

Original sponsor: Rules/Governor

Offered: 4/16/82
For Calendar, Saturday
4/17/82

1 IN THE HOUSE

BY THE RULES COMMITTEE

2 CS FOR HOUSE BILL NO. 357 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to 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 health
11 and social services, including: (1) maternal and child health services;
12 (2) preventive medical services; (3) public health nursing services; (4)
13 (repealed) (5) nutrition services; (6) health education; (7) labora-
14 tories; (8) mental health treatment and diagnosis; (9) management of
15 state institutions; (10) medical facilities; (11) adult public [OLD AGE]
16 assistance; (12) aid to dependent children; (13) [AID TO THE BLIND];
17 (14) child welfare services; (15) general relief; (16) licensing and
18 supervision of child care facilities; and (17) probation and parole
19 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 pro-
23 grams, 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 busi-
26 ness and for carrying out federal and state laws granting adult public
27 [OLD AGE] assistance, aid to dependent children, [AID TO BLIND PERSONS]
28 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 47.05 is amended by adding a new section to read:

12 Sec. 47.05.015. CONTRACTS. (a) The department may contract with
13 a person or government for the delivery of services to be provided by
14 the department under AS 44.29.020 and AS 47.05.010.

15 (b) Services that may be provided by contract under this section
16 include accepting applications for assistance, conducting interviews,
17 making eligibility determinations, and issuing benefits, but do not
18 include adoption of program standards or other matters involving the
19 exercise of agency discretion.

20 (c) A contract authorized under this section is exempt from the
21 competitive bid requirements of AS 37.05.230. In awarding a contract
22 under this section to a person or local government the department shall
23 publish a request for proposals in accordance with regulations of the
24 department.

25 * Sec. 7. AS 47.25.430 is repealed and reenacted to read:

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

27 Sec. 47.25.430. ADULT PUBLIC ASSISTANCE. (a) Financial assis-
28 tance shall be given under AS 47.25.430 - 47.25.615, so far as practic-
29 able under appropriations made by law to every aged, blind, or disabled

1 needy resident who has not made a voluntary assignment or transfer of
2 property to qualify for assistance and who has been determined eligible
3 under regulations adopted by the department. As used in this subsection,
4 "resident" means a person who is living in the state voluntarily with
5 the intention of making the state his home and is not living in the
6 state for a temporary purpose.

7 (b) The department shall determine the amount of assistance with
8 due regard to the resources and needs of the person and the conditions
9 existing in each case. Assistance shall be in an amount which will
10 provide the applicant with reasonable subsistence compatible with
11 decency and health in accordance with standards established by the
12 department and with the standards established under Title XVI of the
13 Social Security Act. When benefit amounts under Title XVI of the Social
14 Security Act are increased as a result of an increase in the cost of
15 living, the state shall pass along the increase to recipients, and shall
16 increase the amount of the state contribution to recipients by a percent-
17 age of the state contribution equal to the percentage increase in the
18 benefit amounts under Title XVI. Direct payments for medical services
19 and remedial care may not be considered in determining the maximum
20 amount payable.

21 (c) No payment under AS 47.25.430 - 47.25.615 may be made to a
22 person who is a resident of a public institution (except as a patient in
23 a public medical institution) or a person who is a patient in a public
24 or private institution for treatment of a mental disease.

25 (d) A resident of an institution may, upon leaving the institution,
26 apply for assistance under AS 47.25.430 - 47.25.615 instead of the
27 support and maintenance provided in the institution.

28 * Sec. 8. AS 47.25.435 is amended to read:

29 Sec. 47.25.435. EXCLUSION OF INCOME. Notwithstanding the provi-

1 sions of AS 47.25.430 - 47.25.615 [47.25.610], if the applicable provi-
2 sions of the federal Social Security Act, as amended, permit, in deter-
3 mining the need of an applicant for, or a recipient of, an [OLD AGE]
4 assistance grant under AS 47.25.430 - 47.25.615 [47.25.610], the de-
5 partment shall exclude from the computation of the applicant's or
6 recipient's income the amounts specified in 42 U.S.C. sec. 1382a(b),
7 as amended, amounts specified in regulations adopted to implement the
8 supplemental security income provisions of federal law, and any amounts
9 specified by the department by regulation so long as exclusion of those
10 amounts is not in conflict with federal law [A SUM NOT TO EXCEED \$65 A
11 MONTH PLUS ONE-HALF OF THE BALANCE OF THE INCOME THAT IS EARNED IN ANY
12 MANNER, UNTIL FINANCIAL INELIGIBILITY IS REACHED. THE DEPARTMENT MAY
13 PROMULGATE REGULATIONS IT CONSIDERS APPROPRIATE TO CARRY OUT THE PROVI-
14 SIONS OF THIS SECTION].

15 * Sec. 9. AS 47.25.450 is amended to read:

16 Sec. 47.25.450. INVESTIGATION OF APPLICANT. Upon application, the
17 [THE] department shall investigate promptly and record the circumstances
18 of each applicant [PERSON APPLYING FOR OLD AGE ASSISTANCE] to determine
19 the facts supporting the application and other information required by
20 the department.

21 * Sec. 10. AS 47.25.460 is repealed and reenacted to read:

22 Sec. 47.25.460. AWARD, REDUCTION, TERMINATION, AND APPEAL. (a)
23 Upon completion of the investigation, the department shall promptly
24 decide whether the applicant is eligible for and should receive adult
25 public assistance, the amount of it, the manner of paying it, and the
26 date on which it starts. The department may make additional investiga-
27 tion which it considers necessary, and shall make its decision as to the
28 granting of assistance and the amount and nature of it as in its opinion
29 is justified and in conformity with AS 47.25.430 - 47.25.615. The

1 department shall notify the applicant of its decision in writing.

2 (b) Assistance under AS 47.25.430 - 47.25.615 is subject to review
3 every three months and at such other times as circumstances warrant. If
4 a recipient of adult public assistance or the spouse of a recipient with
5 whom the recipient is living acquires nonexempt property exceeding
6 resource limitations, or income sufficient to maintain the recipient
7 properly, then the assistance granted to the recipient must either be
8 terminated or reduced to an amount reflecting the reduced need as deter-
9 mined by the department in accordance with applicable regulations. Upon
10 review, the department may, after having provided opportunity for a
11 hearing under (c) of this section, change the assistance granted or
12 terminate it entirely if it finds that the circumstances are changed
13 sufficiently to warrant this action.

14 (c) A recipient whose award is proposed to be modified or termi-
15 nated, or an applicant whose application is denied by the department
16 shall be granted an opportunity for a hearing before a representative of
17 the department, appointed for that purpose. The hearing shall be held
18 promptly after request for it is made. The representative designated to
19 conduct the hearing shall be governed by the regulations prescribed for
20 that purpose by the department.

21 (d) Each award shall be paid on a monthly basis. In case it is
22 impracticable by reason of slow or interrupted means of communication
23 for a warrant covering a month's assistance to reach the recipient in
24 due course, the department may transmit warrants covering assistance for
25 more than one month and may deliver all of them to the recipient at one
26 time.

27 * Sec. 11. AS 47.25.470 is amended to read:

28 Sec. 47.25.470. PAYMENT WHEN RECIPIENT INCAPACITATED. If a person
29 receiving assistance is incapable of taking care of himself or of the

1 funds granted under AS 47.25.430 - 47.25.615 [47.25.610], the department
2 may direct the payment of the funds to his legally appointed guardian or
3 to another person as designated by the department for his benefit.

4 * Sec. 12. AS 47.25.500 is amended to read:

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

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

25 * Sec. 13. AS 47.25.515 is amended to read:

26 Sec. 47.25.515. CANCELLATION OF WARRANTS. (a) Warrants issued to
27 a recipient of [AN OLD AGE] assistance under AS 47.25.430 - 47.25.615
28 [RECIPIENT] after the date of death of the recipient shall be returned
29 to the Department of Administration and canceled.

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

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

9 * Sec. 14. AS 47.25.520 is amended to read:

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

13 * Sec. 15. AS 47.25.550 is amended to read:

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

18 * Sec. 16. AS 47.25.580 is amended to read:

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

1 REQUIRES, BE REIMBURSED OUT OF THE MONEY COLLECTED ON A PRO RATA BASIS
2 IN PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING]
3 amount collected shall be paid to the Department of Revenue [FOR THE OLD
4 AGE ASSISTANCE FUND].

5 * Sec. 17. AS 47.25.590 is amended to read:

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

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

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

21 * Sec. 18. AS 47.25.600 is amended to read:

22 Sec. 47.25.600. OBTAINING ASSISTANCE BY FRAUD. A person is guilty
23 of a class B misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE
24 OF NOT MORE THAN \$500, OR BY IMPRISONMENT IN A JAIL FOR NOT MORE THAN
25 SIX MONTHS, OR BY BOTH,] if he (1) by a false statement, representation,
26 or impersonation, or other fraudulent device, obtains or attempts to
27 obtain or aids or abets another to obtain (A) assistance to which he is
28 not entitled, (B) greater assistance than he is entitled to, (C) payment
29 of a forfeited grant or allowance; or (2) aids and abets in buying or

1 otherwise disposing of the property of the recipient of assistance for
2 the purpose of avoiding liability for the assistance granted.

3 * Sec. 19. AS 47.25.610 is amended to read:

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

10 * Sec. 20. AS 47.25 is amended by adding a new section to read:

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

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

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

17 (3) "blind" means having no vision or having vision that is
18 so defective as to prevent the performance of ordinary activities for
19 which eyesight is essential;

20 (4) "department" means the Department of Health and Social
21 Services;

22 (5) "disabled" means being unable to engage in substantial
23 gainful activity by reason of a medically determinable physical or
24 mental impairment that can be expected to result in death or that has
25 lasted or can be expected to last for a continuous period of not less
26 than 12 months;

27 (6) "public institution" means a governmentally owned estab-
28 lishment that furnishes food, shelter, and some additional treatment or
29 services to 16 or more persons;

1 (7) "public medical institution" means a public hospital or a
2 public institution providing medical care, except an institution for the
3 treatment of mental disease.

4 * Sec. 21. AS 47.25.480, 47.25.510, 47.25.620 - 47.25.710, 47.25.730 -
5 47.25.880, 47.25.905 - 47.25.970, and AS 47.40 are repealed.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29