

**SB**

**151**

<TARGET><BILL>SB 151</BILL><SUBJECT>SB  
151</SUBJECT><COMM>SHSS29</COMM></TARGET>

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 1/21/16

FURTHER: Judiciary

Date of 5-Day Notice: 1/28/16  
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/10/16

**Health and Social Services Committee** considered SENATE BILL NO. 151

SB 151-DHSS CENT. REGISTRY; LICNSE;BCKGROUND CHK

"An Act relating to criminal and civil history requirements for individuals and entities licensed or certified by the Department of Health and Social Services; relating to the centralized registry for certain individuals or entities that are licensed or certified by the Department of Health and Social Services or are eligible to receive payment from certain programs of the department; and providing for an effective date."

and recommends:

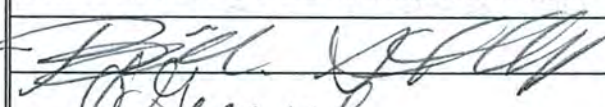
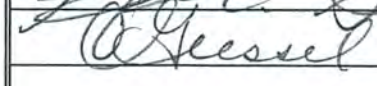

- be replaced with CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)  Same Title  New Title
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
EED	MVA
DEC	DNR
DFG	DPS
GOV	REV
DHS	DOT
AJS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
DHS			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	No REC	AMEND
	STOLTE			✓	
	Giessel	✓			
CHAIR: 	Stolte	✓			

SB151

STATE CAPITOL  
P.O. Box 110001  
Juneau, AK 99811-0001  
907-465-3500  
fax: 907-465-3532



Governor Bill Walker  
STATE OF ALASKA

550 West Seventh Avenue, Suite 1700  
Anchorage, AK 99501  
907-269-7450  
fax 907-269-7461  
www.Gov.Alaska.Gov  
Governor@Alaska.Gov

January 18, 2016

The Honorable Kevin Meyer  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Meyer:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the criminal history, civil history, and the centralized registry for certain individuals or entities that are licensed or certified by the Department of Health and Social Services or are eligible to receive payment from certain programs of the Department of Health and Social Services.

In 2005, AS 47.05.310 - AS 47.05.390 were enacted. The purpose of these statutes was to centralize and formalize the process by which the Department of Health and Social Services conducted criminal background checks for entities and individuals who sought to be licensed providers or who are paid, in whole or in part, by the Department of Health and Social Services to provide services to individuals in the care and custody of the Department of Health and Social Services. Additionally, the Department of Health and Social Services was authorized to create a centralized registry so the State could rely on certain civil findings to bar persons from owning, operating, and being an administrator of certain licensed facilities. Over the ensuing years, certain gaps in the statutes were identified, and this legislation is designed to clarify and amend current statutes to fix those gaps. The changes proposed by the bill are simple amendments to ensure proper application and fairness under the system.

In order to protect our vulnerable citizens yet offer appropriate due process and confidentiality protections to individuals, I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Bill Walker".

Bill Walker  
Governor

Enclosure

Senate Bill 151 Sectional Analysis

Prepared by the Alaska Department of Health and Social Services – 1/21/16

SB 151, an act relating to criminal and civil history requirements for individuals and entities licensed or certified by the Department of Health and Social Services.

Sectional Analysis

- Section 1 Conforming amendment to add new statute number relating to centralized registry under AS 47.05.360
- Section 2 Repeals and reenacts the criminal background statutes (AS 47.05.310) to correct references to the centralized registry under AS 47.05.330 -- see AS 47.05.310(c) and AS 47.05.310(i)(2) and (3). This would alleviate confusion, inconsistencies, and redundancy between these statutes. This section further clarifies that individuals as well as entities can seek a criminal background check and centralized registry check. It also relocates the content of subsection (g) to the general regulation authority in sec. 5 of the bill to implement the chapter.
- Section 3 Adds a new section AS 47.05.325, related to civil history and the centralized registry statute (AS 47.05.330) so that it mirrors the criminal background check statute. This section further clarifies what type of civil findings would constitute a bar to licensure and/or employment and clearly establishes that only those bars that are subject to due process would be applied. This section also adds a paragraph that would include substantiations of barring behavior by the Department of Health and Social Services, Office of Children's Services and Adult Protective Services (references to AS 47.17.040 and AS 47.24). The section also deletes current subsections (c), (d), and (e), and amends existing subsection (f) to "include" what was in (c), (d), (e), and (g).
- Section 4 Repealed and reenacted to remove the confidentiality section from current statute AS 47.05.330(h) to create a stand-alone statute for that purpose and create the centralized registry.
- Section 5 Amends AS 47.05.350 of the existing immunity section in AS 47.05.350 to update the language to include new statute AS 47.05.325
- Section 6 Adds a new subsection to AS 47.03.360 allowing individuals the ability to request corrections and clarify variances, reconsiderations, or appeals rights under this chapter.

- Section 7 Amends AS 47.05.390, adding individual service provider to the definition of “entity”.
- Section 8 Amends AS 47.17.040 to include substantiated findings of abuse or neglect in the Central Registry maintained by the Office of Children’s Services and to clarify that information on this registry can be used for licensing actions taken in this state or another state.
- Section 9 This section amends AS 47.17.040 to confirm due process protections before placement on the central registry.
- Section 10 Amends AS 47.32.070 adding a new section allowing the department to consider licensing history when making determinations or enforcement under this chapter.
- Section 11 Adds a new subsection 47.32.090 stating the department may investigate an individual and if conduct is substantiated, affords the applicant due process to appeal the findings. This section also provides authority to the Department to adopt regulations.
- Section 12 Amends AS 47.32.180 to reference subsection 47.32.140(f) which allows the department the ability to assess civil fines for violations.
- Section 13 AS 47.32.180 adds a new subsection allowing the department the ability to share information from a licensing investigation with law enforcement agencies.
- Section 14 Amends 47.32.190 replacing specific divisions with the department, affording the department the ability to then identify the appropriate division to implement this chapter and access otherwise confidential information from necessary divisions within the department.
- Section 15 Repeals AS 47.05.390(1), the definition for “criminal history records”, and repeals AS 47.32.140(d)(13), the requirement that the entity submit a plan of correction.
- Section 16 Adds a new applicability subsection to the uncodified law of the State of Alaska, applying this act to both criminal and civil conduct.
- Section 17 Amends the uncodified law of the State of Alaska to include a new subsection outlining revisor’s instructions, requesting conforming changes to other existing statutes.
- Section 18 Provides for an immediate effective date.

# Fiscal Note

State of Alaska  
2016 Legislative Session

Bill Version:	SB 151
Fiscal Note Number:	1
(S) Publish Date:	1/21/2016

Identifier: DHSS-RL-12-18-15  
 Title: DHSS CENT. REGISTRY; LICNSE;BCKGROUND  
       CHK  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

Department: Department of Health and Social Services  
 Appropriation: Health Care Services  
 Allocation: Residential Licensing  
 OMB Component Number: 245

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2017 Request	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
<b>OPERATING EXPENDITURES</b>	<b>FY 2017</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

**Change in Revenues**

--	--	--	--	--	--	--	--

**Estimated SUPPLEMENTAL (FY2016) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2017) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no  
 If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable; initial version.
----------------------------------

Prepared By:	Margaret Brodie, Director	Phone:	(907)334-2520
Division:	Health Care Services	Date:	12/17/2015 03:30 PM
Approved By:	Sana Efird, Assistant Commissioner	Date:	12/18/15
Agency:	Health and Social Services		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2016 LEGISLATIVE SESSION

**Analysis**

This bill improves consistency in the application of barring conditions for all individuals in direct contact with vulnerable individuals. Currently, the statutes provide that only certain position types are barred for certain offenses; the same standards are not applied to all applicants. The department is finding that applicants are manipulating this loophole in the application process, and the statutes have exposed vulnerable Alaskans to individuals intended to be barred from contact.

It also allows individuals to submit a background check, personally, without associating with an employer first, which should expedite the employment process for providers and ensure workforce stability for facilities and individuals caring for vulnerable individuals. This bill clarifies what type of civil findings would constitute a bar, such as those that have been subject to due process through an administrative hearing.

This legislation also allows the department to investigate an employee, contractor, or volunteer of a licensed entity and, if a substantiated finding of non-compliant conduct is established, place the employee, contractor, or volunteer on the registry. Currently, state law only allows the department to investigate and issue findings against an entity, not against individuals who work for the entity.

The Centralized Registry would be one piece of the overall comprehensive criminal history search process. It is intended to capture, after appropriate due process is afforded, negative civil information on certain individuals that may not be found elsewhere; effectively barring them from providing services to Alaska's vulnerable populations in licensed and/or certified entities or otherwise receiving monies from the department for providing services.