

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 103(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/1/16

Referred: Rules

Sponsor(s): SENATORS GIESSEL, Ellis

A BILL

FOR AN ACT ENTITLED

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

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

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

15 **Article 14. Educational Programs Provided by Residential Psychiatric Treatment**

16 **Centers.**

17 **Sec. 14.30.800. Contracts for educational programs at residential**
18 **psychiatric treatment centers.** (a) A school district may enter into a contract to
19 provide payments to a residential psychiatric treatment center that provides an
20 educational program for a student admitted to the center. If a school district and a
21 residential psychiatric treatment center are unable to agree on a proposed contract on
22 or before January 1 immediately preceding the first school year for which the
23 residential psychiatric treatment center is seeking funding, the school board where a
24 student who is admitted to the center is enrolled shall enter into a contract with the
25 center as provided in (b) of this section.

26 (b) A school board shall enter into a contract to provide payments to a
27 residential psychiatric treatment center that provides an educational program for a
28 student admitted to the center if

29 (1) the center

30 (A) is licensed under AS 47.32; and

31 (B) submits to the school board a proposed contract that

includes, at a minimum, the information described under (c) of this section not less than 60 days before the beginning of the school year;

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

(3) the student is admitted to the center

(A) under a court order;

(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 (c)(21) of this section is reasonable.

(c) 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

1 AS 14.30.255 will administer the special education services;

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

6 (12) assurances that the center will follow procedures established by
7 the department to comply with federal law, including 20 U.S.C. 1400 - 1482
8 (Individuals with Disabilities Education Act);

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

10 (14) the method by which the center will account for receipts and
11 expenditures;

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

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

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

19 (18) a commitment that, as a condition of funding, the center shall only
20 expend funds received under (b) of this section for educational services provided at the
21 center;

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

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

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

29 (d) A school board shall issue a written decision approving or rejecting a
30 contract under (b) of this section within 30 days after the center submits the contract to
31 the school board. The school board's decision must include all relevant findings of fact

1 and conclusions of law.

2 (e) If a school board approves a contract under this section, the school board
3 shall forward the application to the state Board of Education and Early Development
4 for review and approval.

5 (f) If a school board rejects a contract under (b) of this section, the center may
6 appeal the rejection to the commissioner. The center shall file the appeal not later than
7 60 days after the school board issues a written decision of rejection. The commissioner
8 shall review the local school board's decision to determine whether the findings of fact
9 are supported by substantial evidence and whether the decision is contrary to law. The
10 center may appeal a decision of the commissioner upholding a school board's rejection
11 of a contract to the state Board of Education and Early Development within 30 days
12 after the commissioner issues a written decision.

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

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

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

- 27 (1) remand the appeal to the school board for further review;
28 (2) approve the contract and forward the contract to the state Board of
29 Education and Early Development; or
30 (3) uphold the decision rejecting the contract; if the commissioner
31 upholds a school board's decision to reject the contract and the center appeals to the

1 state Board of Education and Early Development, the commissioner shall immediately
 2 forward the contract and record to the state board.

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

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

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

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

15 * **Sec. 3.** AS 14.30.800, 14.30.810, and 14.30.820 are repealed July 1, 2020.

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