

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 103

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATORS GIESSEL, Ellis

Introduced: 2/17/16

Referred: Education, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to school boards; relating to approval of educational programs at**
2 **residential psychiatric treatment centers; providing for funding of educational services**
3 **for students in residential psychiatric treatment centers; and providing for an effective**
4 **date."**

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

6 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE FINDINGS AND INTENT. The legislature finds that

9 (1) students who are admitted to residential psychiatric treatment centers are a
10 special class of students because they are confined to residential psychiatric treatment centers
11 for mental health treatment and must be provided with educational services at the centers
12 rather than in traditional schools;

13 (2) because of the unique educational and mental health treatment needs of
14 those students, school districts are sometimes challenged to meet the educational needs of

1 students admitted to residential psychiatric treatment centers;

2 (3) in some instances, a residential psychiatric treatment center is able to
3 provide more effective educational and treatment services to an admitted student than a school
4 district can provide to the student;

5 (4) students admitted to residential psychiatric treatment centers are entitled to
6 a free and appropriate public education comparable to the education received by other
7 students enrolled in public schools;

8 (5) the educational opportunities of students admitted to residential psychiatric
9 treatment centers should not be compromised while the students are admitted for treatment;

10 (6) a free and appropriate public education is an integral part of providing a
11 successful treatment outcome for a student admitted to a residential psychiatric treatment
12 center; and

13 (7) there is a demonstrated need to provide uniform requirements to allow
14 school boards to enter into contracts to authorize residential psychiatric treatment centers to
15 serve as educational service providers for admitted students.

16 * **Sec. 2.** AS 14.30 is amended by adding new sections to read:

17 **Article 14. Educational Programs Provided by Residential Psychiatric Treatment**
18 **Centers.**

19 **Sec. 14.30.800. Contracts for educational programs at residential**
20 **psychiatric treatment centers.** (a) A school board shall enter into a contract to
21 provide payments to a residential psychiatric treatment center that provides an
22 educational program for a student admitted to the center if

23 (1) the center

24 (A) is licensed under AS 47.32; and

25 (B) submits to the school board a proposed contract that
26 includes, at a minimum, the information described under (b) of this section not
27 less than 60 days before the beginning of the school year;

28 (2) the student is enrolled in the school district;

29 (3) the student is admitted to the center

30 (A) under a court order;

31 (B) by the Department of Health and Social Services under

AS 47.10.087 or AS 47.12.255; or

(C) by private placement under the written orders of a licensed physician or mental health professional finding that the placement is medically necessary; and

(4) the school board finds that the reimbursement rate proposed by the center under (b)(21) of this section is reasonable.

(b) A contract between a school board and a residential psychiatric treatment center must include the following provisions:

(1) the center's admission policies and procedures;

(2) the teacher-to-student ratio, including projected enrollment;

(3) a description of the educational program and how the program aligns with state content and performance standards;

(4) a description of student assessments provided in the educational program and an agreement that the center will administer student assessments required by the state;

(5) written objectives for student achievement;

(6) the center's plans for providing special education, vocational education, gifted education, and bilingual education for students, as applicable;

(7) an educational program schedule and calendar;

(8) a description of staff development activities;

(9) documentation that a teacher who possesses a valid teacher certificate issued by the department and meets additional training requirements under AS 14.30.250 will provide the educational services;

(10) documentation that a person who possesses a valid administrative certificate issued by the department and meets other training requirements under AS 14.30.255 will administer the special education services;

(11) assurances that the center has adopted a certificated employee evaluation system based on professional performance standards for evaluation and improvement of the performance of the center's teachers and educational services administrators;

(12) assurances that the center will follow procedures established by

1 the department to comply with federal law, including 20 U.S.C. 1400 - 1482
 2 (Individuals with Disabilities Education Act);

3 (13) a summary of the center's budget and financial plan;

4 (14) the method by which the center will account for receipts and
 5 expenditures;

6 (15) assurances that the center will comply with all state and federal
 7 requirements for receipt and use of public funds;

8 (16) proof that the center is approved by the Department of Health and
 9 Social Services;

10 (17) a written plan to collaborate with the school district to coordinate
 11 an individual course of study to allow the student to transition successfully back to the
 12 school district;

13 (18) a commitment that, as a condition of funding, the center shall only
 14 expend funds received under (a) of this section for educational services provided at the
 15 center;

16 (19) an agreement that, as a condition of funding, the center shall allow
 17 audit and inspection of records by state and federal agencies and shall return
 18 overpayments;

19 (20) the term of the contract; the term of the contract may not exceed
 20 three years; and

21 (21) the reimbursement rate to be provided by the school district for
 22 educational services provided by the center.

23 (c) A school board shall issue a written decision approving or rejecting a
 24 contract under (a) of this section within 30 days after the center submits the contract to
 25 the school board. The school board's decision must include all relevant findings of fact
 26 and conclusions of law.

27 (d) If a school board approves a contract under this section, the school board
 28 shall forward the application to the state Board of Education and Early Development
 29 for review and approval.

30 (e) If a school board rejects a contract under (a) of this section, the center may
 31 appeal the rejection to the commissioner. The center shall file the appeal not later than

60 days after the school board issues a written decision of rejection. The commissioner shall review the local school board's decision to determine whether the findings of fact are supported by substantial evidence and whether the decision is contrary to law. The center may appeal a decision of the commissioner upholding a school board's rejection of a contract to the state Board of Education and Early Development within 30 days after the commissioner issues a written decision.

(f) If the commissioner approves a contract, the commissioner shall forward the application to the state Board of Education and Early Development for review and approval. The commissioner shall forward the contract not later than 30 days after the commissioner issues a written decision. The state board shall exercise independent judgment in evaluating the contract.

(g) A school board that rejected a contract that is approved by the state board on appeal shall enter into the contract and honor the terms of the contract.

Sec. 14.30.810. Appeal of application for funding. (a) In an appeal to the commissioner under AS 14.30.800, the commissioner shall review the record before the school board to determine whether the proposed contract meets the requirements under AS 14.30.800(b) and whether the proposed reimbursement rate is reasonable. The commissioner may request written supplementation of the record from the residential psychiatric treatment center or the school board. The commissioner may

(1) remand the appeal to the school board for further review;

(2) approve the contract and forward the contract to the state Board of Education and Early Development; or

(3) uphold the decision rejecting the contract; if the commissioner upholds a school board's decision to reject the contract and the center appeals to the state Board of Education and Early Development, the commissioner shall immediately forward the contract and record to the state board.

(b) In an appeal to the state Board of Education and Early Development of a rejection of a contract under (a)(3) of this section, the state board shall determine, based on the record, whether the commissioner's findings are supported by substantial evidence and whether the decision is contrary to laws. The state board shall issue a written decision within 90 days after an appeal.

1 **Sec. 14.30.820. Definitions.** In AS 14.30.800 - 14.30.820,

2 (1) "residential psychiatric treatment center" or "center" means a
3 secure or semi-secure facility, or an inpatient program in another facility, that
4 provides, under the direction of a physician, psychiatric diagnostic, evaluation, and
5 treatment services on a 24-hour-a-day basis to an individual with severe emotional or
6 behavioral disorders;

7 (2) "school district" has the meaning given in AS 14.30.350.

8 * **Sec. 3.** AS 14.30.800, 14.30.810, and 14.30.820 are repealed July 1, 2019.

9 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).