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HFIN

FILE

House Bill 412

For An Act Entitled: "An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

There are other methods for pursuing quality in programs, but licensing alone reaches almost all programs. Its benefit is that a disinterested third party (the licensing agent) evaluates an applicant and program against the public's definition of an acceptable level of quality. In this way licensing reduces risk and protects our most vulnerable citizens, who are in care away from their own homes. Regulation should not be thought of as an unwarranted intrusion, but as vigorous and necessary protection for parents and their children or adults in need. This bill is intended to facilitate efficiency in licensing so that this valuable protection may continue as resources are reduced.

The Division of Family and Youth Services (DFYS) licenses 1,900 care facilities and agencies. There is public demand for more licensed care and support for licensing, but there are hurdles to productivity. DFYS workers now must know how to evaluate up to nine kinds of care; workload standards are exceeded by 50% in some locations; many workers also have protective services duties; and they must be familiar with more than 40 pages of procedures in statute and varying regulations.

Passage of Community Care Licensing legislation for children's care coupled with passage of the Assisted Living bill for adult care will focus DFYS staff on children and families. Regulation of care facilities for elders or adults with a disability would be transferred to divisions knowledgeable in those care fields.

The efficiency of DFYS licensing resources will further be enhanced by consolidating procedures now scattered in statute and various regulations. Forty single spaced pages are consolidated to eighteen pages, double spaced, in this bill. To further promote efficiency, DFYS will convene a task force of those affected to assist in forming standards, will publish guidebooks to reduce questions for those getting started and will provide regional licensing training to ensure competency.

Clarity is needed and given on the shared role with parents to ensure their child's safety and development in licensed care. Yet, the state retains primary duty for oversight.

Expanded partnerships with private agencies could increase the number of regulated homes in additional communities, without increasing state costs. Clear liability protection for licensing agents will go a long way toward meeting that goal.

The department has a considerable investment in the development of this bill and has sought the expertise of key state and national experts. The basics were taken from a national collaborative effort in the form of a model bill published by the American Bar Association. The Assisted Living bill mentioned earlier is based on the model. The department then reduced the volume of model material, tailored provisions to match current Alaska licensing practice and added modest improvements based on recommendations of licensing supervisors, selected providers, the Department of Law and a review by the nation's licensing expert in Washington DC. A Section by Section analysis is available from the Division of Family and Youth Services.

DEPARTMENT'S POSITION

The department strongly supports this bill and urges its passage.

Recommended:

Deborah R. Wing

Date:

2/7/94

Deborah R. Wing, Director
Division of Family and Youth Services

Approved:

Margaret R. Lowe

Date:

2/8/94

Margaret R. Lowe, M.Ed., Ed.S.
Commissioner
Department of Health and Social Services

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 23, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/11/94

The FINANCE Committee considered:

HB 412

HOUSE BILL NO. 412

COMMUNITY CARE FACILITIES

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 412 (HES) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact HFC for HES

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Ronald J. Landon	x	EP Maclean		✓	
Ben Grussendorf	x	Mark Hanley		x	
Jay Brown	✓	Terry Martin		x	
		Sean Parnell		x	

Ronald J. Landon EP Maclean
CHAIRMAN'S SIGNATURE

F I S C A L N O T E

REQUEST:

Revision Date: Dept: Health and Social Servies
 Title: Community Care Licensing Statute
 BRU: Family and Youth Services
 Sponsor: Rules by Request Components: Central Office
 Requestor: House Finance Committee No:

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	10.0	20.0	0.0	0.0	0.0	0.0
Contractual	20.0	15.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	30.0	35.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	30.0	35.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	30.0	35.0	0.0	0.0	0.0	0.0

ESTIMATE OF ANY CURRENT YEAR (FY 94) COST \$

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Rep. Ron Larson, Co-Chair *RL* 465-3878
 Rep. Eileen MacLean, Co-Chair *EPM* Phone: 465-4833
 Division: House Finance Committee Date: 4/11/94
 Approved By: _____
 Agency: _____ Date: _____

FISCAL NOTE

No. 1
 Bill Version: HB 234
 (H) Publish Date: 3/9/94

**STATE OF ALASKA
 1994 LEGISLATIVE SESSION**

BILL

Revision Date: _____ Dept. Affected: Revenue
 Title: An Act relating to endowments and donations of the university BRU: Revenue Operations
 Component: Treasury
 Sponsor: Representative Davies
 Requestor: H HESS COMPONENT SERIAL NO. 121

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	22.5	22.5	22.5	22.5	22.5	22.5
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	22.5	22.5	22.5	22.5	22.5	22.5

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	22.5	22.5	22.5	22.5	22.5
1005 GF/Program Receipts						
1006 GF/MH11A						
Other						
TOTAL	22.5	22.5	22.5	22.5	22.5	22.5

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary.)

Currently, the investment and management of the fund is a function of the Treasury and is shared among various accountants and investment managers. As a result of the fund shifting, \$22,500 would have to be funded within the Treasury. Custodial fees of approximately \$25,000 would be transferred with the Fund. Total costs to the fund for FY93 were approximately \$52,000, resulting in total charges to the Fund of approximately 0.02%.

Prepared by: Saraine L. Derr *Saraine L. Derr* Phone: 465-4880
 Division: Treasury Date: 3/8/94
 Approved by Commissioner: Darrel J. Rexwinkel *Darrel J. Rexwinkel* Date: 3/8/94
 Agency: Revenue

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Community Care Licensing - SB 268 and HB 412

Section by Section Analysis and Commentary - February 7, 1994

Sections 1, 2 and 3 (Compatibility with Child Care Statutes) make conforming numbering amendments to the Child Care grant and Day Care Assistance statutes. There is no change in substance.

Section 4 (Appeal Hearings) also sets out conforming amendments. It requires that appeal hearings following all serious enforcement by the department be conducted under the provisions of the Administrative Procedures Act. The Division of Family and Youth Services (DFYS) will grant appeal hearings under their informal grievance procedure for less onerous actions, such as a denial of a request for a variance.

Section 5 (Title and Purpose) changes the title of Chapter 35 of Title 47 from "Institutions" to "Community Care Licensing" and adds the purpose. The department intends to use the purpose statement in publications to clarify the role of licensing for providers of service and to inform parents of the importance of their role in selecting and monitoring care for their children. Finally, section 5 establishes that the provisions of this statute apply both for programs required to be licensed and for those that voluntarily choose to be licensed.

Section 6 (Powers of the Department) is amended.

- Section 6 updates terminology for facilities and agencies falling under the provisions of the chapter and authorizes the department to adopt fees by regulation.
- Section 6 provides authority for the department to enter into agreements with individuals, in addition to organizations, to perform licensing evaluations. DFYS has agreements with about 12 agencies to perform licensing evaluations, primarily foster care. Only three agreements involve state funds, and those three are exempt from the procurement code. Since the procurement code rarely applies, reference to it is removed.
- The material related to delegating powers to a municipality has been revised in collaboration with the Municipality of Anchorage (MOA). The MOA is the only municipality that has adopted an ordinance to license child care centers. The revision reflects the practice of the MOA to adopt additional standards that meet or exceed state standards.

Section 7 (Applicability and Exemptions) states that a child care license is required unless the facility is exempt. Facilities and agencies excluded from the licensure process are listed. These are basically the same as those under current statute and regulations.

H:\18LEGIS2\SECxSEC.CCL

Four expansions of applicability are proposed as sound public policy. The changes are:

- The exemption for the "occasional" placement of a child for adoption without a license has been deleted. Most, if not all, attorneys now arranging non-relative adoptions, contract with a licensed child placement agency to obtain evaluations and oversight for adoption placements.
- The exemption for governmentally operated programs is removed except where specified. Only one local government, the MOA, has the expertise to license and it does not operate programs.
- The age of a child is changed from "under 16 years of age " to "under 18 years of age" for purposes of requiring licensure in foster homes and residential child care facilities. No known programs would be affected by this change.
- The clause in current statute that allows a foster home or residential facility to operate for 90 days without a license is removed. The primary purpose to reduce risk before persons receive care is lost, if programs begin without licensure. Consider that a person is not allowed to operate an automobile before obtaining a license.

Voluntary licensure is retained. Items that must be submitted in an application for licensure are consolidated in Section 7.

Section 8 (Issuance/Denial) describes license issuance, denial and right to appeal, and the content of a license by consolidating material from existing statute and regulations. On site inspections prior to any license issuance has strong community support.

The term, Variances, rather than, waivers, is used to accurately reflect practice. The procedure for granting variances from standards set out in statute and regulations is set out. Reasonable variances are widely used.

The (Content of the License) is consolidated from five sets of regulations resulting in reducing the reference by 4/5.

Section 9 (Non-transferability) retains the provision that licenses are not transferrable to a different owner or location.

Section 10 (Orientation and Training) requires that applicants or licensees complete orientation and training that the department prescribes in regulation. Currently only child foster home training is mentioned in statute, however orientation and training is required in regulations for all types of care.

(Records) must be kept by the licensee to demonstrate compliance with standards. Since licensing records are open and are frequently

reviewed by parents seeking child care and others, specifying which records are not available for public inspection is important.

Section 11 (Monitoring) outlines the process for monitoring and biennial license renewal. An annual self monitoring report is added. The department believes a self monitoring report will empower the licensee to seek to meet standards and reduce the time necessary in the department's review. In addition the section encourages parents who have placed children in child care to monitor by requiring that they receive a summary of standards and a telephone number for reporting concerns. A partnership with informed parents will help ensure care is safe for young children.

(Renewal) The process for renewal of a license is specified and procedures that were previously only in the department's licensing manual are included. For example, if there is a vacancy in a one person office and a license expires, it is automatically extended for six months or until a department representative may visit to perform the investigation. If the department finds noncompliance, a plan of correction and verification of compliance is required.

(Notice of Changes) Required notices are updated and standardized.

Section 12 (Complaints, investigation, enforcement and grounds for license revocation or nonrenewal) are specified. The majority of this material is a consolidation and refinement of existing regulations. -Changes:

- * A requirement to mail a copy of the report of an investigation to the complainant, if requested.
- * Prohibition of licensee retaliatory action against a complainant. This is especially important to protect employees who are fearful of reporting unsafe practices.
- * Suspension of operations in cases of imminent danger is authorized until the department investigation is complete. Suspension is more appropriate than immediate revocation authorized under current statute.
- * The array of enforcement actions authorized are listed along with the grounds for revocation or nonrenewal. Most appear now only in the department's licensing manual.

Section 13 (Licensing Adult Facilities) outlines procedures for licensing adult residential care facilities, including adult foster homes, in brief. Pioneer Homes, as now, are exempt from licensure. Many provisions in sections 7 - 12 are incorporated by reference. This article would go into effect only if the companion Assisted Living bill did not pass. It will ensure that currently licensed adult care facilities remain regulated by DFYS in the event that the Assisted Living bill does not pass.

Section 14 (Administrative Procedure) complements section 4 in specifying the Administrative Procedures Act applies to the department's most serious enforcement actions under this chapter.

(Immunity from Liability) is provided for individuals and agencies acting under agreement with the department to perform licensing evaluations. Liability concern is often cited as a deterrent to private agencies interested in performing licensing evaluations.

(Penalty) provisions for violations under the chapter as a class B misdemeanor have not been changed.

Section 15 (Definitions) are updated. For example, "nursery" is a term now in statute. It becomes a "child care facility. The outdated term, "institution," becomes "residential child care facility".

Section 16 repeals a number of existing sections in chapter 35.

Sections 17 and 18 (Implementation and Transition Timetable) process and timetable that the department will use for an orderly transition from the current system of licensure to the new one. Nearly 1,900 facilities and agencies now fall under the provisions of this licensing statute. The time line is a year and a half to allow for the transition. During this period the department will review regulations, consult care providers and others, draft revised standards of operation for all types of care and agencies falling under the statute, conduct public review of drafts, promulgate regulations, develop implementation materials and conduct licensing training for both providers and licensors.

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

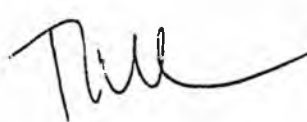
MEMORANDUM

March 16, 1994

SUBJECT: DHSS Licensing Bill (CSHB 412(HES))

TO: Representative Cynthia Toohey
ATTN: Lynne

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is the HES draft you requested for HB 412.

Due to oversights by the persons who drafted the original bill for the Governor's Office, we have found it necessary to add sections 1-5 and 19 to the bill. They each deal with technical changes needed because of references to laws repealed in this bill. Please review these sections in particular to see if they comply with the committee's intent.

We have also rewritten Sec. 47.35.810(a). In the original bill, the immunity would have existed only during the contract but a suit could have been filed after the contract expired. The rewritten language provides immunity for acts or omissions during the contract, regardless of when suit is filed. We recommend that you review this subsection further to determine if there should be an exception for gross negligence or intentional misconduct. (See the last sentence of AS 47.35.810(b), for instance.)

If we can be of other assistance, let us know.

TML:pl
94-210.plm

Enclosure

Community Care Licensing Bill

Goals

- ◆ Licensing is intended to reduce risk to our most vulnerable citizens
- ◆ The legislation will enhance efficiency to accomplish more with the same resources.

Background

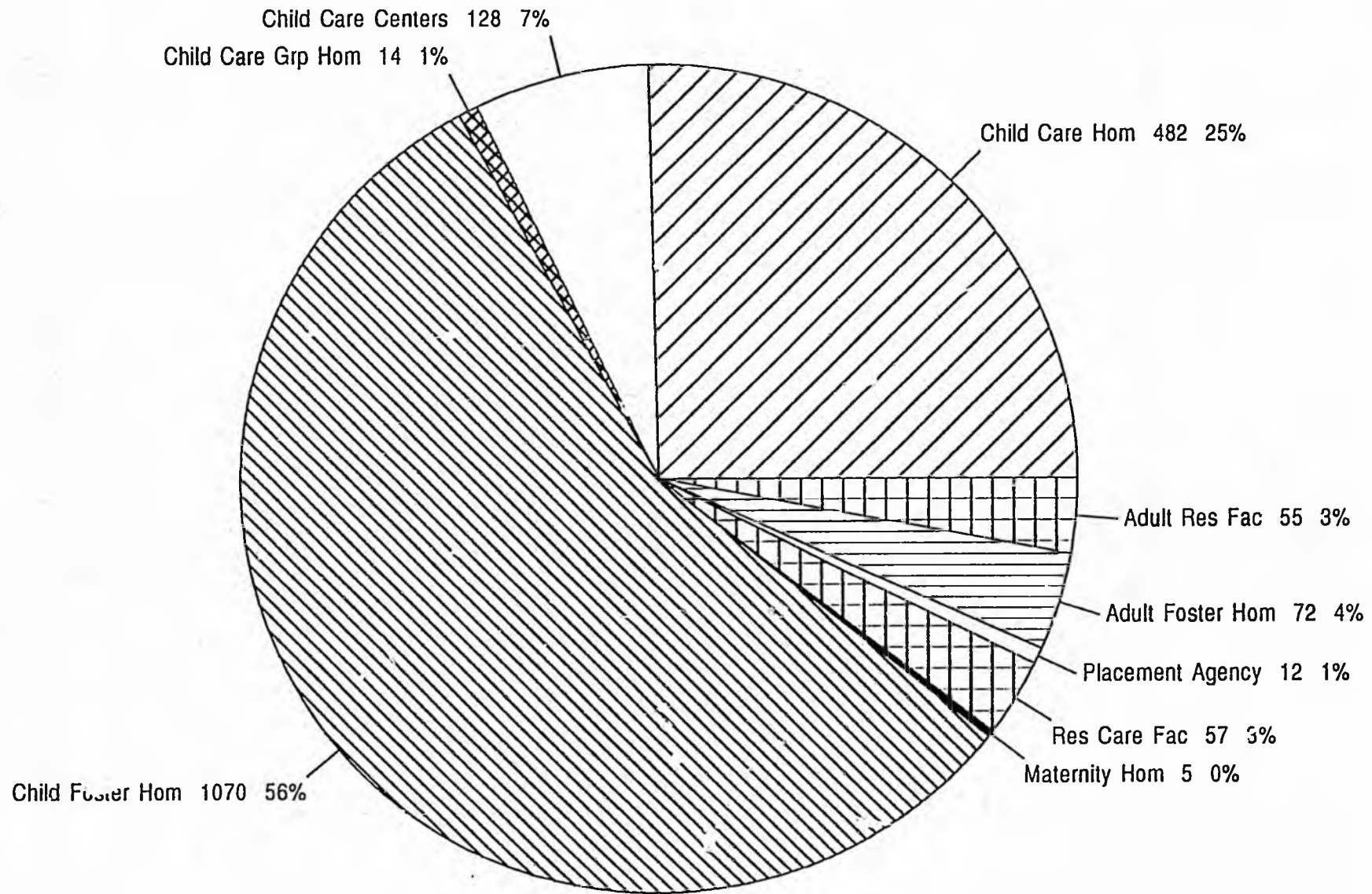
- ◆ DFYS licenses nearly 2,000 facilities and agencies.
- ◆ The public demands more licensed care settings.
- ◆ Workers now license up to nine kinds of care.
- ◆ Workload standards: exceeded by 50% in some places.
- ◆ Many workers also have protective services duties.
- ◆ Workers must know 40 pages of licensing procedures.

Passing Community Care Licensing & Assisted Living will

- ◆ Focus DFYS on children and families.
- ◆ Transfer regulation of care for elders or adults with a disability to divisions in those fields.
- ◆ Advance efficiency and competency by
 - Consolidating licensing procedures
 - Convening a task force to form standards
 - Publishing guidebooks and conducting training
- ◆ Clarify the shared role with parents to ensure their child's safety and development in licensed care.
 - Yet, the state retains duty for oversight.
- ◆ Expand partnerships with private agencies
 - Include liability protection.
 - Encourage partners to increase the number of regulated homes in additional communities.

COMMUNITY CARE LICENSED FACILITIES

FEBRUARY 1994



Total = 1895

WALTER J. HICKEL
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

4470
HB 912
P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

January 28, 1994

The Honorable Ramona Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the licensing, by the Department of Health and Social Services (DHSS), of facilities for the care of children, child placement agencies, maternity homes, and residential facilities and foster homes for adults. The bill reorganizes and clarifies existing licensing statutes and provides much-needed detail in the statutes. The bill's reorganization of the statutes separates licensing of child-related facilities from licensing of adult facilities.

Sections 5 and 7 - 12 of the bill set out new statutory provisions that provide for the licensing and regulation of child foster homes, child care facilities, residential child care facilities, child placement agencies, and maternity homes. Section 7 of the bill clarifies which of these facilities are required to be licensed and which are exempt from licensure. Licensing procedures and requirements, appeal procedures, and operational requirements that apply to all such facilities are set out in secs. 7 - 11. Those sections provide for provisional licenses and biennial licenses, and specify that DHSS must inspect and investigate a facility before either a provisional license or initial biennial license is issued. Renewal procedures for biennial licenses are also provided. Complaint, investigation, and other enforcement provisions are set out in sec. 12 of the bill.

Section 13 of the bill sets out a separate article in AS 47.35 to address licensure and regulation of adult residential care facilities. Many of the provisions in secs. 7 - 12 of the bill are incorporated by reference in the adult residential care facility article. I intend to introduce a bill this session relating to "assisted living homes" for adults; that bill will place licensing and regulation of adult residential facilities in a new chapter in

The Honorable Ramona Barnes

January 28, 1994

Page 2

AS 47. If that bill passes the legislature and becomes law, sec. 13 of the attached bill will not take effect. See sec. 21 of the bill.

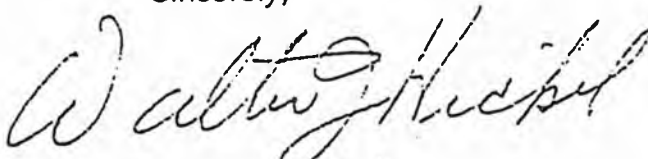
Sections 14 and 15 of the bill set out general provisions for administrative adjudication procedures, liability immunity, criminal penalty, and definitions for AS 47.35.

Sections 1 - 4 and 6 of the bill make conforming amendments to existing statutes to reflect changes made by secs. 5 and 7 - 15 of the bill. Section 16 of the bill repeals most of the existing statutes in AS 47.35 -- their provisions have been reworded and reorganized in secs. 5 and 7 - 15 of the bill. Section 17 of the bill contains transition provisions that specify how the bill affects existing as well as new facilities.

Section 18 of the bill authorizes DHSS to begin the regulation adoption process so that necessary regulations can take effect on the effective date of the statutory changes made by the bill. Sections 19 - 21 provide an immediate effective date for sec. 18 and a January 1, 1996 effective date for the statutory changes made by the remainder of the bill. Section 21 makes the January 1, 1996 effective date for sec. 13 contingent on another adult residential facility bill not becoming law, as discussed earlier in this letter.

I urge your support of this important legislation.

Sincerely,



Walter J. Hickel
Governor

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 28, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/22/94

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 412

HOUSE BILL NO. 412

COMMUNITY CARE FACILITIES

"An Act relating to facilities for the care of children; to child placement agencies; to maternity homes; to certain residential facilities for adults; and to foster homes for adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 412 (HESS) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

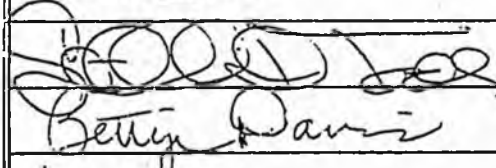
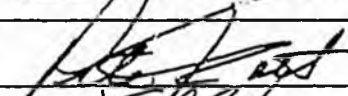
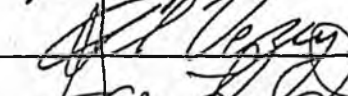
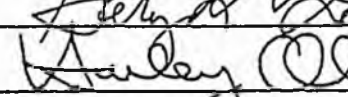
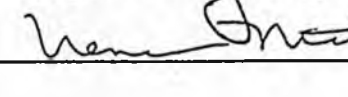
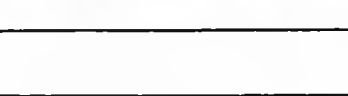
APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) H+SS 1/28/94

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
	✓			✓	
Betty Davis	X			X	
				X	
				✓	
				✓	


 CHAIRMAN'S SIGNATURE

Community Care Licensing Bill

Goals

- ◆ Licensing is intended to reduce risk to our most vulnerable citizens
- ◆ The legislation will enhance efficiency to accomplish more with the same resources.

Background

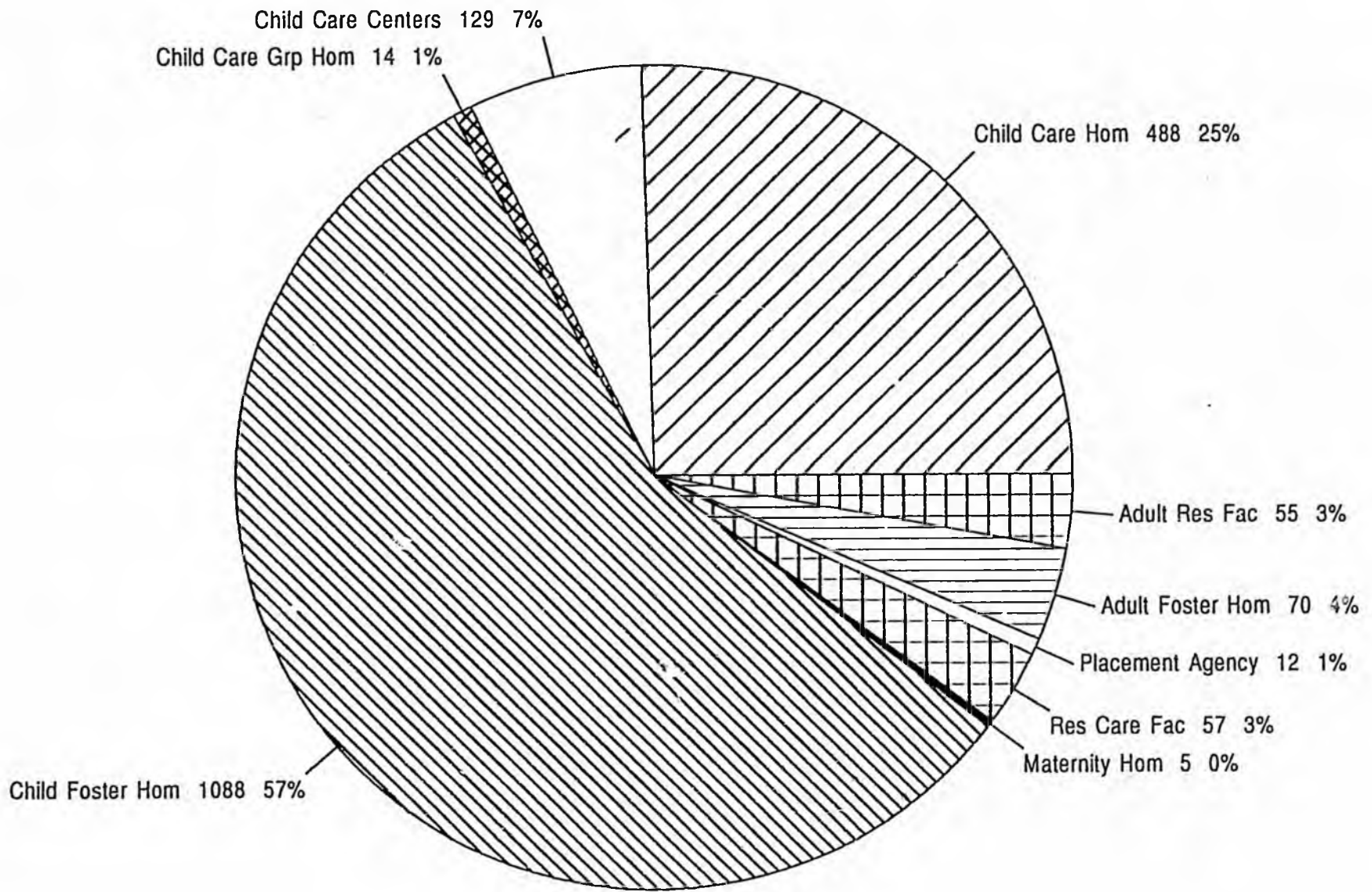
- ◆ DFYS licenses nearly 2,000 facilities and agencies.
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 - Yet, the state retains duty for oversight.
- ◆ Expand partnerships with private agencies
 - Include liability protection.
 - Encourage partners to increase the number of regulated homes in additional communities.

COMMUNITY CARE LICENSED FACILITIES

MARCH 1994



Total = 1918

Community Care Licensing: Section by Section Analysis and Commentary

CS HB 412 HES & CS SB 268 HES Workdraft
April 7, 1994

This bill in large part reflects current licensing practice and the thinking of experienced supervisors in the Division of Family and Youth Services (DFYS). It moves detail from quasi-legislative regulations developed over nearly two decades into a cohesive licensing law. Proposed modest improvements to Alaska licensing are emphasized in this analysis and commentary.

Following introduction of the Governor's Community Care Licensing bill, DFYS conducted a teleconference with the heads of organizations and key agencies that would be affected by the bill. The department drafted amendments suggested by those attending the teleconference.

House HES sent the bill to Legislative Counsel, Terry Lauterbach, to incorporate department amendments with changes suggested by a HES committee member. House HES also requested that Ms. Lauterbach review the bill for conformance with legislative drafting requirements. She proposed technical improvements along with the amendments. All were adopted by the House HES Committee with the support of the department. Other than minor wording modifications, changes from the Governor's bill are noted in this analysis.

Page

- 1 Sections 1 through 8 (Compatibility with Other Statutes) make conforming numbering or terminology amendments to other laws including Criminal, Adoption, Office of the Long Term Care Ombudsman, Child Care grant and Day Care Assistance laws. There is no change in substance. Sections 1--5 were added by Ms. Lauterbach.
- 3 Section 9 (Appeal Hearings) also sets out conforming amendments. It requires that appeal hearings following all serious enforcement by the department be conducted under the provisions of the Administrative Procedures Act. DFYS will conduct appeal hearings under their informal grievance procedure for less onerous actions, such as a denial of a request for a variance.
- 4 Section 10 (Purpose; Applicability) adds a purpose statement. DFYS intends to use the purpose in publications to clarify the role of licensing for providers of service and to inform

parents that they play a critical role in selecting and monitoring care for their children. Section 10 establishes that the provisions of this statute apply both for programs required to be licensed and for those that voluntarily choose to be licensed. The original version of the bill included changing the title of the Chapter from "Institutions" to "Community Care Licensing." Ms. Lauterbach indicated that the Revisor of Statutes selects chapter titles. She noted that the Department prefers "Community Care Licensing" as the title.

4 Section 11 (Powers of the Department) is amended.

- Section 11 reflects updated terminology for facilities and agencies falling under the provisions of the chapter and authorizes the department to adopt fees by regulation. Refer also to the definitions on page 21.
- Section 11 provides authority for the department to enter into agreements with individuals, in addition to organizations, to perform licensing evaluations. DFYS has agreements with about 12 agencies to perform licensing evaluations, primarily foster care. Only three agreements involve state funds, and those three are exempt from the procurement code. Since the procurement code rarely applies, reference to it is removed.
- The material related to delegating powers to a municipality has been revised in collaboration with the Municipality of Anchorage (MOA). The MOA is the only municipality that has adopted an ordinance to license child care centers. The revision reflects the practice of the MOA to adopt additional standards that meet or exceed state standards.

5 Section 12 (License Required; Exemptions) states that a child care license is required unless the facility is exempt. Facilities and agencies excluded from the licensure process are listed. These are the same as those under current statute and regulations with exceptions noted below.

6 The exemption from licensure for child care facilities on military bases was amended in House HES to clearly exempt facilities on Coast Guard installations on the advice of Commander Gary Palmer of Legal Services in the US Coast Guard. The department will continue the exemption on Kodiak Island and the exemptions for the large military bases in Anchorage and Fairbanks, but the department agreed to continue to license family child care homes under voluntary licensure on Coast Guard Installations in communities like Cordova and Sitka. Child care is limited there and the Coast Guard has no oversight means. Licensure will be on a time available basis.

Licensing statutes are not intended to apply to care from relatives. The original bill had a drafting error that was amended in House HES to clearly exempt relative child care and great grandparents were added to the definition of relatives.

Application of the licensing statute is proposed to be expanded in four areas as sound public policy. They are:

- The exemption for governmentally operated programs is removed except where specified. Only one local government, the MOA, has the expertise to license and it does not operate programs.
- 6/7 • The clause in current statute that allows a foster home or residential facility to operate for 90 days without a license is removed. The primary purpose to reduce risk before persons receive care is lost, if programs begin without licensure. Consider that a person is not allowed to operate an automobile before obtaining a license.
- 6/7 • The defined age of a child is changed from "under 16 years of age" to "under 18 years of age" for requiring licensure in foster homes and residential child care. No known programs would be affected by this change.
- 7 • The exemption for the "occasional" placement of a child for adoption without a license has been deleted. Most, if not all, attorneys now arranging non-relative adoptions, contract with a licensed child placement agency to obtain evaluations and oversight for adoption placements.
- 7 Voluntary licensure is retained.
- 8 **(Application for license)**. Items that must be submitted in an application for licensure are consolidated.
- 9 **Section 13** describes license issuance, denial and right to appeal, and the content of a license by consolidating material from existing statute and regulations.
- 9 **(Provisional license; Biennial License)**. Retaining on site inspections prior to license issuance has strong community support as indicated in community meetings on the draft.
- One amendment in House HES addresses the practical matter that only minimal licensing requirements can be met in the middle of the night in a village under emergency conditions. Alaska Native Grantees recommended a direct approach to licensing under emergency placement conditions. See paragraph (b).
- 10 **(Denial of License; Right to Appeal)** Current practice is described.

- 10 The term, (**Variances**), rather than, waivers, more accurately reflects approved alternatives to meeting the intent of a requirement. The procedure for granting variances is set out. Reasonable variances are widely used.
- 11 (**Content of the License**) is consolidated from five sets of regulations resulting in reducing the volume by 4/5.
- 12 House HES amended this section at the request of the department to provide that a variance issued within the period of licensure be posted near the license. This will prevent the need for the extra paperwork of issuing an amended license to display the variance.
- 12 **Section 14 (Non-transferability)** retains the provision that licenses are not transferrable to a different owner or location.
- 12 **Section 15 (Orientation and Training)** requires that applicants or licensees complete orientation and training that the department prescribes in regulation. Currently only child foster home training is mentioned in statute, however orientation and training is required in regulations for all types of care.
- 12 (**Records**) must be kept by the licensee to demonstrate compliance with standards. Since licensing records are open and are frequently reviewed by parents seeking child care and others, specifying which records are not available for public inspection is important. In particular, personal background information provided by foster parents is sensitive and should not be open to inspection by the public.
- 13 **Section 16 (Monitoring; Investigation)** outlines the process for monitoring and biennial license renewal. An annual self monitoring report is added. The department believes a self monitoring report will motivate the licensee to seek to meet standards and reduce the time necessary in the department's review. In addition the section encourages parents who have placed children in child care to monitor by requiring that they receive a summary of standards and a telephone number for reporting concerns. A partnership with informed parents will go a long way toward ensuring care is safe for young children.
- 13 (**Biennial License Renewal**) The process for renewal of a license is specified and procedures that were previously only in the department's licensing manual are included. For example, if there is a vacancy in a one person office and a license expires, it is automatically extended for six months or until a department representative may visit to perform the investigation. If the department finds noncompliance, a plan of correction and verification of compliance is required.

- 14 (Notice of Changes) Required notices are updated and standardized.
- 15 Section 17 (Complaints, investigation, enforcement and grounds for license revocation or nonrenewal) are specified. The majority of this material is a consolidation and refinement of existing regulations. Changes:
- 15 • A requirement to mail a copy of the report of an investigation to the complainant, if requested.
 - 16 • Prohibition of licensee retaliatory action against a complainant. This is especially important to protect employees who are fearful of reporting unsafe practices.
 - 16 • Probable cause is added as the standard for seeking a search warrant when considered necessary.
 - 17 • Suspension of operations in cases of imminent danger is authorized until the department investigation is complete. Suspension is more appropriate than immediate revocation authorized under current statute.
 - 17 • The array of enforcement actions authorized are listed along with the grounds for revocation or nonrenewal. Most appear now only in the department's licensing manual.
- 19 (Licensing Adult Facilities) outlines procedures for licensing adult residential care facilities, including adult foster homes, in brief. Pioneer Homes, as now, are exempt from licensure. Many provisions in bill sections 11 -17 are incorporated by reference. This article would go into effect only if the companion Assisted Living bill did not pass. It will ensure that currently licensed adult care facilities remain regulated by DFYS in the event that the Assisted Living bill does not pass.
- 20 (Administrative Procedure) complements section 9 in specifying appeals fall under the Administrative Procedures Act for serious enforcement actions under this chapter.
- 21 (Immunity from Liability) is provided for individuals and agencies acting under agreement with the department to perform licensing evaluations. Liability concern is often cited as a deterrent to private agencies interested in performing licensing evaluations. Alaska Native and other nonprofit agencies strongly support this section.
- 21 (Penalty) provisions for violations under the chapter as a class B misdemeanor have not been changed.

- 21 Section 18 (Definitions) are updated. For example, "nursery" is a term now in statute. It becomes a "child care facility. The outdated term, "institution," becomes "residential child care facility".
- 22 Section 19 This is an amendment added by Ms. Lauterbach similar to those at the beginning of the bill. It amends terminology in the department's purchase of service chapter to conform to the bill.
- 23 Section 20 repeals several existing sections in Chapter 35.
- 23 Sections 21 -- 26 Remaining sections contain provisions for implementation and the timetable that the department will use for an orderly transition from the current system of licensure to the new one. More than 1,900 facilities and agencies with a capacity for 13,600 individuals now fall under the provisions of this licensing statute. The time line for implementation is a year and a half to allow for the transition. During this period the department will review regulations for seven or more types of facilities and agencies, work with care providers, consumers and others to draft revised standards of operation for each type of care and agency falling under the statute, conduct public review of drafts, promulgate regulations, develop implementation materials and conduct licensing training for both providers and licensors.