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BY SEN. DUNCAN

1 IN THE SENATE

2 SENATE BILL NO. 365

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a division of alcoholism and  
7 drug abuse in the Department of Health and Social  
8 Services; and providing for an effective date."

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

10 \* Section 1. AS 47.37.020 is amended to read:

11 Sec. 47.37.020. DIVISION [OFFICE] OF ALCOHOLISM AND DRUG ABUSE.  
12 A division [AN OFFICE] of alcoholism and drug abuse is established in  
13 the department. The division [OFFICE] shall be headed by a director  
14 [COORDINATOR] appointed by the commissioner. The director [COORDINA-  
15 TOR] shall be a qualified professional who has training and experience  
16 in the organization and administration of treatment services for  
17 persons with medical-social problems. The director [COORDINATOR] is  
18 in the partially exempt [CLASSIFIED] service under AS 39.25.120(c).

19 \* Sec. 2. AS 47.37.030 is amended to read:

20 Sec. 47.37.030. POWERS OF DIVISION [OFFICE]. The division  
21 [OFFICE] may

22 (1) plan, establish, and maintain programs for the preven-  
23 tion and treatment of alcoholism, drug abuse, and misuse of hazardous  
24 volatile materials and substances by inhalant abusers;

25 (2) make contracts and award grants necessary or incidental  
26 to the performance of its duties and the execution of its powers,  
27 including contracts with the grants to public and private agencies,  
28 organizations, and individuals, to pay them for services rendered or  
29 furnished to alcoholics, intoxicated persons, drug abusers, or

1 inhalant abusers; to the maximum extent possible, contracts and grants  
2 must be for a period of two years; contracts under this paragraph are  
3 governed by AS 36.30 (State Procurement Code);

4 (3) solicit and accept for use a gift of money or property  
5 or a grant of money, services, or property from the federal govern-  
6 ment, the state, or a political subdivision of it or a private source,  
7 and do all things necessary to cooperate with the federal government  
8 or any of its agencies in making an application for a grant;

9 (4) administer or supervise the administration of the  
10 provisions relating to alcoholics, intoxicated persons, drug abusers,  
11 and inhalant abusers of state plans submitted for federal funding  
12 under federal health, welfare, or treatment legislation;

13 (5) coordinate its activities and cooperate with alcohol-  
14 ism, drug abuse, and inhalant abuse programs in this and other states,  
15 and make contracts and other joint or cooperative arrangements with  
16 state, local, or private agencies for the treatment of alcoholics,  
17 intoxicated persons, drug abusers, and inhalant abusers, and for the  
18 common advancement of alcoholism, drug abuse, and inhalant abuse  
19 programs in this and other states;

20 (6) keep records and engage in research and the gathering  
21 of relevant statistics;

22 (7) do other acts necessary to implement the authority  
23 expressly granted to it;

24 (8) acquire, hold, or dispose of real property or any  
25 interest in it, and construct, lease, or otherwise provide treatment  
26 facilities for alcoholics, intoxicated persons, drug abusers, and  
27 inhalant abusers; however, the division [OFFICE] shall encourage local  
28 initiative, involvement, and financial participation under grants-  
29 in-aid whenever possible in preference to the construction or

1 operation of facilities directly by the division [OFFICE]; contracting  
2 and construction under this paragraph are governed by AS 36.30 (State  
3 Procurement Code).

4 \* Sec. 3. AS 47.37.040 is amended to read:

5 Sec. 47.37.040. DUTIES OF DIVISION [OFFICE]. The division  
6 [OFFICE] shall

7 (1) develop, encourage, and foster statewide, regional, and  
8 local plans and programs for the prevention of alcoholism and drug  
9 abuse and treatment of alcoholics, intoxicated persons, drug abusers,  
10 and inhalant abusers in cooperation with public and private agencies,  
11 organizations, and individuals, and provide technical assistance and  
12 consultation services for these purposes;

13 (2) coordinate the efforts and enlist the assistance of all  
14 public and private agencies, organizations, and individuals interested  
15 in prevention of alcoholism, drug abuse, and inhalant abuse, and  
16 treatment of alcoholics, intoxicated persons, drug abusers, and in-  
17 halant abusers;

18 (3) cooperate with the Department of Corrections in estab-  
19 lishing and conducting programs to provide treatment for alcoholics,  
20 intoxicated persons, drug abusers, and inhalant abusers in or on  
21 parole from penal institutions;

22 (4) cooperate with the Department of Education, school  
23 boards, schools, police departments, courts, and other public and  
24 private agencies, organizations, and individuals in establishing  
25 programs for the prevention of alcoholism, drug abuse, and inhalant  
26 abuse, and treatment of alcoholics, intoxicated persons, drug abusers,  
27 and inhalant abusers, and preparing curriculum materials for use at  
28 all levels of school education;

29 (5) prepare, publish, evaluate, and disseminate educational

1 material dealing with the nature and effects of alcohol and drugs, and  
2 the misuse of hazardous volatile substances;

3 (6) develop and implement, as an integral part of treatment  
4 programs, an educational program for use in the treatment of alco-  
5 holics, intoxicated persons, drug abusers, and inhalant abusers that  
6 includes the dissemination of information concerning the nature and  
7 effects of alcohol, drugs, and hazardous volatile substances;

8 (7) organize and foster training programs for all persons  
9 engaged in treatment of alcoholics, intoxicated persons, drug abusers,  
10 and inhalant abusers, and establish standards for training para-  
11 professional alcoholism, drug abuse, and inhalant abuse workers;

12 (8) sponsor and encourage research into the causes and  
13 nature of alcoholism, drug abuse, and inhalant abuse, and the treat-  
14 ment of alcoholics, intoxicated persons, drug abusers, and inhalant  
15 abusers, and serve as a clearinghouse for information relating to  
16 alcoholism, drug abuse, and inhalant abuse;

17 (9) specify uniform methods for keeping statistical infor-  
18 mation by public and private agencies, organizations, and individuals,  
19 and collect and make available relevant statistical information,  
20 including number of persons treated, frequency of admission and read-  
21 mission, and frequency and duration of treatment;

22 (10) advise the governor in the preparation of a comprehen-  
23 sive plan for treatment of alcoholics, intoxicated persons, drug  
24 abusers, and inhalant abusers;

25 (11) review all state health, welfare, and treatment plans  
26 to be submitted for federal funding, and advise the commissioner on  
27 provisions to be included relating to alcoholics, intoxicated persons,  
28 drug abusers, and inhalant abusers;

29 (12) assist in the development of, and cooperate with,

1 alcohol, drug abuse, and inhalant abuse education and treatment pro-  
2 grams for employees of state and local governments and businesses and  
3 industries in the state;

4 (13) use the support and assistance of interested persons in  
5 the community, particularly recovered alcoholics, drug abusers, and  
6 inhalant abusers, to encourage alcoholics, drug abusers, and inhalant  
7 abusers to voluntarily undergo treatment;

8 (14) cooperate with the Department of Public Safety and the  
9 Department of Transportation and Public Facilities in establishing and  
10 conducting programs designed to deal with the problem of persons  
11 operating motor vehicles while intoxicated or under the influence of  
12 drugs;

13 (15) encourage hospitals and other appropriate health facil-  
14 ities to admit without discrimination alcoholics, intoxicated persons,  
15 drug abusers, and inhalant abusers and to provide them with adequate  
16 and appropriate treatment;

17 (16) encourage all health and disability insurance programs  
18 to include alcoholism and drug abuse as a covered illness;

19 (17) submit to the legislature an annual report covering the  
20 activities of the division [OFFICE];

21 (18) develop and implement a training program on alcoholism  
22 and drug abuse for employees of state and municipal governments, and  
23 private institutions;

24 (19) develop curriculum materials on drug and alcohol abuse  
25 and the misuse of hazardous volatile substances for use in grades  
26 kindergarten through 12, as well as a course of instruction for  
27 teachers to be charged with presenting the curriculum.

28 \* Sec. 4. AS 47.37.050(a) is amended to read:

29 (a) An interdepartmental coordinating committee is created,

1 composed of the director [COORDINATOR], the commissioners of health  
2 and social services, education, transportation and public facilities,  
3 labor, and public safety, and the director of the Alcoholic Beverage  
4 Control Board. The committee shall meet at least twice annually at  
5 the call of the commissioner of health and social services who is its  
6 chair [CHAIRMAN]. The committee shall provide for the coordination  
7 and exchange of information on all programs relating to alcoholism or  
8 drug abuse and act as a permanent liaison among state departments  
9 engaged in activities affecting alcoholics, intoxicated persons, and  
10 drug abusers. The committee shall assist the commissioner of health  
11 and social services and the director [COORDINATOR] in formulating a  
12 comprehensive plan for prevention of alcoholism and drug abuse and for  
13 treatment of alcoholics, intoxicated persons, and drug abusers.

14 \* Sec. 5. AS 47.37.120 is amended to read:

15 Sec. 47.37.120. PROGRAM DIRECTOR [COORDINATOR]. The director  
16 [COORDINATOR] shall carry out the development and implementation of a  
17 comprehensive program dealing with the prevention and treatment of,  
18 and research on, problems of alcoholism and drug abuse as they affect  
19 the state.

20 \* Sec. 6. AS 47.37.130 is amended to read:

21 Sec. 47.37.130. COMPREHENSIVE PROGRAM FOR TREATMENT; REGIONAL  
22 FACILITIES. (a) The division [OFFICE] shall establish a comprehen-  
23 sive and coordinated program for the treatment of alcoholics, intox-  
24 icated persons, drug abusers, and inhalant abusers. Subject to the  
25 approval of the commissioner, the director [COORDINATOR] may divide  
26 the state into appropriate regions to conduct the program and estab-  
27 lish standards for the development of the program on the regional  
28 level. In establishing the regions, consideration shall be given to  
29 the city and borough lines and population concentrations and, when

1 feasible, programs must be established with maximum local community  
2 involvement.

3 (b) The program of the division must [OFFICE SHALL] include

4 (1) emergency treatment provided by a facility affiliated  
5 with or part of the medical service of a general hospital;

6 (2) inpatient treatment;

7 (3) intermediate treatment; and

8 (4) outpatient and follow-up treatment.

9 (c) The division [OFFICE] shall ensure [INSURE] that adequate  
10 and appropriate treatment is provided to alcoholics and intoxicated  
11 persons admitted under AS 47.37.160 - 47.37.190 within the limits of  
12 available state and federal funds.

13 (d) The division [OFFICE] shall maintain, supervise, and control  
14 all facilities operated by it subject to the regulations of the de-  
15 partment. The administrator of each facility shall make an annual  
16 report of its activities to the director [COORDINATOR] in the form and  
17 manner the director [COORDINATOR] specifies.

18 (e) If possible, the division [OFFICE] shall coordinate the  
19 activities of the program with all appropriate public and private  
20 resources.

21 (f) The director [COORDINATOR] shall prepare, publish, and  
22 distribute annually a list of all approved public and private treat-  
23 ment facilities.

24 (g) The division [OFFICE] may contract for the use of any facil-  
25 ity as an approved public treatment facility if the director [COORDI-  
26 NATOR], subject to the regulations of the department, considers this  
27 an effective and economical course to follow. Contracting under this  
28 subsection is governed by AS 36.30 (State Procurement Code).

29 \* Sec. 7. AS 47.37.140 is amended to read:

1           Sec. 47.37.140. PUBLIC AND PRIVATE TREATMENT FACILITIES. (a)  
2           The division [OFFICE] shall establish standards for facilities [(THESE  
3           STANDARDS MAY VARY IN THEIR REQUIREMENTS AND STRINGENCY ACCORDING TO  
4           THE POPULATION, PRICE LEVEL, REMOTENESS, ACCESS TO TRANSPORTATION, AND  
5           AVAILABILITY OF ANCILLARY SERVICES OF THE AREA TO BE SERVED)] and  
6           shall fix the fees to be charged for the required inspections of those  
7           facilities. A facility shall meet the applicable standards before it  
8           is approved as a public or private treatment facility. The standards  
9           shall be enacted in a manner that will provide protection of the  
10          health, safety, and well-being of clients of the affected programs and  
11          protection for the affected programs from exposure to malpractice and  
12          liability actions. The standards may vary in their requirements and  
13          stringency according to the population, price level, remoteness,  
14          access to transportation, and availability of ancillary services in  
15          the area to be served.

16               (b) The division [OFFICE] shall inspect, on a regular basis,  
17               approved public and private treatment facilities at reasonable times  
18               and in a reasonable manner.

19               (c) The division [OFFICE] shall maintain a list of approved  
20               public and private treatment facilities.

21               (d) An approved public and private treatment facility shall file  
22               with the division [OFFICE] on request [,] data, statistics, schedules,  
23               and information that [WHICH] the division [OFFICE] reasonably re-  
24               quires. An approved public or private treatment facility that without  
25               good cause fails to furnish any data, statistics, schedules, or infor-  
26               mation as requested, or files fraudulent returns [OF THEM], shall be  
27               removed from the list of approved treatment facilities.

28               (e) The director [COORDINATOR], after holding a hearing under  
29               the provisions of the Administrative Procedure Act (AS 44.62), may

1 suspend, revoke, limit, restrict, or refuse to grant an approval for a  
2 treatment facility that fails [, FOR FAILURE] to meet its standards.

3 (f) Upon petition of the division [OFFICE] and after a hearing  
4 held upon reasonable notice to the facility, the district court may  
5 issue a warrant to an officer or employee of the division [OFFICE]  
6 authorizing the officer or employee to enter and inspect at reasonable  
7 times [,] and examine the books and accounts of an approved public or  
8 private treatment facility refusing to consent to inspection or ex-  
9 amination by the division [OFFICE] or which the division [OFFICE] has  
10 reasonable cause to believe is operating in violation of this chapter.

11 \* Sec. 8. AS 47.37.150 is amended to read:

12 Sec. 47.37.150. ACCEPTANCE FOR TREATMENT. The director [COORDI-  
13 NATOR] shall adopt regulations for the admission of persons into the  
14 treatment program, considering available treatment resources and  
15 facilities, for the purpose of early and effective treatment of alco-  
16 holics, intoxicated persons, drug abusers, and inhalant abusers. In  
17 adopting the regulations, the director [COORDINATOR] shall be guided  
18 by the following standards:

19 (1) if possible, a patient must be treated on a voluntary  
20 rather than an involuntary basis;

21 (2) a patient must be initially assigned or transferred to  
22 outpatient or intermediate treatment, unless the patient is found to  
23 require inpatient treatment;

24 (3) a person may not be denied treatment solely because the  
25 person has withdrawn from treatment against medical advice on a prior  
26 occasion or because the person has relapsed after earlier treatment;

27 (4) an individualized treatment plan must be prepared and  
28 maintained on a current basis for each patient;

29 (5) provision must be made for a continuum of coordinated

1 treatment services [,] so that a person who leaves a facility or a  
2 form of treatment will use other appropriate treatment and facilities.

3 \* Sec. 9. AS 47.37.160(b) is amended to read:

4 (b) Subject to regulations adopted by the director [COORDINA-  
5 TOR], the administrator in charge of an approved public treatment  
6 facility may determine who shall be admitted for treatment. If a  
7 person is refused admission to an approved public treatment facility,  
8 the administrator shall, if possible, refer the person to another  
9 approved public treatment facility.

10 \* Sec. 10. AS 47.37.200(c) is amended to read:

11 (c) A person committed under AS 47.37.190 - 47.37.200 shall  
12 remain in the custody of a private or public facility for treatment  
13 for a period of up to 30 days. At the end of the 30- day period, the  
14 person shall be discharged automatically unless the division [OFFICE],  
15 before the expiration of the period, obtains a court order for recom-  
16 mitment upon the grounds set out in AS 47.37.190(a) for a further  
17 period of up to 90 days. If a person has been committed because the  
18 person is an alcoholic likely to inflict physical harm on another, the  
19 division [OFFICE] shall apply for recommitment if after examination it  
20 is determined that the likelihood still exists.

21 \* Sec. 11. AS 47.37.200(d) is amended to read:

22 (d) A person recommitted under (c) of this section who has not  
23 been discharged by the private or public facility before the end of  
24 the 90-day period shall be discharged at the expiration of that period  
25 unless the division [OFFICE], before expiration of the period, obtains  
26 a court order on the grounds set out in AS 47.37.190(a) for recommit-  
27 ment for a further period not to exceed 90 days. If a person has been  
28 committed because the person is an alcoholic likely to inflict phys-  
29 ical harm on another, the division [OFFICE] shall apply for

1       recommitment if after examination it is determined that the likelihood  
2       still exists. No more than two recommitment orders may be permitted  
3       under (c) and (d) of this section.

4       \* Sec. 12. AS 47.37.200(g) is amended to read:

5               (g) A person committed to the custody of the division [OFFICE]  
6       for treatment shall be discharged at any time before the end of the  
7       period for which the person has been committed if either of the fol-  
8       lowing conditions is met:

9               (1) when an alcoholic committed on the grounds of likeli-  
10       hood of infliction of physical harm on another is no longer considered  
11       an alcoholic or the likelihood of the person inflicting physical harm  
12       no longer exists; or

13              (2) when, in the case of an alcoholic committed on the  
14       grounds of the likelihood of infliction of physical harm on another,  
15       either

16                   (A) further treatment will not be likely to bring  
17       about significant improvement in the person's condition, or

18                   (B) treatment is no longer adequate or appropriate.

19       \* Sec. 13. AS 47.37.210(b) is amended to read:

20               (b) Notwithstanding (a) of this section, the director [COORDINA-  
21       TOR] may make available information from patients' records for pur-  
22       poses of research into the causes and treatment of alcoholism. Infor-  
23       mation from patients' records [NO INFORMATION] may not disclose a  
24       patient's name.

25       \* Sec. 14. AS 47.37.230(b) is amended to read:

26               (b) The director [COORDINATOR] shall adopt regulations for the  
27       establishment, training, and conduct of emergency service patrols.

28       \* Sec. 15. AS 47.37.240 is amended to read:

29               Sec. 47.37.240. PAYMENT FOR TREATMENT. (a) A patient in an

1 approved treatment facility, or the person obligated to provide for  
2 the cost of treatment of a person committed under AS 47.37.010 -  
3 47.37.270, is liable to the public or private facility for the cost of  
4 maintenance and treatment of the patient under [IN ACCORDANCE WITH]  
5 rates established by the director [COORDINATOR].

6 (b) The director [COORDINATOR] shall adopt regulations governing  
7 financial ability that take into consideration the income, savings,  
8 and other personal and real property of the person liable for the cost  
9 and maintenance of the patient.

10 \* Sec. 16. AS 47.37.260 is amended to read:

11 Sec. 47.37.260. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.  
12 Except as otherwise provided in this chapter, the Administrative  
13 Procedure Act (AS 44.62) applies to and governs all administrative  
14 action taken by the director [COORDINATOR] under this chapter.

15 \* Sec. 17. AS 47.37.270 is amended to read:

16 Sec. 47.37.270. DEFINITIONS. In this chapter

17 (1) "alcoholic" means a person who habitually lacks self-  
18 control in using alcoholic beverages, or uses alcoholic beverages to  
19 the extent that the person's health is substantially impaired or  
20 endangered, or the person's social or economic function is substan-  
21 tially disrupted;

22 (2) "approved private treatment facility" or "private  
23 facility" means a private agency meeting the standards prescribed in  
24 AS 47.37.140(a) and approved under AS 47.37.140(c);

25 (3) "approved public treatment facility" or "public facil-  
26 ity" means a treatment agency operating under the direction and con-  
27 trol of the division [OFFICE] or providing treatment under AS 47.37.-  
28 010 - 47.37.270 through a contract with the division [OFFICE] under  
29 AS 47.37.130(g) or through a grant awarded under AS 47.30.475, and

1 meeting the standards prescribed in AS 47.37.140(a) and approved under  
2 AS 47.37.140(c);

3 (4) [REPEALED

4 (5)] "commissioner" means the commissioner of health and  
5 social services;

6 (5) [(6) "COORDINATOR" MEANS THE COORDINATOR OF THE OFFICE  
7 OF ALCOHOLISM AND DRUG ABUSE;

8 (7)] "department" means the Department of Health and Social  
9 Services;

10 (6) "director" means the director of the division of alco-  
11 holism and drug abuse;

12 (7) "division" means the division of alcoholism and drug  
13 abuse in the Department of Health and Social Services;

14 (8) "emergency service patrol" means a patrol established  
15 under AS 47.37.230;

16 (9) "hazardous volatile material or substance"

17 (A) means a material or substance that is readily  
18 vaporizable at room temperature and whose vapors or gases, when  
19 inhaled,

20 (i) pose an immediate threat to the life or  
21 health of the person; or

22 (ii) are likely to have adverse delayed effects on  
23 the health of the person;

24 (B) includes, but is not limited to,

25 (i) gasoline;

26 (ii) materials and substances containing petroleum  
27 distillates; and

28 (iii) common household materials and substances  
29 whose containers bear a notice warning that inhalation of

1 vapors or gases may cause physical harm;

2 (10) "incapacitated by alcohol" means a person who is uncon-

3 scious or whose judgment is otherwise so impaired that the person is

4 incapable of realizing and making a rational decision with respect to

5 a need for treatment, as evidenced objectively by extreme physical

6 debilitation, physical harm or threats of harm to others, or chronic

7 inability to hold regular employment;

8 (11) "incompetent person" means a person who has been ad-

9 judged incompetent by the appropriate court;

10 (12) "inhalant abuse" means the misuse of a hazardous vola-

11 tile material or substance by inhaling its vapors;

12 (13) "intoxicated person" means a person whose mental or

13 physical functioning is substantially impaired as a result of the use

14 of alcohol;

15 (14) ["OFFICE" MEANS THE OFFICE OF ALCOHOLISM AND DRUG ABUSE

16 WITHIN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;

17 (15)] "treatment" means the broad range of emergency, outpa-

18 tient, intermediate, and inpatient services and care which may be

19 extended to alcoholics and intoxicated persons, including diagnostic

20 evaluation, medical, psychiatric, psychological, and social service

21 care, vocational rehabilitation, and career counseling;

22 (15) [(16)] "work therapy"

23 (A) means an activity that involves a patient in basic

24 employment skills and assists the patient in reintegration into a

25 community; (B) does not include

26 (i) activities such as personal housekeeping

27 chores or cooperative responsibilities expected of each

28 patient in the program; or

29 (ii) work that produces goods or services for sale

1 or distribution, the proceeds of which would be returned to  
2 the owners, operators, or businesses of the rehabilitation  
3 program.

4 \* Sec. 18. This Act takes effect January 1, 1991.