

HOUSE BILL NO. 79

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE BOYER

Introduced: 1/25/91

Referred: Resources, Judiciary, Finance

A BILL**FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska Mental Health Trust Authority and defining its powers
2 and duties; relating to the administration of the state mental health trust and to
3 appropriations made to it, and to programs for persons with mental illnesses or handicaps;
4 and abolishing the Interim Mental Health Trust Commission; and providing for an effective
5 date."

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

7 * **Section 1. PURPOSE.** (a) It is the purpose of this Act to implement the state's obligation as the
8 trustee of the mental health trust established by the Alaska Mental Health Enabling Act of 1956, P.L.
9 84-830, 70 Stat. 709, by providing a comprehensive state mental health program and by resolving the
10 serious and significant legal questions attending the status of the mental health trust

11 (1) in accordance with the holding in the decision *State v. Weiss*, 706 P.2d 681 (Alaska
12 1985), and the principles that guided the development and enactment of ch. 48, SLA 1987;

13 (2) in a manner that

1 (A) provides fair compensation to the mental health trust as agreed upon by the
2 parties to the litigation, subject to approval by the court as fair and equitable to the beneficiaries
3 of the trust;

4 (B) provides adequate assurances that the trust is enforceable, will be administered
5 properly, and will be administered in a way that determines and meets the necessary expenses
6 of the mental health program for the benefit of the beneficiaries of the trust;

7 (C) assures appropriate expenditures from the trust; and

8 (D) eliminates the conflicting purposes arising out of language in the Alaska
9 Mental Health Enabling Act permitting expenditure of mental health trust funds for purposes
10 other than the support of the state's mental health program after the mental health trust has first
11 met the necessary expenses of that program by establishing an independent trust authority,
12 assigning to that authority the responsibilities of administering the trust, making the authority the
13 state planning and coordinating agency for the trust, and requiring that the authority determine
14 and meet the necessary expenses of the state's mental health program from the assets of the trust
15 without consideration of the other needs of the state.

16 (b) It is the further purpose of this Act that the trust and the mental health program of the state
17 serve, at a minimum, those whom the superior court has determined to be eligible to benefit from the
18 trust: "...considering all of the information available in light of the historical facts, it is the conclusion
19 of the court that Congress intended that the Territory establish a comprehensive mental health program
20 which would provide services to a group consisting of at least those individuals suffering from a
21 psychiatric illness who may require hospitalization and the mentally defective and retarded. Further, it
22 is the conclusion of the court that Congress intended that the mental health lands public trust benefit the
23 recipients of the services of the comprehensive mental health program, which group must include, at a
24 minimum, the mentally ill who may require hospitalization, and the mentally defective and retarded.
25 The court concludes that it is within the discretion of the State to include other groups as recipients of
26 services by the mental health program but it is not within the discretion of the State to exclude either
27 of those two groups." Weiss v. State, 4FA-82-2208 Civil, Memorandum Decision and Order, April 27,
28 1988, pages 16 and 17. The decision further observes that "the court does not exclude from this
29 operative definition either chronic alcoholics suffering from psychoses or senile people who as a result
30 of their senility suffer major mental illness." Op. cit, p. 2. In providing money from the trust for
31 Alaska's comprehensive mental health program, the needs of the most seriously ill -- those suffering

1 from a psychiatric illness who may require hospitalization and the mentally defective and retarded --
2 must be addressed. Within the comprehensive mental health program, services to the people in most
3 serious need cannot be sacrificed to provide services to the less needy. Trust funding emphasis cannot
4 be placed on general mental health services until the state's comprehensive mental health program
5 provides a reasonable level of service to seriously mentally ill and developmentally disabled persons.
6 Conversely, the state's comprehensive mental health program cannot be dismantled or put on hold to find
7 and provide money for services to each and every seriously mentally ill and mentally disabled person.

8 * Sec. 2. AS 09.50.270 is amended to read:

9 Sec. 09.50.270. PAYMENT OF JUDGMENT AGAINST THE STATE. Except as to
10 litigation relating to the state's obligation to reconstitute the mental health trust established
11 by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, by the
12 payment of money under AS 37.14.011(b)(5) and 37.14.016, [NO] attachment or execution
13 may not [SHALL] issue against the state. When a final judgment is rendered against the state
14 in an action, the clerk of the court shall immediately transmit a certified copy of the judgment
15 to the Department of Administration which shall either approve payment of the judgment against
16 the state if a sufficient appropriation exists for payment, or audit the amount and transmit a copy
17 to the legislature with the recommendation that an appropriation be made for its payment.

18 * Sec. 3. AS 36.30.850(b) is amended to read:

19 (b) This chapter applies to every expenditure of state money by the state, acting through
20 an agency, under a contract, except that this chapter does not apply to

21 (1) grants;

22 (2) contracts for professional witnesses to provide for professional services or
23 testimony relating to existing or probable lawsuits in which the state is or may become a party;

24 (3) contracts of the University of Alaska where the work is to be performed
25 substantially by students enrolled in the university;

26 (4) contracts for medical doctors and dentists;

27 (5) acquisitions or disposals of real property or interest in real property, except
28 as provided in AS 36.30.080;

29 (6) disposals under AS 38.05;

30 (7) contracts for the preparation of ballots under AS 15.15.030;

31 (8) acquisitions or disposals of property and other contracts relating to airports

- 1 under AS 02.15.070, 02.15.090, and 02.15.091;
- 2 (9) disposals of obsolete property under AS 19.05.060;
- 3 (10) disposals of obsolete material or equipment under AS 35.20.060;
- 4 (11) agreements with providers of services under AS 44.47.250; AS 47.07;
- 5 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;
- 6 (12) contracts of the Department of Fish and Game for flights that involve
- 7 specialized flying and piloting skills and are not point-to-point;
- 8 (13) purchases of income-producing assets for the state treasury or a public
- 9 corporation of the state;
- 10 (14) operation of the state boarding school established under AS 14.16, if the
- 11 State Board of Education or the commissioner of education adopts regulations for use by the state
- 12 boarding school in procurement and contracting;
- 13 (15) a contract that is a delegation, in whole or in part, of investment powers held
- 14 by the commissioner of revenue under AS 14.25.180, AS 14.40.400, AS 14.42.200, 14.42.210,
- 15 AS 18.56.095, AS 22.25.048, AS 26.05.228, AS 37.10.070, 37.10.071, AS 37.14, or
- 16 AS 39.35.080;
- 17 (16) a contract that is a delegation, in whole or in part, of investment powers of
- 18 (A) the Board of Trustees of the Alaska Permanent Fund Corporation
- 19 under AS 37.13;
- 20 (B) the Alaska Mental Health Trust Authority under AS 37.14.001 -
- 21 37.14.099;
- 22 (17) the purchase of books, book binding services, newspapers, periodicals,
- 23 audio-visual materials, network information services access, approval plans, professional
- 24 memberships, archival materials, objects of art, and items for museum or archival acquisition
- 25 having cultural, historical, or archaeological significance; in this paragraph
- 26 (A) "approval plans" means book selection services in which current book
- 27 titles meeting an agency's customized specifications are provided to the agency subject
- 28 to the right of the agency to return those books that do not meet with the agency's
- 29 approval;
- 30 (B) "archival materials" means the noncurrent records of an agency that are
- 31 preserved after appraisal because of their value;

1 (C) "audio-visual materials" means nonbook prerecorded materials,
2 including records, tapes, slides, transparencies, films, filmstrips, cassettes, videos, compact
3 discs, laser discs, and items that require the use of equipment to render them usable;

4 (D) "network information services" means a group of resources from which
5 cataloging information, holdings records, inter-library loans, acquisitions information, and
6 other reference resources can be obtained;

7 (18) contracts for the purchase of standardized examinations for licensure under
8 AS 08;

9 (19) contracts for home health care and adult residential and foster care services
10 provided under regulations adopted by the Department of Health and Social Services;

11 (20) contracts for supplies or services for research projects funded by money
12 received from the federal government or private grants; [OR]

13 (21) guest speakers or performers for an educational or cultural activity; or

14 (22) contracts for mental health services that are entered into by the Alaska
15 Mental Health Trust Authority under AS 47.30.056.

16 * Sec. 4. AS 37.05.540(b) is amended to read:

17 (b) Except for appropriations to the permanent fund or for Alaska permanent fund
18 dividends, appropriations to the budget reserve fund, appropriations of revenue bond proceeds,
19 appropriations required to pay the principal and interest on general obligation bonds, [AND]
20 appropriations of money received from a nonstate source in trust for a specific purpose, including
21 revenue of a public enterprise or public corporation of the state that issues revenue bonds, and
22 appropriations made under AS 37.14.011(b)(5) and 37.14.016, appropriations from the treasury
23 made in a fiscal year may not exceed appropriations made in the preceding fiscal year by more
24 than five percent plus the change in population and inflation since the beginning of the preceding
25 fiscal year. For purposes of applying this limit an appropriation is considered to be made in the
26 fiscal year in which it is enacted and a reappropriation remains attributed to the fiscal year in
27 which the original appropriation is enacted. The determination of the change in population for
28 purposes of this subsection shall be based on an annual estimate of population by the Department
29 of Labor. The determination of the change in inflation for purposes of this subsection shall be
30 based on the Consumer Price Index for all urban consumers for Anchorage prepared by the
31 United States Bureau of Labor Statistics. The amount of money received by the state that is

1 subject to the appropriation limit includes the balance in the general fund carried forward from
2 the preceding fiscal year.

3 * Sec. 5. AS 37.14 is amended by adding new sections to read:

4 Sec. 37.14.001. TRUSTEE. (a) The Alaska Mental Health Trust Authority, established
5 by AS 47.30.011, is the trustee of

6 (1) the mental health trust established under the Alaska Mental Health Enabling
7 Act of 1956, P.L. 84-830, 70 Stat. 709; and

8 (2) the mental health trust income account established under AS 37.14.021.

9 (b) In its capacity as the trustee of the trust established by the Alaska Mental Health
10 Enabling Act, the Alaska Mental Health Trust Authority has full powers over the trust corpus and
11 trust income.

12 Sec. 37.14.006. TRUST MANAGEMENT. (a) The Alaska Mental Health Trust
13 Authority

14 (1) shall manage the assets of the mental health trust according to the prudent-
15 person rule; the prudent-person rule as applied to investments of the Alaska Mental Health Trust
16 Authority means that in making investments the board of trustees of the authority shall exercise
17 the judgment and care under the circumstances then prevailing that an institutional investor of
18 ordinary prudence, discretion, and intelligence exercises in the management of large investments
19 entrusted to it not in regard to speculation but in regard to the permanent disposition of funds,
20 considering probable safety of capital as well as probable income; an evaluation to determine
21 whether the board of trustees of the Alaska Mental Health Trust Authority has exercised the
22 requisite judgment and care in its management of the investments of the trust must be

23 (A) based on the facts and circumstances prevailing at the time the asset
24 was incorporated into the trust; and

25 (B) made on an asset-by-asset basis taking into account the entire
26 investment portfolio of the trust;

27 (2) may, notwithstanding (1) of this subsection, retain assets of the trust that have
28 been incorporated into the trust in conjunction with the trust's establishment until the board of
29 trustees of the authority determines that it is in the best interests of the trust to exchange or
30 otherwise dispose of those assets;

31 (3) may, notwithstanding (1) of this subsection, use land that is an asset of the

1 trust directly for mental health service programs; and

2 (4) may not manage land identified in AS 37.14.011(b)(3) unless directed to do
3 so by a court.

4 (b) At the end of each fiscal year, the Alaska Mental Health Trust Authority shall transfer
5 from the mental health trust income account established in AS 37.14.021 to the corpus of the
6 mental health trust an amount sufficient to offset the effect of inflation on the value of the corpus
7 of the mental health trust during that year, as measured by the change in the calendar year
8 average United States Consumer Price Index for all urban consumers.

9 (c) At least annually, the Alaska Mental Health Trust Authority shall prepare, publish,
10 and distribute to the legislature and the public a financial report indicating trust revenue and
11 expenditures, and including a statement of its method of allocating the assets of the trust among
12 appropriate investment vehicles. The asset allocation policy shall be designed to provide for
13 prudent diversification and to meet the investment objectives and needs of the Alaska Mental
14 Health Trust Authority.

15 * Sec. 6. AS 37.14.011 is repealed and reenacted to read:

16 Sec. 37.14.011. RECONSTITUTION OF MENTAL HEALTH LAND TRUST. (a) The
17 value as of September 7, 1987, of all land selected by or patented to the state under sec. 202 the
18 Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, is \$2,243,000,000.

19 (b) The corpus of the mental health land trust consists of

20 (1) land granted to the state under the Mental Health Enabling Act of 1956 and
21 not redesignated, reclassified, or encumbered by the state;

22 (2) land granted to the state under the Mental Health Enabling Act of 1956 that,
23 on the effective date of this Act, is subject to a land use permit issued by the Department of
24 Natural Resources under AS 38.05;

25 (3) land granted to the state under the Mental Health Enabling Act of 1956 and
26 subsequently established as legislatively-designated land;

27 (4) land not granted to the state under the Mental Health Enabling Act of 1956
28 but subsequently identified by the state for transfer to the trust by law if the transfer has been
29 approved by the Alaska Mental Health Trust Authority; and

30 (5) money paid by the state in satisfaction of the value of the land determined
31 under (a) of this section after allowing for the value of the land retained by or conveyed to the

1 trust under (1) - (4) of this subsection.

2 * Sec. 7. AS 37.14 is amended by adding a new section to read:

3 Sec. 37.14.016. RENT PAYABLE FOR LEGISLATIVELY-DESIGNATED LAND. (a)

4 The state shall pay to the Alaska Mental Health Trust Authority rent for trust land established
5 as legislatively-designated land that is included in the corpus of the mental health land trust under
6 AS 37.14.011(b)(3).

7 (b) The annual rent payable for the land identified in AS 37.14.011(b)(3) is equal to eight
8 percent of the value of the land. At least every five years, commencing with 1992, the value of
9 the land shall be redetermined as follows:

10 (1) the state assessor in the Department of Community and Regional Affairs shall
11 assign the land identified in AS 37.14.011(b)(3) to geographic areas; in making the assignment,
12 the assessor shall assign trust land outside a municipality to the nearest municipality;

13 (2) the number of acres of land identified in AS 37.14.011(b)(3) in each
14 geographic area to which the land is assigned by the state assessor shall be divided by the total
15 number of acres received by the state to determine the weighting factor;

16 (3) the weighting factor for each area shall be multiplied by the average
17 percentage change in land values in the geographic area since the last valuation, as determined
18 by the Department of Community and Regional Affairs under the full value determination
19 procedure specified in AS 14.17.140, to determine the weighted value change for that area;

20 (4) all of the weighted value changes shall be added together to determine the
21 revaluation factor, expressed as a decimal; and

22 (5) one plus the revaluation factor shall be multiplied by the previous total value
23 of the land identified in AS 37.14.011(b)(3) to arrive at the redetermined value of the land
24 identified in AS 37.14.011(b)(3).

25 (c) The commissioner of revenue shall annually transfer the amount of rent determined
26 under (b) of this section from the general fund to the mental health trust income account.

27 * Sec. 8. AS 37.14.021 is repealed and reenacted to read:

28 Sec. 37.14.021. TRUST INCOME ACCOUNT. (a) The mental health trust income
29 account is established as a separate trust account.

30 (b) The mental health trust income account includes money

31 (1) earned by the Alaska Mental Health Trust Authority on its investment of the

1 assets of the trust corpus during the fiscal year;

2 (2) received from the state during the fiscal year as interest on the amount paid

3 by the state under AS 37.14.011(b)(5); for purposes of this paragraph, interest is determined at

4 the rate set out in AS 09.30.070 on the difference between the value of the land determined under

5 AS 37.14.011(a) and the sum of

6 (A) the value of land retained by or conveyed to the trust under

7 AS 37.14.011(b)(1) - (4); and

8 (B) amounts paid by the state under AS 37.14.011(b)(5) during preceding

9 fiscal years;

10 (3) received from the state during the fiscal year under AS 37.14.016; and

11 (4) transferred to it by the board of trustees of the authority from any source.

12 (c) Money in the mental health trust income account established in (a) of this section

13 shall first be expended by the Alaska Mental Health Trust Authority to meet the necessary

14 expenses of the mental health program of the state in the priority set out in AS 47.30.056.

15 * Sec. 9. AS 37.14 is amended by adding new sections to read:

16 Sec. 37.14.026. TRUST LAND CONVEYANCES. The Alaska Mental Health Trust

17 Authority may convey trust land to the state or to a person in exchange for land or money.

18 Sec. 37.14.031. LAND CONVEYANCES TO STATE. (a) The Alaska Mental Health

19 Trust Authority may exchange land with the state.

20 (b) Before the Alaska Mental Health Trust Authority conveys from trust status to the

21 state land that is part of the trust, and in addition to any other requirements of law, the authority

22 shall negotiate with the commissioner of natural resources to establish

23 (1) the value of the land to be conveyed and the value of replacement land, if any,

24 to be incorporated into the trust; if the state proposes to exchange trust land for other land, the

25 state shall make available to the trust state replacement land that is of at least equal value at the

26 time of its transfer or conveyance to the trust; or

27 (2) the amount of compensation due the mental health trust for the land conveyed

28 based on the value of that land at the time of its transfer or conveyance from the trust.

29 (c) The state may propose the removal of land that is part of the mental health trust

30 corpus from trust status. In making a proposal to remove land under this subsection, replacement

31 land, at least equal in value at the time of replacement, shall be designated mental health land

1 and added to the trust corpus. Before replacement, the commissioner shall identify the land
2 proposed as replacement land and recommend the proposed replacement the proposed
3 replacement to the Alaska Mental Health Trust Authority established under AS 47.30.011. If the
4 Alaska Mental Health Trust Authority approves the replacement, the commissioner shall transfer
5 the land to the trust. If the Mental Health Trust Authority does not approve the transfer, the land
6 proposed for removal remains in the trust.

7 Sec. 37.14.041. INVESTMENT POWERS. The board of trustees of the Alaska Mental
8 Health Trust Authority may, unless specifically restricted, make the following investments:

9 (1) domestic or foreign common and preferred stocks and options thereon, as well
10 as warrants, rights, and preferred stocks convertible into common stocks, regardless of where or
11 how traded;

12 (2) corporate bonds and debentures, and any securities that are convertible into
13 common stock, domestic or foreign;

14 (3) bonds or other obligations of the United States of America or a foreign nation,
15 and any agency of it, or any bond or other obligation that is directly or indirectly guaranteed by
16 the United States or a foreign nation, or any agency of it;

17 (4) obligations of the states and municipalities, or their agencies;

18 (5) notes of any nature of foreign or domestic issuers;

19 (6) mortgages and real estate, wherever situate and whether developed or
20 undeveloped, including sales and leasebacks, interests, or participation in real estate investment
21 trusts and non-income producing properties;

22 (7) savings accounts, certificates of deposit, and other types of time deposits,
23 bearing a reasonable rate of interest based on the duration, amount, type, and geographical area,
24 with any financial institution or quasi-financial institution or any department of the same, either
25 domestic or foreign, under the supervision of the United States or any state;

26 (8) leaseholds of any duration;

27 (9) minerals and other natural resources, including oil, gas, timber, and coal, and
28 any participation in any form, including royalties, ownership, drilling, and exploration; and

29 (10) open-end and closed-end investment companies, mutual funds, regardless of
30 the purpose for which the fund or funds were created, and any partnership, limited or unlimited,
31 joint venture, or other forms of joint enterprise created for any lawful purpose.

1 Sec. 37.14.099. DEFINITION. In AS 37.14.001 - 37.14.099, "legislatively-designated
2 land" means land selected by and granted to the territory or the state under the Alaska Mental
3 Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, and subsequently designated by law as
4 a state park, state forest, state game refuge, state wildlife refuge, state game sanctuary, state
5 recreational area, state recreational river, state wilderness park, state marine park, state special
6 management area, state public use area, critical habitat area, bald eagle preserve, bison range, or
7 moose range.

8 * Sec. 10. AS 38.05.800 is repealed and reenacted to read:

9 Sec. 38.05.800. ADMINISTRATION OF CERTAIN LAND WITHIN THE MENTAL
10 HEALTH LAND TRUST. The department shall manage mental health trust land identified in
11 AS 37.14.011(b)(3) for the land's legislatively-designated purpose. The state shall continue to
12 manage the legislatively-designated areas in accordance with state law and policy. The
13 management authority of the state includes

14 (1) the right to issue permits, rights-of-ways, mining leases, oil and gas leases,
15 coal leases, and timber contracts;

16 (2) the right to take other actions that do not constitute a conveyance in fee
17 simple; and

18 (3) the right to receive the income from the land managed.

19 * Sec. 11. AS 39.25.120(c)(9) is amended to read:

20 (9) the principal executive officer of the following boards, councils, or
21 commissions:

22 (A) Alaska Public Broadcasting Commission;

23 (B) Professional Teaching Practices Commission;

24 (C) Parole Board;

25 (D) Board of Nursing;

26 (E) Real Estate Commission;

27 (F) Alaska Royalty Oil and Gas Development Advisory Board;

28 (G) Alaska Historical Commission;

29 (H) Alaska State Council on the Arts;

30 (I) Alaska Police Standards Council;

31 (J) Older Alaskans Commission;

1 (K) State [ALASKA] Mental Health Planning Council [BOARD];
2 (L) State Medical Board;

3 • **Sec. 12.** AS 47.30 is amended by adding new sections to read:

4 Sec. 47.30.011. ALASKA MENTAL HEALTH TRUST AUTHORITY. (a) The Alaska
5 Mental Health Trust Authority is established. In addition to serving as the trustee of the mental
6 health trust established under the Alaska Mental Health Enabling Act of 1956 and of the mental
7 health trust income account established under AS 37.14.021, the authority is the state planning
8 and coordinating agency for the purposes of federal and state laws relating to the mental health
9 program of the state, except as provided under AS 47.30.661(b).

10 (b) The purpose of the authority is to ensure an integrated comprehensive mental health
11 program for the people of the state.

12 (c) The Alaska Mental Health Trust Authority

13 (1) is a public corporation of the state that has a legal existence independent of
14 and separate from the state;

15 (2) may sue and be sued;

16 (3) may retain the services of independent counsel when, in the judgment of the
17 authority's board of trustees, independent counsel is needed;

18 (4) shall insure or indemnify and protect the board of trustees, a member of the
19 board, or an agent or employee of the authority against financial loss and expense, including
20 reasonable legal fees and costs, arising out of a claim, demand, suit, or judgment by reason of
21 alleged negligence, alleged violation of civil rights, or alleged wrongful act resulting in death or
22 bodily injury to a person or accidental damage to or destruction of property if the board member,
23 agent, or employee, at the time of the occurrence, was acting under the direction of the authority
24 within the course or scope of the duties of the board member, agent, or employee; and

25 (5) is exempt from AS 36.30 (State Procurement Code).

26 Sec. 47.30.016. BOARD OF TRUSTEES; MEMBERSHIP. (a) The authority shall be
27 governed by its board of trustees.

28 (b) The board of trustees consists of nine members appointed by the governor and subject
29 to legislative confirmation. The members shall be appointed based upon their recognized
30 expertise or experience in financial management and investment, in land management, or in
31 mental health.

1 (c) Of the members of the board of trustees, a majority must include persons selected by
2 the governor from a list cooperatively solicited, reviewed, recommended, and submitted by

3 (1) the Governor's Council for the Handicapped and Gifted (AS 47.80.030); and

4 (2) the State Mental Health Planning Council (AS 47.30.661).

5 (d) A member of the board of trustees may not

6 (1) be an officer or employee of the state; or

7 (2) have an interest in, or be employed by an organization that has an interest in,
8 a contract entered into by the authority.

9 (e) A quorum of the board consists of five members.

10 (f) Members of the board of trustees

11 (1) receive an honorarium of \$400 for each day or any part of a day spent at a
12 meeting of the board, at a meeting of a subcommittee of the board, or as a representative of the
13 board; and

14 (2) are entitled to per diem and travel expenses authorized for boards and
15 commissions under AS 39.20.180.

16 Sec. 47.30.021. BOARD OF TRUSTEES; TERM OF OFFICE. (a) Members of the
17 board of trustees of the authority serve overlapping five-year terms.

18 (b) A vacancy occurring in the membership of the board of trustees of the authority shall
19 be filled by appointment of the governor for the unexpired portion of the vacated term. If the
20 vacancy occurs in a position filled by a person selected from a list prepared under
21 AS 47.30.016(c), the appointment shall be made from a list prepared and submitted under
22 AS 47.30.016(c).

23 (c) The governor may remove a member of the board of trustees of the authority only
24 for cause, including, but not limited to, poor attendance or lack of contribution to the board's
25 work.

26 (d) Except for a trustee who has served two consecutive five-year terms, a member of
27 the board of trustees may be reappointed. A member of the board of trustees who has served two
28 consecutive five-year terms is not eligible for reappointment to the board until one year has
29 intervened.

30 Sec. 47.30.026. OFFICERS AND STAFF. (a) The board of trustees shall annually elect
31 a chair and other officers it considers necessary from among its membership.

1 (b) The board of trustees shall employ an executive director who shall be selected by the
2 board. The executive director shall be compensated at no less than range 26 of the pay plan for
3 state employees under AS 39.27.011(a). The executive director may hire additional employees
4 and may contract for the services of consultants and others. The executive director and the staff
5 of the board are directly responsible to the board in the performance of their duties.

6 Sec. 47.30.031. REGULATIONS. The board of trustees shall adopt and may amend or
7 repeal regulations under the Administrative Procedure Act (AS 44.62) to govern its proceedings
8 and other activities. The regulations must be consistent with state law and the fiduciary
9 responsibilities imposed by law on members of boards of directors of corporations having trust
10 responsibilities, and may include, but are not limited to,

11 (1) provisions concerning procedure, frequency, and location of meetings, and
12 establishment, composition, and functions of committees;

13 (2) criteria for determining eligibility for receiving benefits from the mental health
14 trust;

15 (3) provisions concerning the delivery of services and systems of care;

16 (4) provisions applicable to the administration and management of the mental
17 health trust;

18 (5) provisions concerning the equitable distribution of the assets of the mental
19 health trust; and

20 (6) procedures by which a beneficiary of the mental health trust or a group of
21 beneficiaries who believe they have not received services that should be provided from the
22 mental health trust may apply to the Alaska Mental Health Trust Authority for the provision of
23 the service from trust funds.

24 Sec. 47.30.036. POWERS, DUTIES, AND RESPONSIBILITIES OF THE BOARD. (a)
25 The board of trustees of the authority shall

26 (1) manage the state mental health trust in a manner that

27 (A) preserves the trust corpus and protects the trust corpus from the effects
28 of inflation; and

29 (B) to the maximum extent possible, and consistent with AS 37.14.006(a),
30 provides sufficient income

31 (i) to defray the necessary operating expenses and capital

1 expenditures of the state's mental health program; and
2 (ii) to meet the annual operating expenses of the Alaska Mental
3 Health Trust Authority;
4 (2) review the mental health program of the state and, as necessary, conduct
5 independent studies;
6 (3) determine the needs, including those that are unmet, of persons eligible to be
7 served by the state's mental health program based on information received from state agencies
8 and advisory boards that have planning responsibility relating to provision of mental health
9 services; the determination required by this paragraph must be made independently of other needs
10 of the state;
11 (4) address the needs of persons eligible to be served by the state's mental health
12 program by
13 (A) preparing and revising a long-term comprehensive state mental health
14 plan, to include the projected need and the services, facilities, and resources for the
15 program to meet that need;
16 (B) developing, preparing, adopting, and periodically reviewing and
17 revising as necessary an annual implementation plan to meet the needs of persons served
18 by the mental health program of the state to include the expected results of the mental
19 health services to be provided;
20 (C) evaluating the effectiveness of the prior fiscal year's implementation
21 plan and program performance;
22 (D) adopting a budget; and
23 (E) transmitting money from the mental health trust income account to
24 appropriate agencies to implement the budget;
25 (5) annually prepare, publish, and distribute a program report to the legislature
26 and the governor concerning the board's activities, including the evaluation of the effectiveness
27 of the prior fiscal year's annual implementation plan; and
28 (6) develop and maintain a uniform statewide mental health data base relating to
29 public and private mental health services and to persons who are served by them.
30 (b) In exercising its powers and discharging its duties and responsibilities under (a) of
31 this section, and in making expenditures from the mental health trust income account, the board

1 of trustees of the authority shall consider the recommendations of

- 2 (1) the State Mental Health Planning Council established under AS 47.30.661(a);
- 3 (2) the Governor's Council for the Handicapped and Gifted; and
- 4 (3) other boards, commissions, and agencies and members of the public who are
- 5 concerned with services for persons with mental illnesses or developmental disabilities.

6 Sec. 47.30.041. INDIVIDUAL RESPONSIBILITIES OF TRUSTEES. (a) By accepting

7 appointment to the board of trustees of the authority, a person accepts the position as co-trustee

8 of the mental health trust and recognizes that, in exercising the powers, duties, and

9 responsibilities, the board of trustees of the authority is under a duty to the trust beneficiaries to

- 10 (1) administer the trust solely in the interests of the beneficiaries;
- 11 (2) keep and render clear and accurate accounts with respect to the administration
- 12 of the trust;

13 (3) provide to the beneficiaries and to persons whom the beneficiaries have

14 authorized complete and accurate information as to the nature and amount of the trust property,

15 and to allow their inspection of the records of the trust;

16 (4) exercise a higher degree of care in administering the trust than in the

17 management of the person's own personal business;

18 (5) take reasonable steps to take and keep control of the trust property;

19 (6) use care and skill to preserve the trust property;

20 (7) take reasonable steps to realize on claims that are held in the trust;

21 (8) defend actions that may result in a loss to the trust estate, unless under all the

22 circumstances, considering the other duties owed to the trust, it is reasonable not to make that

23 defense;

24 (9) keep trust property separate from the person's own property;

25 (10) keep trust property separate from other property not subject to the trust so

26 far as it is reasonable to do so;

27 (11) see that trust property is designated as property of the trust;

28 (12) use care in selecting the bank when making general deposits of trust money

29 in a bank, and properly to identify the deposit as a deposit by the authority as trustee;

30 (13) use care and skill to make the trust property productive; however, nothing

31 shall prevent the Alaska Mental Health Trust Authority from using trust property directly or

1 indirectly, by contractual stipulation or otherwise as a component of the state's mental health
2 program;

3 (14) use the income of the trust to pay for the necessary expenses of the state
4 mental health program;

5 (15) deal impartially with the different trust beneficiaries under the priorities set
6 out in AS 47.30.056;

7 (16) participate in the administration of the trust with the other members of the
8 authority, and to use care to prevent a co-trustee from committing a breach of trust or to compel
9 a co-trustee to redress a breach of trust; and

10 (17) act in accordance with the directions of the legislature, unless to do so
11 violates the terms of the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709,
12 or the other obligations of the authority.

13 (b) By accepting appointment to the board of trustees of the authority, a person accepts
14 the position as co-trustee of the mental health trust and recognizes that, in exercising the powers,
15 duties, and responsibilities, the board of trustees of the authority is otherwise subject to the same
16 fiduciary duties as a private trustee under private trust law principles.

17 Sec. 47.30.046. MANAGEMENT OF MENTAL HEALTH TRUST INCOME
18 ACCOUNT. The board of trustees of the authority shall

19 (1) annually, not later than August 1, report to the governor and the legislature
20 a determination of

21 (A) the amount to be expended from the mental health trust income
22 account;

23 (B) the amount needed from the general fund, if any, that is required
24 during the next fiscal year to meet the necessary operating and capital expenses of the
25 mental health program of the state; and

26 (C) the needs, including those currently unmet, of the persons to be served
27 by the state's mental health program; the report made under this subparagraph must,
28 consistent with the priorities set out in AS 47.30.056, identify the amount to be expended
29 from the mental health trust income account and the amount recommended for
30 expenditures from the state general fund to meet those needs; and

31 (2) annually, not later than September 15, transfer any surplus in the mental health

1 trust income account that is not reasonably or foreseeably needed to meet the necessary operating
2 and capital expenses of the state's mental health program, if any, into the general fund to be used
3 for other public purposes.

4 Sec. 47.30.051. AUTHORITY OPERATING BUDGET. (a) The Alaska Mental Health
5 Trust Authority shall prepare and submit under AS 37.07 (Executive Budget Act) an operating
6 budget to meet the authority's annual operating expenses.

7 (b) The unexpended balance of the operating budget of the Alaska Mental Health Trust
8 Authority for which an appropriation is made by the legislature under (a) of this section does not
9 lapse at the end of the fiscal year, but shall be treated as income and redeposited into the mental
10 health trust income account.

11 Sec. 47.30.056. USE OF MONEY IN THE MENTAL HEALTH TRUST INCOME
12 ACCOUNT. (a) The Alaska Mental Health Trust Authority shall use the balance of the mental
13 health trust income account established in AS 37.14.021

14 (1) to provide a comprehensive range of mental health services; and

15 (2) to meet the authority's annual operating expenses.

16 (b) In making expenditures under (a)(1) of this section, the Alaska Mental Health Trust
17 Authority shall provide, first, for

18 (1) persons who are in need of hospitalization or who are at risk of hospitalization
19 or other inpatient care if not treated as a result of an acute mental condition; in this paragraph,
20 "acute mental condition" means a condition arising out of a short-term crisis episode of a mental
21 disorder, that

22 (A) poses a threat to the health or safety of the person or others; or

23 (B) constitutes a condition of grave disability that results in a serious
24 impairment of the persons's self-care, self-direction, and social and economic functioning;

25 or

26 (2) persons who are in need of continuing care and treatment because of a
27 significant impairment of the person's self-care, self-direction, and social and economic
28 functioning

29 (A) if the person has a serious mental illness, diagnosed as

30 (i) an organic mental disorder;

31 (ii) a schizophrenic, paranoid, or other psychotic disorder;

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- (iii) an affective disorder;
- (iv) an anxiety disorder;
- (v) a somatoform disorder; or
- (vi) a personality disorder;

(B) if the person is under 18 years of age and experiencing persistent psychotic symptoms not caused by substance abuse

(i) when the person exhibits severe behavioral, emotional, or social disabilities that are sufficiently intense or disruptive to lead to the person's exclusion from the person's home, school, or therapeutic setting and the person receives mental health services that must be continued for maximum therapeutic benefit; or

(ii) when the person's behavior is considered by a psychiatrist as likely to result in the person's having one or more of the disorders set out in (A) of this paragraph as an adult;

(C) if the person is a chronic alcoholic with psychosis; in this subparagraph, a "chronic alcoholic with psychosis" means a person who is an alcoholic with a history of prolonged or excessive drinking or episodes of drinking out of control, and who presents at least one of the following neurological or psychiatric disorders:

- (i) alcohol hallucinosis;
- (ii) alcohol withdrawal delirium (delirium tremens);
- (iii) alcohol-induced organic mental disorder;
- (iv) dementia associated with alcoholism; or
- (v) alcoholic depressive disorder or alcohol-induced behavioral changes with symptoms similar to those set out in the disorders enumerated in this subparagraph; and

(D) if the person is 50 years of age or older and, as a result of an organic mental disorder, exhibits dementia or a serious mental illness;

(3) persons who are in need of continuing care and treatment because of a significant impairment of the person's self-care, self-direction, and social and economic functioning

(A) if the person has a developmental disability, including a mental

1 impairment attributable to mental retardation, cerebral palsy, epilepsy, autism, or severe
2 organic brain impairment; or

3 (B) if the person is under five years of age, exhibits significant
4 developmental delay, and is at risk of developing a condition enumerated in (A) of this
5 paragraph.

6 (c) In making expenditures under (a) of this section, after making provision for mental
7 health services for persons under (b) of this section, the Alaska Mental Health Trust Authority
8 shall provide for

9 (1) persons who, because of the nature of the illness, geographic location, or
10 family income, are not capable of obtaining assistance from mental health services by service
11 providers in the private sector; and

12 (2) persons who suffer from a mental or emotional disturbance that do not qualify
13 for services under (b) of this section.

14 (d) In allocating money in the mental health trust income account between the service
15 categories set out in (b) and (c) of this section, the Alaska Mental Health Trust Authority shall
16 provide for a comprehensive range of services to persons in both categories. However,

17 (1) the Alaska Mental Health Trust Authority must provide services to meet the
18 needs of the persons set out in (b) of this section;

19 (2) when allocating money to meet the needs of the persons who qualify for
20 services under (c) of this section, the board of trustees of the Alaska Mental Health Trust
21 Authority shall emphasize services to those persons more seriously in need of mental health
22 program services.

23 (e) The board of trustees of the Alaska Mental Health Trust Authority shall adopt
24 functional assessment standards and procedures by which to determine the degree of impairment
25 of persons identified in (b) of this section sufficient to qualify those persons as eligible for mental
26 health services under this section.

27 (f) In this section, "comprehensive range of mental health services" includes, at a
28 minimum, each of the following services for eligible persons according to the person's approved
29 treatment plan:

30 (1) for persons eligible for services under (b) of this section,

31 (A) emergency services on a 24-hour basis;

- 1 (B) screening and evaluation to determine the person's needs and
2 consideration of involuntary commitment under AS 47.30.700 - 47.30.815;
3 (C) inpatient care; and
4 (2) for persons eligible for services under (b)(2) or (3) of this section, community
5 support services, including but not limited to services set out in AS 47.30.546(b)(1) - (6);
6 (3) for persons eligible for services under (c) of this section,
7 (A) the services described in (A)(i) - (iii) of this paragraph;
8 (B) outpatient treatment services, including individual, family, and group
9 psychotherapy, counseling, and referral; and
10 (C) prevention and education, including consultation with organizations,
11 providers, and the public.

12 Sec. 47.30.061. LIMITATIONS ON USE OF TRUST INCOME. In making expenditures
13 under AS 47.30.056, the Alaska Mental Health Trust Authority shall ensure that money in the
14 trust income account is used only for

- 15 (1) mental health services and facilities provided by community mental health
16 service providers who meet the standards set out in AS 47.30.547; and
17 (2) providers whose services and facilities for persons with developmental
18 disabilities meet the program principles of AS 47.80.110.

19 * Sec. 13. AS 47.30.520 is amended to read:

20 Sec. 47.30.520. LEGISLATIVE PURPOSE. It is the purpose of the legislature in
21 enacting the Community Mental Health Services Act

22 (1) to provide a range of inpatient and outpatient services for persons with
23 mental or emotional disturbances;

24 (2) [AND] to assist [LOCAL] communities in planning, organizing, and financing
25 community mental health services through locally developed, administered, and controlled
26 community mental health programs; and [IT IS FURTHER INTENDED] to better develop and
27 use [UTILIZE] existing resources at both state and local levels in order to

28 (A) [(1)] develop [AND IMPLEMENT] plans for initiating [MAXIMUM]
29 mental health services based on demonstrated need for services and implementing [IN
30 EACH GEOGRAPHICAL PLANNING AREA, AS WELL AS REGIONALIZED]
31 comprehensive mental health services on a regional basis;

- 1 **(B)** [(2)] improve the effectiveness of existing mental health services;
- 2 **(C)** [(3)] integrate state-operated and community mental health programs
- 3 into a unified mental health system;
- 4 **(D)** [(4)] provide a means for participation by consumers, families, and
- 5 representatives of [LOCAL] communities within the area for which comprehensive
- 6 mental health services are provided on a regional basis in determining [THE
- 7 DETERMINATION OF] the need for and the allocation of mental health resources;
- 8 **(E)** [(5) ESTABLISH A UNIFORM RATIO OF LOCAL AND STATE
- 9 GOVERNMENT RESPONSIBILITY FOR FINANCING MENTAL HEALTH
- 10 SERVICES;
- 11 (6)] provide a means of allocating money available for state mental health
- 12 services [FUNDS] according to community needs;
- 13 **(F)** [(7)] encourage the full use of all existing public or private agencies,
- 14 facilities, personnel, and funds to accomplish these objectives; and
- 15 **(G)** [(8)] prevent unnecessary duplication and fragmentation of services
- 16 and expenditures.

17 * **Sec. 14.** AS 47.30.530 is amended to read:

18 Sec. 47.30.530. DUTIES OF DEPARTMENT. In the administration of [THE
 19 DEPARTMENT SHALL ADMINISTER] the provisions of AS 47.30.520 - 47.30.620, the
 20 department, acting through the division of mental health and developmental disabilities,
 21 [AND] shall

- 22 (1) define and develop standards for various levels and qualities of mental health
- 23 care;
- 24 **(2)** participate with the Alaska Mental Health Trust Authority in planning,
- 25 organizing, developing, and implementing comprehensive mental health services;
- 26 **(3)** [(2)] provide fiscal and professional technical assistance in planning, organiz-
- 27 ing, developing, implementing, and administering [LOCAL] mental health services;
- 28 **(4)** [(3) DEVELOP BUDGETS AND RECEIVE AND DISTRIBUTE STATE
- 29 APPROPRIATIONS AND FUNDS IN ACCORDANCE WITH THE PROVISIONS OF
- 30 AS 47.30.520 - 47.30.620;
- 31 (4)] establish standards of education and experience for professional, technical, and

1 administrative personnel employed in community mental health services;
2 (5) [ASSIST THE COMMUNITY IN ESTABLISHING THE ORGANIZATION
3 AND OPERATION OF COMMUNITY MENTAL HEALTH SERVICES;
4 (6) DEVELOP A STANDARDIZED SYSTEM FOR MEASURING AND
5 REPORTING TO THE DEPARTMENT THE TYPES, QUANTITIES, AND QUALITY OF
6 SERVICES; AND DEVELOP A COST ACCOUNTING SYSTEM THAT WILL
7 DEMONSTRATE THE COST OF VARIOUS LEVELS AND QUALITIES OF CARE;
8 (7) PROVIDE EACH LOCAL COMMUNITY PLANNING AND SERVICES
9 DELIVERY ENTITY WITH STATISTICS, REPORTS, AND OTHER DATA RELEVANT TO
10 DEVELOPMENT OF INDICES INDICATING THE NEED FOR MENTAL HEALTH
11 SERVICES, OR RELEVANT TO EVALUATING THE EFFECTIVENESS OF EXISTING
12 SERVICES;
13 (8)] review each mental health services request proposed by a provider of
14 mental health services;
15 (6) make recommendations to the Alaska Mental Health Trust Authority
16 [LOCAL COMMUNITY PLAN AND REQUIRE EACH PLAN TO INCLUDE
17 (A) AN AFFIRMATIVE SHOWING THAT THE MOST EFFECTIVE
18 AND ECONOMIC USE WILL BE MADE OF ALL AVAILABLE PUBLIC AND
19 PRIVATE RESOURCES IN THE COMMUNITY INCLUDING CAREFUL
20 CONSIDERATION OF THE MOST EFFECTIVE AND ECONOMIC ALTERNATIVE
21 FORMS AND PATTERNS OF SERVICES:
22 (B) A FIVE-YEAR PROJECTION OF NEEDS, SERVICES, AND
23 RESOURCES; AND
24 (C) ADEQUATE PROVISIONS FOR REVIEW AND EVALUATION OF
25 SERVICES PROVIDED IN THE LOCAL COMMUNITY;
26 (9) ADOPT REGULATIONS AND ESTABLISH PRIORITIES], after consultation
27 with [LOCAL] communities [AFFECTED] and in conjunction with the [A] state mental health
28 planning [ADVISORY] council, that are necessary to carry out the purposes of AS 47.30.520 -
29 47.30.620; and
30 (7) perform performance and financial audits of each provider of mental
31 health services at least biennially.

1 * **Sec. 15.** AS 47.30.540(a) is amended to read:

2 (a) A city or borough government or other political subdivision of the state, a nonprofit
3 corporation, or a combination of these, is eligible to receive funds and administer local programs
4 under AS 47.30.520 - 47.30.620. In order to ensure equitable access to funds and programs
5 through the state, the Alaska Mental Health Trust Authority [DEPARTMENT] shall determine
6 appropriate geographical areas to be served by local programs in consultation with representatives
7 of the geographical areas in question.

8 * **Sec. 16.** AS 47.30.540(b) is amended to read:

9 (b) The entity designated by the Alaska Mental Health Trust Authority
10 [DEPARTMENT] in the local area as the organizational unit to receive money [FUNDS] under
11 AS 47.30.520 - 47.30.620 and to administer the program shall ensure a broad base of community
12 support as evidenced by a governing board reasonably representative of the professional, civic,
13 and citizen groups in the community. No more than two members, or 40 percent of the
14 membership, whichever is greater, may be providers of services under the program. In order to
15 receive funds under AS 47.30.520 - 47.30.620, a local community entity shall agree to

16 (1) give priority to mental health programs and services that provide the [HAVE
17 A] maximum services for the smallest amount of expenditure of money from the mental
18 health trust income account and from other state funds, including consideration of money
19 from other sources [EFFECT ON OTHER TAX FUNDED PROGRAMS];

20 (2) furnish services through a qualified staff meeting reasonable standards of
21 experience and training;

22 (3) conform to a state cost accounting system showing the true cost of services
23 rendered, collect fees for services according to a schedule based on an analysis of reasonable
24 ability to pay, and provide that a person may not be refused services because of inability to pay
25 for those services;

26 (4) maintain adequate clinical and administrative records and furnish periodic
27 reports to the department;

28 (5) furnish the Alaska Mental Health Trust Authority [DEPARTMENT] an
29 annual report of the preceding fiscal year, including an evaluation of the effectiveness of the
30 previous year's programs and their costs; and

31 (6) furnish the Alaska Mental Health Trust Authority [DEPARTMENT] each

1 year a satisfactory annual update of a long-range planning and budget statement that describes
2 program goals for the coming year, the steps and resources necessary to implement the goals, the
3 projected means by which these resources will be secured, and the procedures necessary to
4 evaluate the program.

5 * Sec. 17. AS 47.30.540 is amended by adding new subsections to read:

6 (d) At least annually, the entity designated by the Alaska Mental Health Trust Authority
7 in the local area as the organizational unit to receive money and to administer a mental health
8 services program shall submit to the Alaska Mental Health Trust Authority and to the division

9 (1) needs assessments for the population it serves; and

10 (2) mental health service plans that are consistent with the minimum standards
11 for those services established by the authority and the division.

12 (e) Within the geographic area it serves, the entity designated by the Alaska Mental
13 Health Authority in the local area as the organizational unit to receive money and to administer
14 a mental health services program shall

15 (1) provide comprehensive mental health services and emergency crisis
16 intervention services consistent with the minimum standards that may be required by the authority
17 for those services;

18 (2) organize a network of service providers;

19 (3) plan the delivery of the mental health services required by (1) of this
20 subsection involving comprehensive participation by persons to be served and the general public.

21 (f) Within the geographic area it serves, the entity designated by the Alaska Mental
22 Health Trust Authority in the local area as the organizational unit to receive money and to
23 administer a mental health services program may

24 (1) furnish mental health services in addition to those services that may be
25 required by (e)(1) of this section;

26 (2) provide comprehensive mental health services and emergency crisis
27 intervention services directly; or

28 (3) contract with vendors for the provision of comprehensive mental health
29 services, emergency crisis intervention services, or other mental health services.

30 * Sec. 18. AS 47.30.546(b) is amended to read:

31 (b) An entity eligible to receive funds under AS 47.30.540 and that provides eligible

1 community mental health services for seriously [CHRONICALLY] mentally ill persons
2 [ADULTS OR SEVERELY MENTALLY ILL CHILDREN] may, in addition to funds received
3 for program elements provided under (a) of this section, receive funds from the department for
4 one or more of the following program elements:

5 (1) crisis stabilization services, which may include all or any of the following:

6 (A) active community outreach;

7 (B) in-hospital contact;

8 (C) mobile crisis treatment teams of mental health professionals;

9 (D) crisis beds to provide a short-term residential program for persons
10 experiencing an acute episode of mental illness that requires temporary removal from a
11 home environment;

12 (2) patient treatment services, which may include all or any of the following:

13 (A) diagnosis, testing, and evaluation of medical needs;

14 (B) medication monitoring;

15 (C) physical examinations;

16 (D) dispensing psychotropic and other medication;

17 (E) detoxification;

18 (F) individual or group therapy;

19 (3) case management, which may include all or any of the following:

20 (A) evaluation of patients' needs;

21 (B) development of individualized treatment plans;

22 (C) enhancement of patient access to available resources and programs;

23 (D) development of interagency contacts and family involvement;

24 (E) patient advocacy;

25 (4) daily structure and support, which may include all or any of the following:

26 (A) daily living skills training;

27 (B) socialization activities;

28 (C) recreation;

29 (D) transportation;

30 (E) day care services;

31 (5) residential services, which may include all or any of the following:

- 1 (A) crisis or respite care;
2 (B) board and care;
3 (C) foster care, group homes, halfway houses, or supervised apartments;
4 **(D) long-term care facilities;**
5 **(E) in-home care;**
6 (6) vocational services, which may include all or any of the following:
7 (A) prevocational training;
8 (B) work adjustment;
9 (C) supported work;
10 (D) sheltered work;
11 (E) vocational training in which participants achieve useful work
12 experience.

13 * Sec. 19. AS 47.30.547 is amended to read

14 Sec. 47.30.547. STANDARDS FOR COMMUNITY MENTAL HEALTH SERVICES.

15 An entity that provides community mental health services shall

16 (1) make services available at times and locations that enable residents of the
17 entity's service area to obtain services **readily;**

18 (2) ensure each client's right to confidentiality and treatment with dignity;

19 (3) establish staffing patterns that reflect the cultural, linguistic, and other social
20 characteristics of the community and that incorporate multidisciplinary professional staff to meet
21 client functional levels and diagnostic and treatment needs;

22 (4) promote client and family participation in formulating, delivering, and
23 evaluating treatment and rehabilitation;

24 **(5) design treatment and rehabilitation services to maximize individual**
25 **potential and to minimize institutionalization; and**

26 **(6) provide services in the least restrictive setting, enabling the person**
27 **receiving the services to live as normally as possible.**

28 * Sec. 20. AS 47.30.580 is amended to read:

29 Sec. 47.30.580. COMPREHENSIVE SERVICES. Plans and regulations adopted under
30 AS 47.30.520 - 47.30.620 must allow [LOCAL] programs **established and operated by entities**
31 **designated by the Alaska Mental Health Trust Authority in the local area as the**

1 organizational unit to receive money and to administer a mental health service program
2 sufficient administrative and program flexibility so that [LOCAL] community mental health
3 programs may be joined with other programs such as mental retardation programs, drug abuse
4 programs, alcoholism programs, and comprehensive mental health services programs.

5 * Sec. 21. AS 47.30.590 is amended to read:

6 Sec. 47.30.590. PATIENT RIGHTS AND THE CONFIDENTIAL NATURE OF
7 RECORDS AND INFORMATION. The department shall adopt regulations to assure patient
8 rights and to safeguard the confidential nature of records and information about the recipients of
9 services provided under AS 47.30.520 - 47.30.620. The regulations must require that the entity
10 designated by the Alaska Mental Health Trust Authority in the local area as the
11 organizational unit to receive money and to administer a mental health services program
12 [LOCAL COMMUNITY ENTITIES] develop and include in any plan submitted for approval
13 adequate provisions for safeguarding confidential information. The department's regulations
14 must provide for disclosure of confidential information to mental health professionals providing
15 services to a recipient and to other appropriate service agencies when it is in the defined best
16 interests of the patient.

17 * Sec. 22. AS 47.30.610 is repealed and reenacted to read:

18 Sec. 47.30.610. DEFINITIONS. In AS 47.30.520 - 47.30.610

19 (1) "department" means the Department of Health and Social Services;

20 (2) "division" means the division of mental health and developmental disabilities.

21 * Sec. 23. AS 47.30.655 is amended to read:

22 Sec. 47.30.655. PURPOSE AND APPLICABLE PRINCIPLES. (a) The purpose of
23 AS 47.30.660 and 47.30.670 - 47.30.915 [THIS MAJOR REVISION OF ALASKA CIVIL
24 COMMITMENT STATUTES (AS 47.30.660 AND 47.30.670 - 47.30.915)] is to more adequately
25 protect the legal rights of persons suffering from mental illness. The legislature has attempted
26 to balance the individual's constitutional right to physical liberty and the state's interest in
27 protecting society from persons who are dangerous to others and protecting persons who are
28 dangerous to themselves by providing due process safeguards at all stages of commitment
29 proceedings.

30 (b) The [IN ADDITION, THE] following principles of modern mental health care apply
31 to the administration of AS 47.30.660 and 47.30.670 - 47.30.915 [HAVE GUIDED THIS

1 REVISION]:

2 (1) that persons be given every reasonable opportunity to accept voluntary
3 treatment before involvement with the judicial system;

4 (2) that persons be treated in the least restrictive alternative environment
5 consistent with their treatment needs;

6 (3) that treatment occur as promptly as possible and as close to the individual's
7 home as possible;

8 (4) that a system of mental health community facilities and supports be available;

9 (5) that patients be informed of their rights and be informed of and allowed to
10 participate in their treatment program as much as possible;

11 (6) that persons who are mentally ill but not dangerous to others be committed
12 only if there is a reasonable expectation of improving their mental condition.

13 * Sec. 24. AS 47.30.660 is amended to read:

14 Sec. 47.30.660. POWERS AND DUTIES OF DEPARTMENT. The department, through
15 its division of mental health and developmental disabilities, [IS THE MENTAL HEALTH
16 AUTHORITY OF THE STATE AND] shall

17 (1) set standards for the provision of mental health services under the annual
18 implementation plan prepared by the Alaska Mental Health Trust Authority;

19 (2) license mental health service facilities and programs that meet the
20 standards established under (1) of this section;

21 (3) monitor providers of mental health services for compliance with the
22 standards established under (1) of this section to determine whether the providers'
23 performance of mental health services conforms to the annual implementation plan
24 [ADMINISTER A COMPREHENSIVE PROGRAM FOR THE PREVENTION OF MENTAL
25 ILLNESS AND THE CARE AND TREATMENT OF THE MENTALLY ILL, INCLUDING
26 INPATIENT AND OUTPATIENT CARE AND TREATMENT AND THE PROCUREMENT OF
27 SERVICES OF SPECIALISTS OR OTHER PERSONS ON A CONTRACTUAL OR OTHER
28 BASIS];

29 (4) [(2)] take the actions and undertake the obligations that are necessary to
30 participate in federal grants-in-aid programs and accept federal or other financial aid from
31 whatever sources for the study, examination, care, and treatment of the mentally ill;

1 (5) [(3)] administer AS 47.30.660 - 47.30.915;
2 (6) provide technical assistance and training to providers of mental health
3 services;
4 (7) [(4) DESIGNATE,] operate [,] and maintain state treatment facilities equipped
5 and qualified to provide inpatient and outpatient care and treatment for the mentally ill;
6 (8) [(5)] provide for the placement of mentally ill patients in designated treatment
7 facilities;
8 (9) [(6)] enter into arrangements with governmental agencies for the care or
9 treatment of the mentally ill in facilities of the governmental agencies in the state or in another
10 state;
11 (10) [(7)] enter into contracts with treatment facilities for the custody and care
12 or treatment of the mentally ill; contracts under this paragraph are governed by AS 36.30 (State
13 Procurement Code);
14 (11) [(8)] enter into contracts that incorporate safeguards consistent with
15 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients [,] with another
16 state for the custody and care or treatment of patients previously committed from this state under
17 48 U.S.C. 46 et seq., and P.L. 830, 84th Congress, 2nd Session, 70 Stat. 709;
18 (12) [(9)] prescribe the form of applications, records, reports, requests for release,
19 and consents to medical or psychological treatment required by AS 47.30.660 - 47.30.915;
20 (13) [(10)] require reports from the head of a treatment facility concerning the
21 care of patients;
22 (14) [(11)] visit each treatment facility at least annually to review methods of care
23 or treatment for patients;
24 (15) [(12)] investigate complaints made by a patient or an interested party on
25 behalf of a patient;
26 (16) [(13)] delegate upon mutual agreement to another officer or agency of it, or
27 a political subdivision of the state, or a treatment facility designated, any of the duties and
28 powers imposed upon it by AS 47.30.660 - 47.30.915; and
29 (17) [(14)] adopt regulations to implement the provisions of AS 47.30.660 -
30 47.30.915.

31 * Sec. 25. AS 47.30.661 is amended to read:

1 Sec. 47.30.661. STATE [ALASKA] MENTAL HEALTH PLANNING COUNCIL
2 [BOARD]. (a) The State [ALASKA] Mental Health Planning Council [BOARD] is
3 established. For budgetary purposes, the council [BOARD] is located within the department.

4 (b) The council acts as [BOARD IS] the state planning and coordinating agency under
5 P.L. 99-660 (State Comprehensive Mental Health Services Plan Act of 1986), as amended
6 [FOR THE PURPOSES OF FEDERAL AND STATE LAWS RELATING TO THE MENTAL
7 HEALTH PROGRAM OF THE STATE].

8 (c) The purpose of the council [BOARD] is to assist the state in ensuring an integrated
9 comprehensive mental health program.

10 * Sec. 26. AS 47.30.662(a) is amended to read:

11 (a) The council [BOARD] consists of the commissioner, or the commissioner's designee,
12 and not fewer than 18 [NINE] nor more than 21 [12] other members, appointed by the governor,
13 with due regard for population and balanced geographic representation of the state.

14 * Sec. 27. AS 47.30.662(b) is repealed and reenacted to read:

15 (b) At least one-half of the members of the council must be consumers in the following
16 categories or members of their families, with at least one person to be appointed to the council
17 from each category:

- 18 (1) persons suffering from a mental illness;
- 19 (2) alcoholics with psychosis;
- 20 (3) senior citizens with dementias;
- 21 (4) children;
- 22 (5) minorities; and
- 23 (6) persons with other mental conditions.

24 * Sec. 28. AS 47.30.662(c) is repealed and reenacted to read:

25 (c) The council shall include representatives of
26 (1) the principal state agencies with respect to mental health, education, vocational
27 rehabilitation, criminal justice, housing, social services, medical assistance, alcohol and drug
28 abuse, and aging; and
29 (2) public and private entities concerned with the need, planning, operation,
30 financial support, and use of mental health services and related support services.

31 * Sec. 29. AS 47.30.663 is amended to read:

1 Sec. 47.30.663. TERM OF OFFICE. (a) Council [BOARD] members serve staggered
2 terms of three years.

3 (b) A vacancy occurring in the membership of the council [BOARD] shall be filled by
4 appointment of the governor for the unexpired portion of the vacated term.

5 (c) Members of the council may be removed only for cause, including, but not limited
6 to, poor attendance or lack of contribution to the council's [BOARD'S] work.

7 * Sec. 30. AS 47.30.664 is amended to read:

8 Sec. 47.30.664. OFFICERS AND STAFF. (a) The council [BOARD], by a majority
9 of its membership, shall annually elect a chair and other officers it considers necessary from
10 among its membership.

11 (b) The council [BOARD] shall have a paid staff provided by the department, including,
12 but not limited to, an executive director who shall be selected by the council [BOARD FROM
13 CANDIDATES PROVIDED BY THE DEPARTMENT]. The executive director is in the
14 partially exempt service and may hire additional employees in the classified service of the state.
15 The executive director and the staff of the council [BOARD] shall be directly responsible to the
16 council [BOARD] in the performance of their duties.

17 * Sec. 31. AS 47.30.665 is amended to read:

18 Sec. 47.30.665. BYLAWS. The council [BOARD], on approval of a majority of its
19 membership and consistent with state law, shall adopt and amend bylaws governing its
20 composition, proceedings, and other activities consistent with state law and including, but not
21 limited to, provisions concerning a quorum to transact council [BOARD] business and other
22 aspects of procedure, frequency and location of meetings, and establishment, functions, and
23 membership of committees.

24 * Sec. 32. AS 47.30.666 is repealed and reenacted to read:

25 Sec. 47.30.666. POWERS, DUTIES, AND RESPONSIBILITIES OF THE COUNCIL.

26 The council shall

27 (1) provide a public forum for discussion of issues regarding current and potential
28 services to persons served by the mental health program of the state;

29 (2) monitor, review, and evaluate, at least annually, the allocation and adequacy
30 of mental health services;

31 (3) prepare, annually revise, and make recommendations to the Alaska Mental

1 Health Trust Authority regarding a long-term comprehensive state mental health plan, to include
2 the projected needs and the services, facilities, and resources for the mental health program of
3 the state to meet that need;

4 (4) develop, prepare, adopt, periodically review and revise as necessary, and make
5 recommendations to the Alaska Mental Health Trust Authority regarding the annual state
6 implementation plan to meet the needs of persons served by the mental health program of the
7 state;

8 (5) serve as an advocate before the executive and legislative branches of
9 government and the public on behalf of persons who are severely and persistently mentally ill
10 and of those served by the mental health program of the state;

11 (6) review applicable statutes, regulations, and policies and recommend
12 appropriate changes;

13 (7) advise the executive and legislative branches of the state government and the
14 private sector on programs and policies pertaining to current and potential services to persons
15 suffering from mental illness and their families;

16 (8) recommend to the governor and legislature changes in and improvements to
17 state-operated mental health facilities; and

18 (9) submit periodic reports to the commissioner of health and social services and
19 to other appropriate departments on the effects of current federal and state programs regarding
20 services to chronically mentally ill individuals; these reports must include program performance
21 reports to the governor, the federal government, and to state agencies, and reports required by
22 Title V of P.L. 99-660 (State Comprehensive Mental Health Services Plan Act of 1986), as
23 amended.

24 * Sec. 33. AS 47.30.669 is amended to read:

25 Sec. 47.30.669. DEFINITION. In AS 47.30.661 - 47.30.669, "council" ["BOARD"]
26 means the State [ALASKA] Mental Health Planning Council [BOARD] established in
27 AS 47.30.661.

28 * Sec. 34. AS 47.80.090 is amended to read:

29 Sec. 47.80.090. RESPONSIBILITIES. The council shall

30 (1) serve as a forum by which issues and benefits regarding current and potential
31 services to handicapped and gifted persons may be discussed by consumer, public, private,

1 professional, and lay interests;

2 (2) advocate the needs of handicapped and gifted persons before the executive and
3 legislative branches of the state government and before the public;

4 (3) advise the executive and legislative branches of the state government and the
5 private sector on programs and policies pertaining to current and potential services to
6 handicapped or gifted persons and their families;

7 (4) submit periodic reports to the commissioner of health and social services, the
8 commissioner of education, and to other appropriate departments, on the effects of current federal
9 and state programs regarding services to handicapped or gifted persons; these reports shall
10 include program performance reports to the governor, the federal government, and to state
11 agencies as required by P.L. 91-517, P.L. 94-103, or P.L. 94-142, as amended;

12 (5) in conjunction with the Departments of Health and Social Services and
13 Education, develop, prepare, adopt, periodically review, and revise as necessary an annual state
14 plan prescribing programs which meet the needs of persons with developmental disabilities as
15 required under P.L. 91-517 or P.L. 94-103, as amended;

16 (6) review and comment to commissioners of state departments on all state plans
17 and proposed regulations relating to programs for persons with handicaps before the adoption of
18 a plan or regulation; for this purpose, the appropriate departments shall submit the plans and
19 proposed regulations to the council;

20 (7) recommend the priorities and specifications for the use of funds received by
21 the state under P.L. 91-517, P.L. 94-103, and P.L. 94-142, as amended;

22 (8) [SUBMIT] annually submit

23 (A) to the commissioner of health and social services, the commissioner
24 of education, and the commissioner of community and regional affairs a proposed
25 interdepartmental program budget for services to handicapped or gifted persons which
26 includes, insofar as possible, projected revenues and expenditures for programs
27 implemented by state agencies, local governmental agencies, and private organizations;
28 the interdepartmental program budget is an informational supplement to the regular annual
29 budgetary submissions of the departments to the Office of the Governor;

30 (B) recommendations to the Alaska Mental Health Trust Authority
31 concerning the mental health program of the state and use of the money in the

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mental health trust income account:

(9) provide information and guidance for the development of appropriate special educational programs and services for exceptional children as defined in AS 14.30.350;

(10) monitor and evaluate budgets or other implementation plans and programs for handicapped and gifted persons to assure nonduplication of services and encourage efficient and coordinated use of federal, state, and private resources in the provision of services; members of the council, with the approval of the council, have access to information in the possession of state agencies subject to disclosure restrictions imposed by state or federal confidentiality or privacy laws;

(11) perform other duties required under P.L. 91-517, P.L. 94-103, P.L. 94-142, as amended, or AS 14.30.231, and as the governor may assign; and

(12) govern the special education service agency, and may hire personnel necessary to operate the agency.

* Sec. 35. AS 47.80.110 is amended to read:

Sec. 47.80.110. PROGRAM PRINCIPLES. The system of services and facilities required under AS 47.80.100 shall accord with the principles [PRINCIPLE] that service providers shall

(1) make services available at times and locations that enable residents of the provider's service area to obtain services readily;

(2) ensure each client's right to confidentiality and treatment with dignity;

(3) establish staffing patterns that reflect the cultural, linguistic, and other social characteristics of the community and that incorporate multidisciplinary professional staff to meet client functional levels and diagnostic and treatment needs;

(4) promote client and family participation in formulating, delivering, and evaluating treatment and rehabilitation;

(5) design treatment [, SERVICES,] and habilitation [SHALL BE DESIGNED] to maximize individual potential and [,] minimize institutionalization; [,] and

(6) provide services [SHALL BE PROVIDED] in the least restrictive setting, enabling a person to live as normally as possible within the limitations of the handicap.

* Sec. 36. AS 47.30.550, 47.30.560, and 47.30.570; secs. 1, 2, 4, and 5, ch. 132, SLA 1986; and secs. 7 - 10, ch. 48, SLA 1987 are repealed.

* Sec. 37. TRANSITIONAL PROVISIONS: DEVELOPMENT OF TRUST INCOME ACCOUNT

1 DISTRIBUTION MECHANISM. (a) Not later than January 1, 1993, the Board of Trustees of the
2 Alaska Mental Health Trust Authority shall, after consulting with organizations and persons affected by
3 this Act, define mental health programs, services, and facilities, provision of which is eligible for
4 financial support from the mental health trust income account established by AS 37.14.021, repealed and
5 reenacted by sec. 8 of this Act. In the definition prepared under this subsection, the board of trustees

6 (1) shall consider programs and services that are set out in the last versions of

7 (A) the state mental health plan adopted under AS 47.30.036; and

8 (B) the plan for services to persons who experience developmental disabilities
9 adopted under AS 47.80.090;

10 (2) may not include a program or service

11 (A) for which eligibility is determined on a basis other than trust beneficiary
12 status;

13 (B) for which recipients are entitled to benefits under a law not affected by this
14 Act.

15 (b) Not later than January 1, 1993, the Board of Trustees of the Alaska Mental Health Trust
16 Authority shall

17 (1) identify persons who are beneficiaries within each of the service categories established
18 in AS 47.30.056(b) and (c), added by sec. 12 of this Act;

19 (2) determine the number of persons who, during the period July 1, 1990 - December 31,
20 1990, have received mental health services as a result of an acute mental health condition, as that term
21 is defined by AS 47.30.056(b)(1), added by sec. 12 of this Act.

22 (c) Not later than July 1, 1993, the Board of Trustees of the Alaska Mental Health Trust
23 Authority shall develop a formula applicable to ensure an equitable distribution of the money in the
24 mental health trust income account established by AS 37.14.021, repealed and reenacted by sec. 8 of this
25 Act, after June 30, 1993. The formula shall take into consideration the following factors:

26 (1) population and regional delivery of mental health services;

27 (2) incentives for reducing the use of institutional care for persons needing mental health
28 services;

29 (3) demographic characteristics relevant to mental health service demands;

30 (4) the number of persons in the state who are receiving services as beneficiaries under
31 AS 47.30.056(b) and (c), added by sec. 12 of this Act; and

- 1 (5) each of the following, determined with reference to the state mental health plan;
2 (A) cost per unit of service;
3 (B) the average amount of money required per functional level of client; and
4 (C) the number of days and units served.

5 * Sec. 38. TRANSITIONAL PROVISIONS: PAYMENT SCHEDULE. The Board of Trustees of the
6 Alaska Mental Health Authority and the commissioner of natural resources shall

7 (1) negotiate a payment schedule, not to exceed 30 years, under which the state may,
8 subject to legislative appropriation for the purpose, pay money to the mental health trust as compensation
9 for land to be conveyed to the state from the trust;

10 (2) negotiate adjustments to the payment schedule established under (1) of this section
11 to take into consideration money actually appropriated by the legislature as compensation to the mental
12 health trust for land to be conveyed to the state from the trust.

13 * Sec. 39. ENFORCEMENT OF PAYMENTS DUE AUTHORITY UNDER NEGOTIATED
14 PAYMENT SCHEDULE. (a) If the state fails to make a payment in full to the Alaska Mental Health
15 Trust Authority when the payment is due under the payment schedule negotiated under sec. 38 of this
16 Act, the executive director of the Alaska Mental Health Trust Authority shall notify in writing each of
17 the following state officers of the state's failure to make payment, outlining to each state officer the
18 remedies available to the Alaska Mental Health Trust Authority to secure enforcement of its claim for
19 payment:

- 20 (1) the governor;
21 (2) the commissioner of revenue;
22 (3) the president of the Alaska State Senate; and
23 (4) the speaker of the Alaska House of Representatives.

24 (b) If the payment has not been made, not less than 15 days after giving notice to the state
25 officers identified in (a) of this section, the chair of the Board of Trustees of the Alaska Mental Health
26 Trust Authority may convene the board to determine whether the board shall exercise the remedies set
27 out in this subsection to collect the payment due. If payment has not been made, the board may apply
28 to the superior court to require payment. If the court determines that a payment due has not been made,
29 the court may issue a judgment and order to the state, determining the amount of the payment that is
30 due and directing that payment be made. The court order shall include reasonable attorney fees and bear
31 interest at the rate prescribed by law from the effective date of the court order. The clerk of the court

1 shall provide copies of a court order entered under this subsection to the parties identified in (a) of this
2 section. Thereafter,

3 (1) if a court order issues under this subsection while the legislature is in session, the state
4 has 30 days in which to make the payment required by the court order;

5 (2) if a court order issues under this subsection while the legislature is not in session, the
6 governor may call a special session of the legislature or the legislature may convene in special session
7 under AS 24.05.100 to consider the court order, and the state has 60 days in which to make the payment
8 required by the court order.

9 (c) If, at the end of the period allowed by (b) of this section, the state has failed to make
10 payment in full of the court order entered under (b) of this section, the Board of Trustees of the Alaska
11 Mental Health Trust Authority may seek judicial enforcement of the court order. The board may apply
12 and obtain from the court a writ of attachment or writ of execution against the state in the amount due
13 under the court order. The board

14 (1) shall first attempt to satisfy the writ of attachment or writ of execution from the state
15 treasury out of the bank or other financial accounts of the state opened by or in the name of the
16 Department of Revenue under AS 37.10;

17 (2) shall, if the efforts by the Alaska Mental Health Trust Authority under (1) of this
18 subsection do not fully satisfy the writ of attachment or writ of execution, execute against real property
19 of the state that is unencumbered;

20 (3) shall, if the efforts by the Alaska Mental Health Trust Authority under (1) and (2)
21 of this subsection do not fully satisfy the writ of attachment or writ of execution, petition the court to
22 allow the authority the power to manage the land identified in AS 37.14.011(b)(3), added by sec. 6 of
23 this Act, and the right to receive the income from that land;

24 (4) may, if the efforts by the Alaska Mental Health Trust Authority under (1) - (3) of this
25 subsection do not fully satisfy the writ of attachment or writ of execution, foreclose on any other security
26 that the authority may have or use any other remedies that may be available to the authority.

27 (d) In an application to the superior court brought by the Alaska Mental Health Trust Authority
28 under (b) of this section, the superior court is limited to a determination of whether a payment due the
29 Alaska Mental Health Trust Authority is due and unpaid and the amount that is due and unpaid.

30 (e) Notwithstanding (c)(3) of this section, if the superior court directs the Alaska Mental Health
31 Trust Authority to manage the land identified in AS 37.14.011(b)(3) and receive the income from that

1 land, the court may not direct the payment to the authority of income from fees charged or collected in
2 state park units under AS 41.21.026 or from concession contracts to provide services or facilities in state
3 park units under AS 41.21.027 that are disposed of under AS 41.21.030.

4 * Sec. 40. Unless the litigation has terminated before the effective date of this section, the attorney
5 general shall sign and file in Weiss v. State of Alaska, 4FA-82-2208 Civil, a stipulation that conforms
6 to the provisions of this Act in a form agreed to by all of the plaintiffs represented in that litigation for
7 notice to the members of the classes represented in that litigation and for approval by the court.

8 * Sec. 41. Except for sec. 40 of this Act, this Act takes effect upon final approval by the courts of
9 the issues in litigation in Weiss v. State of Alaska, 4FA-82-2208 Civil, whether by settlement between
10 the parties or otherwise, and the time allowed by court rules for appellate review of the trial court's
11 decision has passed. The superior court shall advise the lieutenant governor and the revisor of statutes
12 when final approval of the litigation in Weiss v. State of Alaska has been given.