 charges for the care or treatment in accordance with the fee schedule adopted under
11 AS 44.29.022. The order of the department relating to the payment of charges shall be
12 prospective in effect and may relate only to charges to be incurred, except that, if a
13 person intentionally conceals ability to pay, the person shall be ordered to pay to the
14 extent of the person's ability to pay the charges accruing during the period of the
15 concealment. The order of the department relating to the payment of charges by the
16 person with a disability [HANDICAP] or the person's legal representative, or the
17 person's spouse or parents, shall be issued within six months of the date on which the
18 charge was incurred. The department may make necessary investigations to determine
19 the ability to pay. The order shall remain in full force and effect unless modified by
20 subsequent court or department orders.

21 * **Sec. 34.** AS 47.80.150(b) is amended to read:

22 (b) As used in (a) of this section, the term "actual cost of the care and
23 treatment" means the lesser of (1) the rate provided for by a contract entered into
24 under this chapter, (2) the fee established under AS 44.29.022 for services provided
25 under this chapter or, (3) if the person is under the age of 18, the cost of care of a
26 person of the same age who is not a person with a disability [HANDICAP] and who
27 resides with a parent or guardian, and includes expenses of transportation incidental to
28 treatment and carrying out the intent of this chapter. In establishing fees for services
29 under this chapter, the commissioner shall consider the income and family size of the
30 responsible party, age of the person receiving the services, and other factors that relate
31 to the ability to pay. Fees may not exceed the actual cost of the care or treatment.

1 * **Sec. 35.** AS 47.80.150(e) is amended to read:

2 (e) All money paid to the department by the person with a **disability**
3 [HANDICAP] or on the person's behalf, under this section, shall be deposited in the
4 general fund.

5 * **Sec. 36.** AS 47.80.150(f) is amended to read:

6 (f) If an order of payment is entered by the department under this section and
7 delinquency in the payment of any amount due the state under the order continues for
8 a period of more than 30 days after the notification by the department to the person,
9 the legal representative, parent, or spouse of the person with a **disability**
10 [HANDICAP], the state may proceed to collect the amounts due by appropriate
11 proceedings. Actions to enforce the collection of payments may only be brought
12 within three years after the date of notification of a delinquent payment.

13 * **Sec. 37.** AS 47.80.900(3) is amended to read:

14 (3) "facilities for persons with **disabilities** [HANDICAPS]" means
15 publicly or privately operated facilities, or specified portions of facilities, designed
16 primarily for the delivery of services to those persons; the term includes [BUT IS
17 NOT LIMITED TO] residential facilities;

18 * **Sec. 38.** AS 47.80.900(4) is amended to read:

19 (4) "habilitation" means education or training for **persons with**
20 **disabilities** [THE HANDICAPPED] to enable them to function better in society;

21 * **Sec. 39.** AS 47.80.900(5) is amended to read:

22 (5) "least restrictive setting" means a residential or other setting for
23 meeting the needs of a **person with a disability that** [HANDICAPPED PERSON
24 WHICH] requires the least amount of restriction of personal liberty by enabling the
25 person to function in as normal an environment as possible and to live as normally as
26 possible, within the limitations of the **disability** [HANDICAP];

27 * **Sec. 40.** AS 47.80.900(6) is amended to read:

28 (6) "person with a **disability** [HANDICAP]" means a person with a
29 developmental disability as defined in (7) of this section or a person who is hard of
30 hearing, deaf, speech impaired, visually **impaired** [HANDICAPPED], seriously
31 emotionally disturbed, orthopedically or otherwise health impaired, or who has a

1 specific learning disability; the term includes a child with a disability as defined in
2 AS 14.30.350;

3 * **Sec. 41.** AS 47.80.900(8) is amended to read:

4 (8) "residential facility" means a publicly or privately operated facility
5 that provides 24-hour care for four or more persons with **disabilities** [HANDICAPS],
6 excluding family, foster family, or adoptive homes;

7 * **Sec. 42.** AS 47.80.900(9) is amended to read:

8 (9) "substantial **disability** [HANDICAP]" means a disability that
9 prevents or substantially impedes the person's participating in and benefiting from the
10 social, economic, educational, recreational, or other opportunities generally available
11 to peers in the community who are not similarly **disabled** [HANDICAPPED].

12 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 CONFORMING INSTRUCTIONS. (a) The revisor of statutes is instructed to change
15 the catch line of AS 47.80.100 from "Programs for persons with handicaps" to "Programs for
16 persons with disabilities."

17 (b) Throughout the Alaska Administrative Code, the regulations attorney is instructed
18 to change the terms "handicapped," "handicap," and "handicaps," as appropriate, in a manner
19 consistent with the changes made in secs. 2 - 42 of this Act.

20 * **Sec. 44.** This Act takes effect immediately under AS 01.10.070(c).