

SENATE BILL NO. 243

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 1/19/08

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the duties and powers of the Alaska Commission on Aging and the**
2 **Department of Health and Social Services."**

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

4 *** Section 1.** AS 47.05.010 is amended to read:

5 **Sec. 47.05.010. Duties of department.** The Department of Health and Social
6 Services shall

7 (1) administer adult public assistance, the Alaska temporary assistance
8 program, and all other assistance programs, and receive and spend money made
9 available to it;

10 (2) adopt regulations necessary for the conduct of its business and for
11 carrying out federal and state laws granting adult public assistance, temporary cash
12 assistance, diversion payments, or self-sufficiency services for needy families under
13 the Alaska temporary assistance program, and other assistance;

14 (3) establish minimum standards for personnel employed by the

1 department and adopt necessary regulations to maintain those standards;

2 (4) require those bonds and undertakings from persons employed by it
3 that, [WHICH] in its judgment, are necessary, and pay the premiums on them;

4 (5) cooperate with the federal government in matters of mutual
5 concern pertaining to adult public assistance, the Alaska temporary assistance
6 program, and other forms of public assistance;

7 (6) make the reports, in the form and containing the information, that
8 the federal government from time to time requires;

9 (7) cooperate with the federal government, its agencies, or
10 instrumentalities in establishing, extending, and strengthening services for the
11 protection and care of homeless, dependent, and neglected children in danger of
12 becoming delinquent, and receive and expend funds available to the department by the
13 federal government, the state, or its political subdivisions for that purpose;

14 (8) cooperate with the federal government in adopting state plans to
15 make the state eligible for federal matching in appropriate categories of assistance, and
16 in all matters of mutual concern, including adoption of the methods of administration
17 that are found by the federal government to be necessary for the efficient operation of
18 welfare programs;

19 (9) adopt regulations, not inconsistent with law, defining need,
20 prescribing the conditions of eligibility for assistance, and establishing standards for
21 determining the amount of assistance that an eligible person is entitled to receive; the
22 amount of the assistance is sufficient when, added to all other income and resources
23 available to an individual, it provides the individual with a reasonable subsistence
24 compatible with health and well-being; an individual who meets the requirements for
25 eligibility for assistance shall be granted the assistance promptly upon application for
26 it;

27 (10) grant to a person claiming or receiving assistance and who is
28 aggrieved because of the department's action or failure to act, reasonable notice and an
29 opportunity for a fair hearing by the department, and the department shall adopt
30 regulations relative to this;

31 (11) enter into reciprocal agreements with other states relative to

1 public assistance, welfare services, and institutional care that are considered advisable;

2 (12) establish the requirements of residence for public assistance,
3 welfare services, and institutional care that are considered advisable, subject to the
4 limitations of other laws of the state, or law or regulation imposed as conditions for
5 federal financial participation;

6 (13) establish the divisions and local offices that are considered
7 necessary or expedient to carry out a duty or authority assigned to it and appoint and
8 employ the assistants and personnel that are necessary to carry on the work of the
9 divisions and offices, and fix the compensation of the assistants or employees, except
10 that a person engaged in business as a retail vendor of general merchandise, or a
11 member of the immediate family of a person who is so engaged, may not serve as an
12 acting, temporary, or permanent local agent of the department, unless the
13 commissioner of health and social services certifies in writing to the governor, with
14 relation to a particular community, that no other qualified person is available in the
15 community to serve as local welfare agent; for the purposes of this paragraph, a
16 "member of the immediate family" includes a spouse, child, parent, brother, sister,
17 parent-in-law, brother-in-law, or sister-in-law;

18 (14) provide education and health-related services and referrals
19 designed to reduce the number of out-of-wedlock pregnancies and the number of
20 induced pregnancy terminations in the state;

21 (15) investigate reports of abuse, neglect, or misappropriation of
22 property by certified nurse aides in facilities licensed by the department under
23 AS 47.32;

24 **(16) establish state policy relating to and administer federal**
25 **programs subject to state control as provided under 42 U.S.C. 3001 - 3058ee**
26 **(Older Americans Act of 1965), as amended, and related federal regulations;**

27 **(17) administer the older Alaskans service grants under**
28 **AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants**
29 **under AS 47.65.100.**

30 * Sec. 2. AS 47.30.036 is amended to read:

31 **Sec. 47.30.036. Duties of the board.** The board shall

- 1 (1) preserve and protect the trust corpus under AS 37.14.009;
- 2 (2) coordinate with other state agencies involved with programs
3 affecting persons in need of mental health services;
- 4 (3) review and consider the recommendations submitted under
5 AS 44.29.140(2), AS 47.30.666(6), **AS 47.45.240(a)(8)** [AS 47.45.240(a)(10)], and
6 AS 47.80.090(13);
- 7 (4) adopt bylaws governing its meetings, selection of officers,
8 proceedings, and other aspects of board procedure;
- 9 (5) make an annual written report of its activities to the governor and
10 the public and notify the legislature that the report is available; and
- 11 (6) fulfill its obligations under AS 47.30.046.

12 * **Sec. 3.** AS 47.45.230 is amended to read:

13 **Sec. 47.45.230. Executive director.** The executive director of the commission
14 shall **assist the department with the formulation of**

15 [(1) FORMULATE] a comprehensive statewide plan that identifies the
16 concerns and needs of older Alaskans and present that plan to the commission [;

17 (2) ADMINISTER, WITH THE APPROVAL OF THE
18 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, FEDERAL
19 PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED UNDER 42 U.S.C.
20 3001 - 3058ee (OLDER AMERICANS ACT), AS AMENDED; AND

21 (3) ADMINISTER, WITH THE APPROVAL OF THE
22 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, STATE PROGRAMS
23 AS PROVIDED UNDER AS 47.65].

24 * **Sec. 4.** AS 47.45.240(a) is amended to read:

25 (a) The commission shall

26 (1) **subject to review by the department,** approve a comprehensive
27 statewide plan that identifies **and addresses** the concerns and needs of older Alaskans
28 and, with reference to the approved plan, prepare and submit to the governor and
29 legislature an annual analysis and evaluation of the services that are provided to older
30 Alaskans;

31 (2) make recommendations directly to the governor and the legislature

1 with respect to legislation, regulations, and appropriations for programs or services
2 that benefit older Alaskans;

3 (3) encourage the development of municipal commissions serving
4 older Alaskans and community-oriented programs and services for the benefit of older
5 Alaskans;

6 (4) employ an executive director who serves at the pleasure of the
7 commission;

8 (5) help older Alaskans lead dignified, independent, and useful lives;

9 (6) request and receive reports and audits from state agencies and local
10 institutions concerned with the conditions and needs of older Alaskans;

11 (7) [WITH THE APPROVAL OF THE COMMISSIONER OF
12 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION
13 OF FEDERAL PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED
14 UNDER 42 U.S.C. 3001 - 3058ee (OLDER AMERICANS ACT), AS AMENDED;

15 (8) WITH THE APPROVAL OF THE COMMISSIONER OF
16 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION
17 OF STATE PROGRAMS AS PROVIDED UNDER AS 47.65;

18 (9)] give assistance, on request, to the senior housing office in the
19 Alaska Housing Finance Corporation in administration of the senior housing loan
20 program under AS 18.56.710 - 18.56.799 and in the performance of the office's other
21 duties under AS 18.56.700; and

22 (8) [(10)] provide to the Alaska Mental Health Trust Authority, for its
23 review and consideration, recommendations concerning the integrated comprehensive
24 mental health program for persons who are described in (d) of this section and the use
25 of the money in the mental health trust settlement income account in a manner
26 consistent with regulations adopted under AS 47.30.031.

27 * **Sec. 5.** AS 47.45.240(b) is amended to read:

28 (b) To accomplish its duties, the commission may

29 (1) review, evaluate, and comment upon state programs concerned
30 with the problems and the needs of older Alaskans;

31 (2) collect facts and statistics, and make studies of conditions and

1 problems pertaining to the employment, health, housing, financial security, social
2 welfare, and other concerns that bear upon the well-being of older Alaskans;

3 (3) provide information about public programs that would be of
4 interest or benefit to older Alaskans;

5 (4) appoint special committees, which may include persons who are
6 not members of the commission, to complete necessary studies;

7 (5) promote community education efforts regarding the problems and
8 concerns of older Alaskans;

9 (6) contract for necessary services;

10 (7) consult and cooperate with persons, organizations, and groups
11 interested in or concerned with programs of assistance to older Alaskans;

12 (8) advocate improved programs of benefit to older Alaskans; **and**

13 (9) **recommend** [SET] standards for levels of services for older
14 Alaskans for programs administered by the **department** [COMMISSION; AND

15 (10) ADOPT REGULATIONS NECESSARY FOR THE
16 ADMINISTRATION OF AS 47.45.200 - 47.45.290 AND TO COMPLY WITH
17 FEDERAL LAW].

18 * **Sec. 6.** AS 47.45.290 is amended by adding a new paragraph to read:

19 (3) "department" means the Department of Health and Social Services.

20 * **Sec. 7.** AS 47.65.010 is amended to read:

21 **Sec. 47.65.010. Older Alaskans service programs.** An amount to carry out
22 the provisions of AS 47.65.010 - 47.65.050 may be appropriated annually by the
23 legislature. The amount appropriated shall be fully distributed by the **department**
24 [ALASKA COMMISSION ON AGING] to sponsors of older Alaskans service
25 programs in accordance with the provisions of AS 47.65.010 - 47.65.050.

26 * **Sec. 8.** AS 47.65.020 is amended to read:

27 **Sec. 47.65.020. Grants for community service programs.** Not less than 60
28 percent of the amount appropriated by the legislature for older Alaskans service
29 programs under AS 47.65.010 - 47.65.050 shall be allocated annually by the
30 **department** [COMMISSION] as community program grants to sponsors of older
31 Alaskans service programs. Payments shall be made on the basis of applications

1 submitted to the **department** [COMMISSION] by sponsors of community programs.

2 * **Sec. 9.** AS 47.65.030 is amended to read:

3 **Sec. 47.65.030. Pilot project grants.** (a) The balance of the amount
4 appropriated for older Alaskans service programs under AS 47.65.010 - 47.65.050 not
5 allocated under AS 47.65.020 shall be allocated annually by the **department**
6 [COMMISSION] as grants to support pilot projects for the benefit of older Alaskans
7 under this section.

8 (b) The **department** [COMMISSION] shall adopt standards for pilot project
9 grants and, after adoption of the standards as regulations, in accordance with AS 44.62
10 (Administrative Procedure Act), shall apply the standards to determine eligibility of
11 applicants for pilot project grants. In awarding pilot project grants, the **department**
12 [COMMISSION] shall

13 (1) enter into agreements with the project sponsor to operate one or
14 more of the selected pilot projects consistent with the standards adopted;

15 (2) monitor and evaluate, in a written report, each pilot project; the
16 report must include

17 (A) a description of the project and of the persons served by it;

18 (B) the problems presented by the persons served by the
19 project;

20 (C) a description of the problems most effectively handled by
21 the project; and

22 (D) an estimate of projected cost of operation of the project for
23 the next three succeeding years.

24 * **Sec. 10.** AS 47.65.040(a) is amended to read:

25 (a) Except as provided in (f) of this section, a sponsor receiving a grant under
26 AS 47.65.010 - 47.65.050 shall contribute to the total cost of the program or project.
27 The contribution may be in cash or in-kind services. The amount of the sponsor's
28 required contribution is determined by the application of the following formula:
29 average per capita full and true value of all property in the municipality or community
30 in which the project or program takes place divided by the average per capita full and
31 true value of all property in the state, and then multiplied by the contribution

1 percentage to the estimated total program or project cost as determined by the
2 **department** [COMMISSION] at the time of approval of a grant application. However,
3 the amount of the sponsor's contribution may not amount to more than 10 percent of
4 the total program or project cost.

5 * **Sec. 11.** AS 47.65.040(c) is amended to read:

6 (c) If an application is submitted for a program or project in a municipality or
7 community for which no average per capita full and true property value determination
8 has been made,

9 (1) if the population of the municipality or community is 750 or more,
10 the **department** [COMMISSION] shall request the state assessor to compute the
11 average per capita full and true property value of that municipality or community and
12 report it;

13 (2) if the population is less than 750, the **department**
14 [COMMISSION] may substitute for the average per capita full and true value of
15 property in the municipality or community an amount equal to the average per capita
16 full and true value of property in the smallest municipality for which that amount has
17 been determined by the state assessor.

18 * **Sec. 12.** AS 47.65.040(e) is amended to read:

19 (e) The grant awarded by the **department** [COMMISSION] may not exceed
20 the estimated total program or project cost as determined by the **department**
21 [COMMISSION] less the contribution by the sponsor determined in accordance with
22 this section.

23 * **Sec. 13.** AS 47.65.040(f) is amended to read:

24 (f) When awarding a grant to support a pilot project under AS 47.65.010 -
25 47.65.050, the **department** [COMMISSION] may waive all or part of the sponsor
26 contribution required under this section if waiver is in the public interest. The
27 **department** [COMMISSION] shall adopt regulations establishing standards for
28 granting waivers under this subsection.

29 * **Sec. 14.** AS 47.65.050 is amended to read:

30 **Sec. 47.65.050. Administrative requirements.** (a) Payments received by a
31 sponsor under AS 47.65.010 - 47.65.050 may be used only to meet costs of services

1 **that** [WHICH] the **department** [COMMISSION] has determined directly benefit
 2 older Alaskans. A payment may not be made by the **department** [COMMISSION]
 3 under this section unless the **department** [COMMISSION] determines that the
 4 sponsor

5 (1) meets accepted standards of fiscal accountability for public funds;

6 (2) can demonstrate, when requested, the actual cost of services that it
 7 is providing for the benefit of older Alaskans; and

8 (3) agrees to make available, upon request, all fiscal information
 9 relating to service for which payments are provided under AS 47.65.010 - 47.65.050.

10 (b) The **department** [COMMISSION] may not make payments to a sponsor
 11 whose program includes family respite care services or home care services unless the
 12 sponsor has agreed to request criminal history record information as permitted by P.L.
 13 105-277 and AS 12.62 for the individual who will provide the services within 10
 14 business days after the individual is hired to provide the services and review the
 15 information within five business days after receiving it.

16 * **Sec. 15.** AS 47.65.100(a) is amended to read:

17 (a) In addition to administering grants for adult day care programs and family
 18 respite care services for older Alaskans under AS 47.65.010 - 47.65.050, the
 19 **department** [COMMISSION] may make grants under this section from funds
 20 otherwise available to it for adult day care programs and family respite care services
 21 for frail older persons and other similarly disabled adults.

22 * **Sec. 16.** AS 47.65.100(b) is amended to read:

23 (b) In order to fund grants under this section, the **department**
 24 [COMMISSION AND THE DEPARTMENT OF HEALTH AND SOCIAL
 25 SERVICES] may seek and enter into contracts or grants with any party, including
 26 reimbursable service agreements with other state agencies.

27 * **Sec. 17.** AS 47.65.100(c) is amended to read:

28 (c) The **department** [COMMISSION] shall, by regulation, set fees for
 29 services provided under this section. The fees must be based on a sliding scale formula
 30 that takes into account the client's income.

31 * **Sec. 18.** AS 47.65.100(e) is amended to read:

1 (e) The **department** [COMMISSION] may not award a grant under this
2 section for family respite care services or for adult day care services that include home
3 care services unless the grantee has agreed to request criminal history record
4 information as permitted by P.L. 105-277 and AS 12.62 for the individual who will
5 provide the services within 10 business days after the individual is hired to provide the
6 services and review the information within five business days after receiving it.

7 * **Sec. 19.** AS 47.65.290(3) is repealed and reenacted to read:

8 (3) "department" means the Department of Health and Social Services;