

Introduced: 3/18/81  
Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 357

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adult public assistance."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 44.29.020 is amended to read:

9 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health  
10 and Social Services shall administer the state programs of public  
11 health and social services, including: (1) maternal and child health  
12 services; (2) preventive medical services; (3) public health nursing  
13 services; (4) sanitation and engineering services; (5) nutrition  
14 services; (6) health education; (7) laboratories; (8) mental health  
15 treatment and diagnosis; (9) management of state institutions, (10)  
16 medical facilities; (11) adult public [OLD AGE] assistance; (12) aid  
17 to dependent children; (13) [AID TO THE BLIND]; (14) child welfare  
18 services; (15) general relief; (16) licensing and supervision of child  
19 care facilities; and (17) probation and parole supervision.

20 \* Sec. 2. AS 47.05.010(1) is amended to read:

21 (1) administer adult public [OLD AGE] assistance, aid to  
22 dependent children, [AID TO THE BLIND,] and all other assistance  
23 programs, and receive and spend funds made available to it;

24 \* Sec. 3. AS 47.05.010(2) is amended to read:

25 (2) adopt regulations necessary for the conduct of its  
26 business and for carrying out federal and state laws granting adult  
27 public [OLD AGE] assistance, aid to dependent children, [AID TO BLIND  
28 PERSONS] and other assistance;

29 \* Sec. 4. AS 47.05.010(5) is amended to read:

1 (5) cooperate with the federal government in matters of  
2 mutual concern pertaining to adult public [OLD AGE] assistance, aid to  
3 dependent children, [AID TO BLIND PERSONS] and other forms of public  
4 assistance;

5 \* Sec. 5. AS 47.05.050 is amended to read:

6 Sec. 47.05.050. POLICY. It is the public policy of the state to  
7 cooperate and coordinate with the United States government and its  
8 agencies in providing for and administering federal and state laws for  
9 adult public [OLD AGE] assistance and the other assistance which is  
10 provided for or extended to the people of the state.

11 \* Sec. 6. AS 47.25.430 is amended to read:

12 ARTICLE 4. ADULT PUBLIC [OLD AGE] ASSISTANCE.

13 Sec. 47.25.430. ADULT PUBLIC [PERSONS ENTITLED TO OLD AGE] ASSIST-  
14 ANCE. (a) Financial assistance shall be given under AS 47.25.430 --  
15 47.25.615 [47.25.610], so far as practicable under the conditions in  
16 the state, to every aged, blind, or disabled needy resident [OF THE  
17 STATE] who has [ATTAINED THE AGE OF 65 YEARS, WHO HAS] not made a  
18 voluntary assignment or transfer of property to qualify for assistance  
19 and who has been determined eligible under regulations adopted by the  
20 department. As used in this subsection, "resident" means a person who  
21 is living in the state voluntarily with the intention of making the  
22 state his home and is not living in the state for a temporary purpose.

23 (b) The department shall determine the amount of assistance  
24 with due regard to the resources and needs of the person and the  
25 conditions existing in each case. Assistance shall be in an amount  
26 which will provide the applicant with reasonable subsistence compatible  
27 with decency and health in accordance with standards established by the  
28 department and with the standards established under Title XVI of the  
29 Social Security Act. When benefit amounts under Title XVI of the

1 Social Security Act are increased as a result of an increase in the  
2 cost of living, the state shall pass along the increase to recipients,  
3 and shall increase the amount of the state contribution to recipients  
4 by a percentage of the state contribution equal to the percentage  
5 increase in the benefit amounts under Title XVI. Direct payments for  
6 medical services and remedial care may not be considered in determining  
7 the maximum amount payable.

8 (c) [(b)] No payment under AS 47.25.430 -- 47.25.615 [47.25.610]  
9 may be made to a person [AN INDIVIDUAL] who is a resident of a [THE  
10 ALASKA PIONEERS' HOME OR ANOTHER] public institution (except as a  
11 patient in a public medical institution) or a person [AN INDIVIDUAL]  
12 who is (1) a patient in a public or private institution for tuberculo-  
13 sis or mental diseases, or (2) diagnosed as having tuberculosis or  
14 psychosis and is a patient in a medical institution as a result of the  
15 diagnosis.

16 (d) [(c)] A resident of an [THE ALASKA PIONEERS' HOME OR OTHER]  
17 institution may, upon leaving [AT ANY TIME HE WISHES TO LEAVE] the  
18 institution, apply for assistance under AS 47.25.430 -- 47.25.615  
19 [47.25.610] instead of the support and maintenance provided in the  
20 [HOME OR] institution.

21 \* Sec. 7. AS 47.25.435 is amended to read:

22 Sec. 47.25.435. EXCLUSION OF INCOME. Notwithstanding the provi-  
23 sions of AS 47.25.430 -- 47.25.615 [47.25.610], if the applicable provi-  
24 sions of the federal Social Security Act, as amended, permit, in deter-  
25 mining the need of an applicant for, or a recipient of, an [OLD AGE]  
26 assistance grant under AS 47.25.430 -- 47.25.615 [47.25.610], the de-  
27 partment shall exclude from the computation of the applicant's or  
28 recipient's income the amounts specified in 42 U.S.C. sec. 1382a(b),  
29 as amended, amounts specified in regulations adopted to implement

1 the supplemental security income provisions of federal law, and any  
2 amounts specified by the department by regulation so long as exclu-  
3 sion of those amounts is not in conflict with federal law [A SUM NOT  
4 TO EXCEED \$65 A MONTH PLUS ONE-HALF OF THE BALANCE OF THE INCOME THAT  
5 IS EARNED IN ANY MANNER, UNTIL FINANCIAL INELIGIBILITY IS REACHED. THE  
6 DEPARTMENT MAY PROMULGATE REGULATIONS IT CONSIDERS APPROPRIATE TO CARRY  
7 OUT THE PROVISIONS OF THIS SECTION].

8 \* Sec. 8. AS 47.25.450 is amended to read:

9       Sec. 47.25.450. INVESTIGATION OF APPLICANT. Upon application,  
10 the [THE] department shall investigate promptly and record the circum-  
11 stances of each applicant [PERSON APPLYING FOR OLD AGE ASSISTANCE] to  
12 determine the facts supporting the application and other information  
13 required by the department.

14 \* Sec. 9. AS 47.25.460 is amended to read:

15       Sec. 47.25.460. AWARD, REDUCTION, TERMINATION, AND APPEAL. (a)  
16 Upon completion of the investigation, the department shall promptly  
17 decide whether the applicant is eligible for and should receive adult  
18 public [OLD AGE] assistance, the amount of it, the manner of paying it,  
19 and the date on which it starts. The department may make additional  
20 investigation which it considers necessary, and shall make its decision  
21 as to the granting of assistance and the amount and nature of it as in  
22 its opinion is justified and in conformity with AS 47.25.430 --  
23 47.25.615 [47.25.610]. The department shall notify the applicant of  
24 its decision in writing by handing or mailing it to the applicant no  
25 later than the 30th day after the date of application.

26       (b) Assistance under AS 47.25.430 -- 47.25.615 is subject to re-  
27 view every three months and at such other times as circumstances warrant  
28 If a recipient of adult public assistance or the spouse of a recipient  
29 with whom the recipient is living acquires non-exempt property exceeding

1 resource limitations, or income sufficient to maintain the recipient  
2 properly, then the assistance granted to the recipient must either be  
3 terminated or reduced to an amount reflecting the reduced need as  
4 determined by the department in accordance with applicable regulations.  
5 Upon review, the department may, after having provided opportunity for  
6 a hearing under (c) of this section, change the assistance granted or  
7 terminate it entirely if it finds that the circumstances are changed  
8 sufficiently to warrant this action.

9 (c) [(b)] A recipient whose award is proposed to be modified or  
10 terminated, or an [AN] applicant whose application is denied, [DISCON-  
11 TINUED OR MODIFIED] by the department shall be granted an opportunity  
12 for a [FAIR] hearing before a representative [THE DEPARTMENT OR BEFORE  
13 AN AGENT] of the department, appointed for that purpose. The hearing  
14 shall be held promptly [WITHIN A REASONABLE TIME] after request [DEMAND]  
15 for it is made. The representative [IF AN AGENT IS] designated to  
16 conduct the hearing [, THE AGENT] shall be governed by the regulations  
17 prescribed for that purpose by the department.

18 (d) [(c)] Each award [ALLOWANCE] shall be paid on a monthly  
19 basis. In case it is impracticable by reason of slow or interrupted  
20 means of communication for a warrant covering a month's assistance  
21 [BENEFIT] to reach the recipient [BENEFICIARY] in due course, the  
22 department may transmit warrants covering assistance [PAYMENTS] for  
23 more than one month and may deliver all of them to the recipient [BENE-  
24 FICIARY] at one time. [ALL WARRANTS SHALL BE REGISTERED IN A BOOK KEPT  
25 FOR THAT PURPOSE AND WHEN REGISTERED SHALL IN THE ORDER OF THEIR REGIS-  
26 TRATION TAKE PRIORITY OVER ALL OTHER WARRANTS AGAINST THE OLD AGE  
27 ASSISTANCE FUND.]

28 \* Sec. 10. AS 47.25.470 is amended to read:

29 Sec. 47.25.470. PAYMENT WHEN RECIPIENT INCAPACITATED. If a

1 person receiving assistance is incapable of taking care of himself or  
2 of the funds granted under AS 47.25.430 -- 47.25.615 [47.25.610], the  
3 department may direct the payment of the funds to his legally appointed  
4 guardian or to another person as designated by the department for his  
5 benefit.

6 \* Sec. 11. AS 47.25.500 is amended to read:

7 Sec. 47.25.500. RECOVERY OF ASSISTANCE [ALLOWANCES] IMPROPERLY  
8 GRANTED. (a) If the department believes that assistance [FINDS THAT  
9 AN OLD AGE ALLOWANCE] was improperly granted, it shall investigate and,  
10 if it appears as a result of the investigation that assistance was  
11 improperly granted, it may, after providing an opportunity for a  
12 hearing, terminate or reduce assistance [CANCEL THE ALLOWANCE] and  
13 notify the recipient to that effect. The [, AND THE] state [THEN] has  
14 a claim against a [THE] person who received an [THE] improper amount of  
15 assistance [ALLOWANCE]. The claim may [SHALL] be enforced by an action  
16 instituted in the name of the state by the attorney general to recover  
17 the amount paid to the person, with interest, together with the neces-  
18 sary costs of the action.

19 (b) If the department finds that recovery would work a finan-  
20 cial hardship upon the recipient to the extent that his health and  
21 well-being would be threatened or that the costs of recovery would  
22 exceed the amount of assistance improperly granted, it may waive re-  
23 covery or reduce the amount to be recovered [THE UNITED STATES SHALL,  
24 IF IT REQUIRES, BE REIMBURSED OUT OF THE MONEY ON A PRO RATA BASIS IN  
25 PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING  
26 AMOUNT SHALL BE PAID TO THE STATE FOR THE OLD AGE ASSISTANCE FUND].

27 \* Sec. 12. AS 47.25.515 is amended to read:

28 Sec. 47.25.515. CANCELLATION OF WARRANTS. (a) Warrants issued  
29 to a recipient of [AN OLD AGE] assistance under AS 47.25.430 -- 47.25.-

1 615 [RECIPIENT] after the date of death of the recipient shall be  
2 returned to the Department of Administration and canceled.

3 (b) Assistance [OLD AGE ASSISTANCE] warrants issued before the  
4 death of the recipient but not negotiated at death shall be returned to  
5 the Department of Administration, and shall be canceled, unless claimed  
6 by the authorized representative of the estate of the recipient within  
7 90 days of the date of death.

8 (c) The state is [SHALL] not [BE] liable to the estate, heirs, or  
9 creditors of the deceased [OLD AGE] assistance recipient for payment on  
10 warrants canceled under (a) or [AND] (b) of this section.

11 \* Sec. 13. AS 47.25.520 is amended to read:

12 Sec. 47.25.520. LEAVING THE [REMOVAL FROM] STATE. A person  
13 receiving assistance who leaves [REMOVES FROM] the state may not there-  
14 after receive assistance unless the department otherwise directs.

15 \* Sec. 14. AS 47.25.550 is amended to read:

16 Sec. 47.25.550. ALIENATION AND ATTACHMENT. Assistance granted  
17 under AS 47.25.430 -- 47.25.615 [47.25.610] is inalienable by an assign-  
18 ment or transfer and is exempt from garnishment, levy, or execution  
19 under the laws of this state.

20 \* Sec. 15. AS 47.25.580 is amended to read:

21 Sec. 47.25.580. ACTION AGAINST PERSON LIABLE FOR CARE OF RECIP-  
22 IENT. If during the continuance of assistance [AN ALLOWANCE] the  
23 department finds that a person liable for the support of the recipient  
24 of assistance is able to provide the necessary care and support of the  
25 recipient, and the person liable for the care and support of the reci-  
26 pient fails or refuses to support and care for the recipient then the  
27 state has a cause of action for the assistance against the person  
28 liable for it. The action may [SHALL] be brought in the name of the  
29 state by the attorney general against the person liable for the recovery

1 of the amount of money, with interest, paid to the recipient, together  
2 with the costs and disbursements of the action. The [UNITED STATES  
3 SHALL, IF IT REQUIRES, BE REIMBURSED OUT OF THE MONEY COLLECTED ON A  
4 PRO RATA BASIS IN PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND  
5 THE REMAINING] amount collected shall be paid to the Department of  
6 Revenue [FOR THE OLD AGE ASSISTANCE FUND].

7 \* Sec. 16. AS 47.25.590 is amended to read:

8 Sec. 47.25.590. POLICY AND PURPOSE. (a) It is the policy of the  
9 state and the purpose of AS 47.25.430 -- 47.25.615 [47.25.610] to  
10 cooperate and coordinate with the United States government and its  
11 agencies in providing for and administering the laws of the federal and  
12 state governments having for their purpose adult public [OLD AGE]  
13 assistance for residents of this state.

14 (b) The purpose of AS 47.25.430 -- 47.25.615 [47.25.610] is to  
15 furnish financial assistance as far as practicable to needy [,] aged,  
16 blind, and disabled persons [INDIVIDUALS], and to help them attain  
17 self-support or self-care.

18 (c) The department may enter into contracts or arrangements with  
19 any federal agency, department, or official under which funds made  
20 available to the federal agency, department, or official may be trans-  
21 ferred to the department and spent in accordance with AS 47.25.430 --  
22 47.25.615.

23 \* Sec. 17. AS 47.25.600 is amended to read:

24 Sec. 47.25.600. OBTAINING ASSISTANCE BY FRAUD. A person is  
25 guilty of a class B misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY  
26 A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT IN A JAIL FOR NOT MORE  
27 THAN SIX MONTHS, OR BY BOTH,] if he (1) by a false statement, represen-  
28 tation, or impersonation, or other fraudulent device, obtains or attempt  
29 to obtain or aids or abets another to obtain (A) assistance to which he

1 is not entitled, (B) greater assistance than he is entitled to, (C)  
2 payment of a forfeited grant or allowance; or (2) aids and abets in  
3 buying or otherwise disposing of the property of the recipient of  
4 assistance for the purpose of avoiding liability for the assistance  
5 granted.

6 \* Sec. 18. AS 47.25.610 is amended to read:

7 Sec. 47.25.610. VIOLATIONS. A person who violates a provision of  
8 AS 47.25.430 -- 47.25.615 [47.25.610] or a regulation adopted under any  
9 of those sections is guilty of a class B misdemeanor [AND IF NO OTHER  
10 PENALTY IS PROVIDED, THE PERSON, UPON CONVICTION, IS PUNISHABLE BY A  
11 FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT IN A JAIL FOR NOT MORE  
12 THAN SIX MONTHS, OR BY BOTH].

13 \* Sec. 19. AS 47.25 is amended by adding a new section to read:

14 Sec. 47.25.615. DEFINITIONS. In AS 47.25.430 -- 47.25.615

15 (1) "aged" means 65 or more years of age;

16 (2) "assistance" means money payments to or medical care on  
17 behalf of, or any type of remedial care recognized by the department on  
18 behalf of needy aged, blind, or disabled persons who are 18 or more  
19 years of age and residents of the state;

20 (3) "blind" means having no vision or having vision which is  
21 so defective as to prevent the performance of ordinary activities for  
22 which eyesight is essential;

23 (4) "department" means the Department of Health and Social  
24 Services;

25 (5) "disabled" means being unable to engage in any substan-  
26 tial gainful activity by reason of any medically determinable physical  
27 or mental impairment which can be expected to result in death or which  
28 has lasted or can be expected to last for a continuous period of not  
29 less than 12 months;

1 (6) "public institution" means a governmentally owned estab-  
2 lishment which furnishes food, shelter, and some additional treatment  
3 or services to 16 or more persons;

4 (7) "public medical institution" means a public hospital or  
5 a public institution providing medical care, except an institution for  
6 the treatment of tuberculosis or mental disease.

7 \* Sec. 20. AS 47.25.480, 47.25.510, 47.25.620 -- 47.25.710, 47.25.730 --  
8 47.25.880, and 47.25.905 -- 47.25.970 are repealed.

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