

SB

89

<TARGET><BILL>SB 89</BILL><SUBJECT>SB
89</SUBJECT><COMM>SRLS29</COMM></TARGET>

ALASKA STATE LEGISLATURE

Interim:
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Charlie Huggins Senate Rules Chairman

Sectional Summary for CSSB 89 (RLS) (Version F)

Section 1. Requires local school boards to adopt policies allowing parents to withdraw their children from any activity, class, program, or standards-based assessment required by the state to which the parent objects.

Section 2. Prohibits school districts and educational services organizations that contract with school districts from contracting with abortion services providers.

Section 3. Prohibits school districts from paying the costs for physical examinations for teachers.

Section 4. Prohibits school districts from permitting abortion services providers to offer, sponsor, or furnish course materials or instruction related to human sexuality or sexually transmitted diseases.

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Explanation of Changes CSSB 89 (STA) Version G to CSSB 89 (RLS) Version F)

Sections 1 and 2: No changes

Section 3, 4, and 5: These sections have been deleted.

Sections 6 and 7: No changes.

Sections 8, 9, and 10: These sections have been deleted.

29-LS0735F
Glover
2/16/16

CS FOR SENATE BILL NO. 89(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS DUNLEAVY, Giessel, Huggins, Stoltze, Kelly, MacKinnon, Coghill, Meyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a parent's right to direct the education of a child; prohibiting a
2 school district from contracting with an abortion services provider; prohibiting a school
3 district from allowing an abortion services provider to furnish course materials or
4 provide instruction concerning sexuality or sexually transmitted diseases; and relating
5 to physical examinations for teachers."

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

7 * **Section 1.** AS 14.03 is amended by adding a new section to read:

8 **Sec. 14.03.016. A parent's right to direct the education of the parent's**
9 **child.** (a) A local school board shall, in consultation with parents, teachers, and school
10 administrators, adopt policies to promote the involvement of parents in the school
11 district's education program. The policies must include procedures

12 (1) recognizing the authority of a parent and allowing a parent to
13 object to and withdraw the child from a standards-based assessment or test required by

1 the state;

2 (2) recognizing the authority of a parent and allowing a parent to
3 object to and withdraw the child from an activity, class, or program because of
4 concern regarding

5 (A) content involving human reproduction or sexual matters;

6 (B) inquiries into personal or private family affairs of the
7 student or family that are not a matter of public record or subject to public
8 observation;

9 (3) providing for parent notification not less than two weeks, but not
10 more than six weeks, before any activity, class, or program that includes content
11 involving human reproduction or sexual matters is provided to a child and requiring
12 written permission from the child's parent before the child may participate in the
13 activity, class, or program;

14 (4) recognizing the authority of a parent and allowing a parent to
15 withdraw the child from an activity, class, program, or standards-based assessment or
16 test required by the state for a religious holiday, as defined by the parent;

17 (5) providing a parent with an opportunity to review the content of an
18 activity, class, performance standard, or program;

19 (6) ensuring that, when a child is absent from an activity, class,
20 program, or standards-based assessment or test required by the state under this section,
21 the absence is not considered an unlawful absence under AS 14.30.020.

22 (b) The policies adopted under (a)(1), (2), and (4) - (6) of this section may not
23 allow a parent categorically to object or withdraw a child from all activities, classes,
24 programs, or standards-based assessments or tests required by the state. The policies
25 must require a parent to object each time the parent wishes to withdraw the child from
26 an activity, class, program, or standards-based assessment or test required by the state.
27 The policies adopted under (a)(3) of this section must require written permission from
28 the child's parent before each separate activity, class, or program is provided to a child
29 that includes content involving human reproduction or sexual matters.

30 (c) In this section,

31 (1) "child" means an unemancipated minor under 18 years of age;

1 (2) "local school board" has the meaning given in AS 14.03.290;
2 (3) "parent" means the natural or adoptive parent of a child or a child's
3 legal guardian;

4 (4) "school district" has the meaning given in AS 14.30.350.

5 * **Sec. 2.** AS 14.03.083 is amended by adding a new subsection to read:

6 (e) A school district and an educational services organization that has a
7 contract with a school district may not contract with an abortion services provider.

8 * **Sec. 3.** AS 14.30 is amended by adding a new section to read:

9 **Sec. 14.30.075. Physical examinations for teachers.** (a) A school district may
10 require physical examinations of teachers as a condition of employment. A school
11 district may not pay the cost of physical examinations for teachers. This section does
12 not affect the coverage of any health insurance benefits that a school district provides
13 to teachers.

14 (b) In this section, "school district" has the meaning given in AS 14.30.350.

15 * **Sec. 4.** AS 14.30.360 is amended by adding a new subsection to read:

16 (c) A school district may not permit an abortion services provider or an
17 employee or volunteer of an abortion services provider to offer, sponsor, furnish
18 course materials, or provide instruction relating to human sexuality or sexually
19 transmitted diseases.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 16, 2016

SUBJECT: Constitutional issues
(CSSB 89(RLS); Work Order No. 29-LS0735(F))

TO: Senator Charlie Huggins
Attn: Jody Simpson

FROM: Kate S. Glover *Ka*
Legislative Counsel

Attached is the draft CS for SB 89 that you requested. I am providing you with this memorandum to advise you that secs. 2 and 4 of the CS, which restrict school districts from contracting with abortion services providers, raise issues under: 1) the First Amendment of the United States Constitution and art. I, secs. 5 and 6 of the Constitution of the State of Alaska, which protect freedom of speech and association; 2) art. I, sec. 10 of the United States Constitution and art. 1, sec. 15 of the Constitution of the State of Alaska, which prohibit the enactment of bills of attainder; and 3) the Fourteenth Amendment to the United States Constitution and art. I, sec. 1 of the Constitution of the State of Alaska, which relate to equal protection. Federal and state courts have come to different conclusions on each of these issues when reviewing similar restrictions, and there are no cases from the Alaska Supreme Court that are directly on point. It is likely that, if enacted, secs. 2 and 4 of the bill will be challenged in court, but it is difficult to predict the outcome.

First amendment. The amendment singles out a group – abortion services providers – and bars members of the group from contracting with public agencies. This restriction could violate the rights of expression or association, guaranteed by art. I, sec. 5 of the Constitution of the State of Alaska and the First Amendment to the United State Constitution.¹

¹ Art. I, sec. 5 provides:

Section 5. Freedom of Speech. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

The First Amendment provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech,

In determining whether a law burdens freedom of expression, a court will examine the reason for the law, and whether it is neutral and of general application.² As the United States Supreme Court observed, "To determine the object of a law, we must begin with its text, for the minimum requirement of neutrality is that a law not discriminate on its face." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993). In this case, the law discriminates on its face in that it directly identifies certain people to bar from contracting.

Affiliation or expression discrimination can be a violation of the First Amendment. In *Board of County Commissioners of Waubesa Co. v. Umbehr*, 518 U.S. 668, 686 (1996), the United States Supreme Court found that a contractor had the right not to have a contract terminated for exercise of his First Amendment rights.³ However, being an abortion provider or associated with a provider may not qualify as expressive conduct for the purpose of determining whether the law burdens First Amendment rights. In *Planned Parenthood of Kan. & Mid-Mo. v. Moser*, 747 F.3d 814, 838 - 40 (10th Cir. 2014), the 10th Circuit Court of Appeals rejected a claim that state denial of funding to an organization because the organization provided abortions constituted unconstitutional punishment for exercise of free speech and associational rights:

Under the "modern unconstitutional conditions doctrine . . . the government may not deny a benefit to a person on a basis that infringes his constitutionally protected freedom of speech even if he has no entitlement to that benefit." *Bd. of Cnty. Comm'rs v. Umbehr*, [*supra* at] 674 . . . [T]he doctrine has been applied when the condition acts prospectively in statutes or regulations that limit a government-provided benefit—typically a subsidy or tax break—to those who refrain from or engage in certain expression or association. *See, e.g., FCC v. League of Women Voters*, 468 U.S. 364, 366 (1984) (federal statute that forbids recipients of public-broadcasting subsidy from "engag[ing] in editorializing" *Speiser v. Randall*, 357 U.S. 513, 515 (1958) (state constitutional provision and

or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

² *Swanner v. Anchorage Equal Rights Com'n*, 874 P. 2d 274, 279 (Alaska 1994); *cert. denied* 513 U.S. 979 (1994).

³ The case involved a trash hauling contractor whose contract was terminated in retaliation for the contractor's public complaints about the county commission and the costs of various government services. *Id. Compare State v. ACLU*, 978 P.2d 597, 619 (Alaska 1999) (a measure that limits persons in a profession from participating in campaigns -- in this case lobbying -- must be narrowly tailored to avoid an undue burden on expressive activity).

effectuating statute that grant tax exemption only to veterans who pledge not to advocate overthrowing the government). These cases recognize that the government ordinarily can impose conditions on the receipt of government funding, but that conditioning a benefit on someone's speech or association achieves an effect similar to direct regulation of the speech or association. *See Rumsfeld v. Forum for Academic & Institutional Rights*, 547 U.S. 47, 59 (2006). These cases have addressed only conditions *explicitly* imposed by the law.

[T]he unconstitutional-conditions doctrine has been applied when the condition acts retrospectively in a *discretionary* executive action that terminates a government-provided benefit—typically public employment, a government contract, or eligibility for either—in retaliation for prior protected speech or association. *See, e.g., Umbehr*, 518 U.S. at 671, 116 S.Ct. 2342 (termination of independent contractor by county officials in retaliation for contractor's criticism of county board); *Perry*, 408 U.S. at 597, 92 S.Ct. 2694 (nonrenewal of professor's contract with state university by board of regents in retaliation for his criticizing the board). In these cases, the government official's action has not been compelled by a statute or regulation; rather, the challenged action is one that would be within the official's discretion if it were not taken in retaliation for the exercise of a constitutional right. Thus, these cases necessarily examine the official's motive for taking the action; the challenge will be rejected unless retaliation against the protected conduct was "a substantial or motivating factor" for taking the action and the official would not "have taken the same action . . . in the absence of the protected conduct." *Umbehr*, 518 U.S. at 675.⁴

In *Planned Parenthood of Kansas & Mid-Missouri*, the plaintiff could have altered its activities to qualify for the grant for providing women's health services, and the law did not itself limit expressive conduct. The 10th Circuit further noted that the legislative motive for the exclusion was not a proper subject of inquiry.⁵

It is not clear whether the Alaska Supreme Court would rule similarly. It is also not clear whether the application of the law to participation of individuals with respect to providing instruction and literature sweeps too broadly.⁶

⁴ *Planned Parenthood of Kansas & Mid-Missouri v. Moser*, 747 F.3d 814, 838 - 39 (10th Cir. 2014) (some quotations, citations, parallel citations omitted; emphasis in original).

⁵ *Id.* at 842 - 43.

⁶ *Compare Alaskans for a Common Language vs. Kritz*, 170 P.3d 183, 200 (Alaska 2007) (provision of "English only" law that affected not only official government speech, which

Bill of attainder. In at least one case, Planned Parenthood has successfully challenged legislation prohibiting abortion services providers from receiving any state funding as a bill of attainder. Art. 1, sec. 10 of the United States Constitution and art. 1 sec. 15 of the Constitution of the State of Alaska prohibit the enactment of bills of attainder. "To constitute a bill of attainder, the statute must (1) specify affected persons, (2) impose punishment, and (3) fail to provide for a judicial trial."⁷ The primary question in this case would likely be whether the bill "imposes punishment." "To rise to the level of 'punishment' under the Bill of Attainder Clause, harm must fall within the traditional meaning of legislative punishment, fail to further a nonpunitive purpose, or be based on a [legislative] intent to punish."⁸ For that reason, it is important to specify a nonpunitive purpose for the bill.

Equal protection. The draft bill also implicates the equal protection clauses of the United States Constitution and the Constitution of the State of Alaska because it singles out employees and representatives of abortion services providers for differential treatment.

The Alaska Supreme Court applies a sliding scale test to reviewing challenges under the equal protection clause. The Court must: (1) determine the weight of the individual interest impaired by the classification; (2) examine the importance of the purposes underlying the government's action; and (3) evaluate the means employed to further those goals to determine the closeness of the means-to-end fit.⁹ The greater the weight of the

can be regulated, but that of private citizens and government employees swept too broadly to survive scrutiny).

⁷ *Planned Parenthood of Central N. Carol. v. Cansler*, 804 F. Supp. 2d 482, 495 (M.D. N.C. 2011) (quoting *Planned Parenthood of Mid-Mo. and E. Kansas v. Dempsey*, 167 F.3d 458, 465 (8th Cir. 1999)). The statute at issue in *Cansler* specifically targets Planned Parenthood and its affiliates. The draft bill does not name Planned Parenthood, but by singling out "abortion services providers," it targets "a narrow class of persons. . . ." *Id.*

⁸ *Dempsey*, 167 F.3d at 465 (citing *Selective Serv. Sys. v. Minn. Pub. Int. Research Group*, 468 U.S. 841, 852 (1984)).

⁹ *Malabed v. N. Slope Borough*; 70 P.3d 416, 421 (Alaska 2003). The legitimate interest standard applies to economic interests, but, to the extent the draft bill burdens interests in employment, it may merit a stricter degree of scrutiny. In *Malabed*, the Court considered an individual's right to seek and obtain employment to be an "important interest," which required not just a legitimate interest, but an important one "and that the nexus between the enactment and the important interest it serves be close." *Id.* at 421 (quoting *State, Dep'ts of Transp. & Labor v. Enserch Alaska Constr., Inc.*, 787 P.2d 624, 633 (Alaska 1989)).

Senator Charlie Huggins
February 16, 2016
Page 5

individual interest, the greater the burden on the state to demonstrate that the classification achieves a legitimate governmental objective. At a minimum, you will need to provide a "legitimate reason" for the disparate treatment and demonstrate that the classification "bears a fair and substantial relationship to that reason."¹⁰ If, however, the interest burdened is a fundamental right (i.e. free speech), then the state must demonstrate a compelling interest and show that no narrower means could be used to meet that interest.¹¹

If I may be of further assistance, please advise.

KSG:lem
16-144.lem

Attachment

¹⁰ *Griswold v. City of Homer*, 252 P.2d 1020 (Alaska 2011) (internal citations and quotation marks omitted).

¹¹ *See Treacy v. Municipality of Anchorage*, 91 P.3d 252, 265 – 66 (Alaska 2004).

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version: SB 89
Fiscal Note Number: _____
() Publish Date: _____

Identifier: SB089CS(STA)-EED-SSA-1-19-16
Title: PARENT RIGHTS: EDUCATION; SCHOOL
ABSENCE
Sponsor: DUNLEAVY
Requester: Senate Rules

Department: Department of Education and Early Development
Appropriation: Teaching and Learning Support
Allocation: Student and School Achievement
OMB Component Number: 2796

Expenditures/Revenues

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

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

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues							
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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? **Yes**
If yes, by what date are the regulations to be adopted, amended or repealed? 12/01/15

Why this fiscal note differs from previous version:

Updated for 2nd Session and to accurately reflect out year costs.

Prepared By:	<u>Dr. Susan A. McCauley, Director</u>	Phone:	(907)465-2857
Division:	<u>Teaching and Learning Support</u>	Date:	01/19/2016 12:00 AM
Approved By:	<u>Mike Hanley, Commissioner</u>	Date:	01/19/16
Agency:	<u>Department of Education & Early Development</u>		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 89

Analysis

Section 1 amends AS 14.03, Public School Generally, by adding a new section, AS 14.03.016, A parent's right to direct the education of the parent's child. This section recognizes the authority of a parent. Additionally, this section requires districts to adopt policies and procedures that allow parents to object to and withdraw the child from a standards-based assessment or test required by the state, or from an activity, class, or program because of concerns regarding human reproduction or sexual matters or inquiries into private family affairs. In addition, districts must provide for parent notification prior to an activity, class, or program that includes content involving human reproduction or sexual matters, and must receive written permission from a parent before a child may participate. Parents must be provided the opportunity to review the content of an activity, class, performance standard or program. If a child is withdrawn from activities, classes, or programs, the absence will not be considered an unlawful absence. Fiscal impact: Unknown because states and districts are required to test 95% of all students under the Elementary and Secondary Education Act (ESEA).

AS 14.03.016 (b) does not allow a parent to categorically object or withdraw a child from activities, classes, programs, or standards-based assessments or tests required by the state; policies must require a parent to object each time.

Section 2 amends AS 14.03.083, Contracting for Services, (e) stating that a school district and an educational services organization that has a contract with a school district may not contract with an abortion services provider. There is no fiscal impact on the department.

Section 3 amends AS 14.03.110, Questionnaires and surveys administered in public schools, (a) by requiring written permission from the student's parent or legal guardian before administering a questionnaire or survey. There is no fiscal impact on the department.

Section 4 amends AS 14.03.110, Questionnaires and surveys administered in public schools, (d) by adding that parents can see the results of surveys or questionnaires. There is no fiscal impact on the department.

Section 5 amends 14.30.070(b) Physical examination required, (b) by permitting the Department of Health and Social Services to require school districts to conduct physical examinations of students and to reimburse districts for the costs of the examinations.

Section 6 amends AS 14.30 by adding a new section, AS 14.30.075 Physical examinations for teachers permitting school districts to require physical examinations of teachers as a condition of employment, but not permitting districts to pay for the costs of the physical examinations.

Section 7 amends AS 14.30.360, Curriculum, by adding a new subsection (c) which restricts school districts from permitting an abortion services provider or an employee or volunteer of an abortion services provider to offer, sponsor, furnish course materials, or provide instruction relating to human sexuality or sexually transmitted diseases.

Section 8 amends 14.30.370 Evaluation by removing reference to AS 14.30.120 Certificate of physical examination which is repealed in section 10.

Section 9 amends 47.05.310 by adding a new subsection (j) that allows an individual who possesses a valid teacher certificate and applies to work at a child care facility or residential child care facility to request that criminal justice information and national criminal history records on file with the Department of Education and Early Development be sent to the Department of Health and Social Services to satisfy fingerprinting and background check requirements.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

BILL NO. SB 89

Analysis Continued

Section 10 repeals 14.30.070(a) which requires physical examinations for students upon entering public school; and 14.30.120 which requires a certificate of a physical examination provided by a school district to be given to a child's parents.



LAWS OF ALASKA

2015

SECOND SPECIAL SESSION

Source
SCS CSHB 44(FIN)

Chapter No.

AN ACT

Relating to course mastery requirements; relating to the duties of the Department of Education and Early Development; relating to questionnaires administered in a public school; relating to the duties of school districts and regional educational attendance areas; relating to teacher certification requirements; relating to training for school employees and mandatory reporters of child abuse or neglect; relating to physical examinations for students; relating to sexual abuse and sexual assault awareness and prevention efforts in public schools; relating to dating violence and abuse awareness and prevention efforts in public schools; relating to national criminal history record check requirements for employees of child care facilities and residential child care facilities; relating to mandatory reporters of child abuse or neglect; repealing the requirement for secondary students to take college and career readiness assessments; establishing the Alaska Safe Children's Act Task Force; relating to suicide prevention training; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to course mastery requirements; relating to the duties of the Department of Education
2 and Early Development; relating to questionnaires administered in a public school; relating to
3 the duties of school districts and regional educational attendance areas; relating to teacher
4 certification requirements; relating to training for school employees and mandatory reporters
5 of child abuse or neglect; relating to physical examinations for students; relating to sexual
6 abuse and sexual assault awareness and prevention efforts in public schools; relating to dating
7 violence and abuse awareness and prevention efforts in public schools; relating to national
8 criminal history record check requirements for employees of child care facilities and
9 residential child care facilities; relating to mandatory reporters of child abuse or neglect;
10 repealing the requirement for secondary students to take college and career readiness
11 assessments; establishing the Alaska Safe Children's Act Task Force; relating to suicide

1 prevention training; and providing for an effective date.

2

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. Section 14 of this Act may be known as the Alaska Safe Children's
6 Act.

7 * **Sec. 2.** AS 14.03.073(a) is amended to read:

8 (a) A school district shall provide the opportunity for students enrolled in
9 **grades nine through 12** [A SECONDARY SCHOOL] in the district to challenge **one**
10 **or more courses** [A COURSE] provided by the district by demonstrating mastery in
11 mathematics, language arts, science, social studies, and world languages at the level of
12 the course challenged. A school district shall give full credit for a course to a student
13 who successfully challenges that course as provided under this section.

14 * **Sec. 3.** AS 14.03.073(b) is amended to read:

15 (b) A school district shall establish, within a reasonable time, an assessment
16 tool and a standard for demonstrating mastery in [SECONDARY SCHOOL] courses
17 provided **for students in grades nine through 12** by the district under this section.
18 **This section does not require a school district to establish an assessment tool for**
19 **every course in mathematics, language arts, science, social studies, and world**
20 **languages that is offered to students in grades nine through 12 by the district.**

21 * **Sec. 4.** AS 14.03.110(a) is amended to read:

22 (a) A school district, principal or other person in charge of a public school, or
23 teacher in a public school may not administer or permit to be administered in a school
24 a questionnaire or survey, whether anonymous or not, [THAT INQUIRES INTO
25 PERSONAL OR PRIVATE FAMILY AFFAIRS OF THE STUDENT NOT A
26 MATTER OF PUBLIC RECORD OR SUBJECT TO PUBLIC OBSERVATION]
27 unless written permission is obtained from the student's parent or legal guardian.

28 * **Sec. 5.** AS 14.03.110(d) is amended to read:

29 (d) The school shall give a student's parent or guardian an opportunity to
30 review the questionnaire or survey described under (b) or (c) of this section and shall

1 give the parent or guardian written notice regarding

2 (1) how the questionnaire or survey will be administered to the
3 student;

4 (2) how the results of the survey or questionnaire will be used; and

5 (3) who will have access to the questionnaire, [OR] survey, or results.

6 * **Sec. 6.** AS 14.08.111 is amended to read:

7 **Sec. 14.08.111. Duties.** A regional school board shall

8 (1) provide, during the school term of each year, an educational
9 program for each school age child who is enrolled in or a resident of the district;

10 (2) develop a philosophy of education, principles, and goals for its
11 schools;

12 (3) approve the employment of the professional administrators,
13 teachers, and noncertificated personnel necessary to operate its schools;

14 (4) establish the salaries to be paid its employees;

15 (5) designate the employees authorized to direct disbursements from
16 the school funds of the board;

17 (6) submit the reports prescribed for all school districts;

18 (7) provide for an annual audit in accordance with AS 14.14.050;

19 (8) provide custodial services and routine maintenance of school
20 buildings and facilities;

21 (9) establish procedures for the review and selection of all textbooks
22 and instructional materials, including textbooks and curriculum materials for statewide
23 correspondence programs, before they are introduced into the school curriculum; the
24 review includes a review for violations of AS 14.18.060; nothing in this paragraph
25 precludes a correspondence study student, or the parent or guardian of a
26 correspondence study student, from privately obtaining or using textbooks or
27 curriculum material not provided by the school district;

28 (10) provide prospective employees with information relating to the
29 availability and cost of housing in rural areas to which they might be assigned, and,
30 when possible, assist them in locating housing; however, nothing in this paragraph
31 requires a regional school board to provide teacher housing, whether owned, leased, or

1 rented or otherwise provided by the regional educational attendance area, nor does it
2 require the board to engage in a subsidy program of any kind with respect to teacher
3 housing; [AND]

4 (11) train persons required to report under AS 47.17.020, in the
5 recognition and reporting of child abuse, neglect, and sexual abuse of a minor; and

6 (12) establish procedures for providing the training under
7 AS 14.18.060, AS 14.20.149, 14.20.680, AS 14.30.355, 14.30.356, 14.30.362,
8 AS 14.33.100, 14.33.127, AS 18.66.310, and AS 47.17.022; the procedures
9 established under this paragraph must include a training schedule that ensures
10 that not less than 50 percent of the total certificated staff employed at a school
11 receives all of the training not less than every two years and that all of the
12 certificated staff employed at each school receives all of the training not less than
13 every four years.

14 * Sec. 7. AS 14.14.090 is amended to read:

15 **Sec. 14.14.090. Duties of school boards.** In addition to other duties, a school
16 board shall

17 (1) determine and disburse the total amount to be made available for
18 compensation of all school employees and administrative officers;

19 (2) provide for, during the school term of each year, an educational
20 program for each school age child who is enrolled in or a resident of the district;

21 (3) withhold the salary for the last month of service of a teacher or
22 administrator until the teacher or administrator has submitted all summaries, statistics,
23 and reports that the school board may require by bylaws;

24 (4) transmit, when required by the assembly or council but not more
25 often than once a month, a summary report and statement of money expended;

26 (5) keep the minutes of meetings and a record of all proceedings of the
27 school board in a pertinent form;

28 (6) keep the records and files of the school board open to inspection by
29 the public at the principal administrative office of the district during reasonable
30 business hours;

31 (7) establish procedures for the review and selection of all textbooks

1 and instructional materials, including textbooks and curriculum materials for statewide
2 correspondence programs, before they are introduced into the school curriculum; the
3 review includes a review for violations of AS 14.18.060; nothing in this paragraph
4 precludes a correspondence study student, or the parent or guardian of a
5 correspondence study student, from privately obtaining or using textbooks or
6 curriculum material not provided by the school district;

7 (8) provide prospective employees with information relating to the
8 availability and cost of housing in rural areas to which they might be assigned, and,
9 when possible, assist them in locating housing; however, nothing in this paragraph
10 requires a school district to provide teacher housing, whether district owned, leased,
11 rented, or through other means, nor does it require a school board to engage in a
12 subsidy program of any kind regarding teacher housing;

13 (9) train persons required to report under AS 47.17.020, in the
14 recognition and reporting of child abuse, neglect, and sexual abuse of a minor;

15 (10) provide for the development and implementation of a preventative
16 maintenance program for school facilities; in this paragraph, "preventative
17 maintenance" means scheduled maintenance actions that prevent the premature failure
18 or extend the useful life of a facility, or a facility's systems and components, and that
19 are cost-effective on a life-cycle basis;

20 **(11) establish procedures for providing the training under**
21 **AS 14.18.060, AS 14.20.149, 14.20.680, AS 14.30.355, 14.30.356, 14.30.362,**
22 **AS 14.33.100, 14.33.127, AS 18.66.310, and AS 47.17.022; the procedures**
23 **established under this paragraph must include a training schedule that ensures**
24 **that not less than 50 percent of the total certificated staff employed at a school**
25 **receives all of the training not less than every two years and that all of the**
26 **certificated staff employed at each school receives all of the training not less than**
27 **every four years.**

28 * Sec. 8. AS 14.16.020 is amended to read:

29 **Sec. 14.16.020. Operation of state boarding schools.** In the management of
30 state boarding schools, the board shall

31 (1) adopt a philosophy of education for state boarding schools;

1 (2) approve the employment of personnel necessary to operate state
2 boarding schools;

3 (3) establish the salaries and benefits to be paid teachers, excluding
4 administrators;

5 (4) designate the employees authorized to direct disbursements from
6 the money appropriated for the operation of state boarding schools and for the
7 construction of facilities;

8 (5) provide custodial services and routine maintenance of physical
9 facilities;

10 (6) establish procedures for the development and implementation of
11 curriculum and the selection and use of textbooks and instructional materials;

12 (7) prescribe health evaluation and placement screening programs for
13 newly admitted students;

14 (8) establish procedures for staff evaluation; and

15 (9) **establish procedures for providing the training under**
16 **AS 14.18.060, AS 14.20.149, 14.20.680, AS 14.30.355, 14.30.356, 14.30.362,**
17 **AS 14.33.100, 14.33.127, AS 18.66.310, and AS 47.17.022; the procedures**
18 **established under this paragraph must include a training schedule that ensures**
19 **that not less than 50 percent of the total certificated staff employed at a school**
20 **receives all of the training not less than every two years and that all of the**
21 **certificated staff employed at each school receives all of the training not less than**
22 **every four years** [PROVIDE STAFF TRAINING].

23 * **Sec. 9.** AS 14.18.060(b) is amended to read:

24 (b) The board shall establish by regulation standards for nondiscriminatory
25 textbooks and educational materials. Each school board shall provide training for all
26 its certificated personnel **on a schedule adopted by the governing body of a school**
27 **district** in the identification and recognition of sex-biased materials.

28 * **Sec. 10.** AS 14.20.020 is amended by adding a new subsection to read:

29 (k) A person is not eligible for a teacher certificate unless the person has
30 completed training regarding alcohol and drug related disabilities required under
31 AS 14.20.680, training regarding sexual abuse and sexual assault awareness and

1 prevention required under AS 14.30.355, training regarding dating violence and abuse
2 awareness and prevention required under AS 14.30.356, and training related to suicide
3 prevention required under AS 14.30.362.

4 * **Sec. 11.** AS 14.20.149(d) is amended to read:

5 (d) A [ONCE EACH SCHOOL YEAR, A] school district shall offer in-
6 service training to the certificated employees who are subject to the evaluation system
7 on a schedule adopted by the governing body of a school district. The training
8 must address the procedures of the evaluation system, the standards that the district
9 uses in evaluating the performance of teachers and administrators, and other
10 information that the district considers helpful.

11 * **Sec. 12.** AS 14.20.680(b) is repealed and reenacted to read:

12 (b) A school district or regional educational attendance area shall provide the
13 training required under (a) of this section on a schedule adopted by the governing
14 body of a school district or regional educational attendance area.

15 * **Sec. 13.** AS 14.30.070(b) is amended to read:

16 (b) The Department of Health and Social Services may require the district to
17 conduct [ADDITIONAL] physical examinations that it considers necessary, and may
18 reimburse the district for the [ADDITIONAL] examinations on the basis and to the
19 extent the commissioner of health and social services prescribes by regulation.

20 * **Sec. 14.** AS 14.30 is amended by adding new sections to read:

21 **Article 6A. Sexual Abuse and Sexual Assault Awareness and Prevention.**

22 **Sec. 14.30.355. Sexual abuse and sexual assault awareness and prevention.**

23 (a) The governing body of each school district shall adopt and implement a policy,
24 establish a training program for employees and students, and provide parent notices
25 relating to sexual abuse and sexual assault awareness and prevention for students
26 enrolled in grades kindergarten through 12.

27 (b) The policy, training, and notices adopted under this section must include

- 28 (1) age-appropriate information;
29 (2) warning signs of sexual abuse of a child;
30 (3) referral and resource information;
31 (4) available student counseling and educational support;

1 (5) methods for increasing teacher, student, and parent awareness of
2 issues regarding sexual abuse of children;

3 (6) actions that a child may take to prevent and report sexual abuse or
4 sexual assault; and

5 (7) a procedure allowing a student to be excused from participating in
6 training or from receiving notices under this section at the written request of a parent
7 or guardian of the student, or of the student if the student is emancipated or 18 years of
8 age or older.

9 (c) The training required for teachers under this section may be provided as a
10 part of the continuing education required under AS 18.66.310.

11 (d) In this section,

12 (1) "school district" has the meaning given in AS 14.30.350;

13 (2) "sexual abuse" or "sexual assault" has the meaning given to "sexual
14 abuse" in AS 47.10.990.

15 **Sec. 14.30.356. Dating violence and abuse policy, training, awareness,**
16 **prevention, and notices.** (a) The governing body of each school district shall adopt
17 and implement a policy, establish a training program for employees and students, and
18 provide parent notices relating to dating violence and abuse in grades seven through
19 12. A training program adopted under this section must emphasize prevention and
20 awareness.

21 (b) The policy, training, notices, and instruction adopted under this section
22 must include

23 (1) age-appropriate information;

24 (2) the warning signs of dating violence and abusive behavior;

25 (3) characteristics of healthy relationships;

26 (4) measures to prevent and stop dating violence and abuse;

27 (5) community resources available to victims of dating violence and
28 abuse; and

29 (6) a procedure allowing a student to be excused from participating in
30 training or from receiving notices under this section at the written request of a parent
31 or guardian of the student, or of the student if the student is emancipated or 18 years of

1 age or older.

2 (c) The training required for teachers under this section may be provided as a
3 part of the continuing education required under AS 18.66.310.

4 (d) In this section,

5 (1) "dating violence and abuse" means a pattern of behavior in which
6 one person threatens to use, or actually uses, physical, sexual, verbal, emotional, or
7 psychological abuse to control the person's dating partner;

8 (2) "school district" has the meaning given in AS 14.30.350.

9 * **Sec. 15.** AS 14.30 is amended by adding a new section to read:

10 **Sec. 14.30.362. Suicide awareness and prevention training.** (a) A school
11 district and the department shall provide youth suicide awareness and prevention
12 training approved by the commissioner to each teacher, administrator, counselor, and
13 specialist who is employed by the district or department to provide services to students
14 in grades seven through 12 in a public school in the state at no cost to the teacher,
15 administrator, counselor, or specialist.

16 (b) The commissioner shall approve youth suicide awareness and prevention
17 training provided under this section if the training meets standards for professional
18 continuing education credit in the state and is periodically reviewed by a qualified
19 person or committee for consistency with generally accepted principles of youth
20 suicide awareness and prevention. The training may be offered through
21 videoconferencing or an individual program of study of designated materials.

22 (c) A person may not bring a civil action for damages against the state or a
23 school district, or an officer, agent, or employee of the state or a school district, for a
24 death, personal injury, or property damage that results from an act or omission in
25 performing or failing to perform activities or duties authorized under this section. This
26 subsection does not apply to a civil action for damages as a result of intentional
27 misconduct with complete disregard for the safety and property of others.

28 (d) The training under this section shall be provided according to the schedule
29 adopted by the governing body of a school district.

30 (e) The training provided or the failure to provide training under this section
31 may not be construed to impose a specific duty of care on any person.

1 * **Sec. 16.** AS 14.30.370 is amended to read:

2 **Sec. 14.30.370. Evaluation.** Health education programs conducted under
3 AS 14.30.360 shall be evaluated by the department in the same manner as other
4 curriculum programs are evaluated, except that the evaluation shall also include
5 changes in the health status of the pupils as determined by physical and dental
6 examinations conducted under AS 14.30.070 [AND 14.30.120].

7 * **Sec. 17.** AS 14.33.100(d) is amended to read:

8 (d) Each district shall [ANNUALLY] provide to each district employee
9 training in crisis response, including evacuation and lock down drills. **New district**
10 **employees who have not previously received the training required under this**
11 **subsection shall receive the required training within two years after the first day**
12 **of employment and, thereafter, according to the schedule adopted by the**
13 **governing body of a school district.**

14 * **Sec. 18.** AS 18.66.310(d) is amended to read:

15 (d) The continuing education required under (a) - (c) of this section must **be**
16 **offered at least once every two years and must** include information on the following
17 subjects:

18 (1) the nature, extent, and causes of domestic violence;

19 (2) procedures designed to promote the safety of the victim and other
20 household members;

21 (3) resources available to victims and perpetrators of domestic
22 violence; and

23 (4) the lethality of domestic violence.

24 * **Sec. 19.** AS 47.05.310 is amended by adding new subsections to read:

25 (j) An individual who possesses a valid teacher certificate issued under
26 AS 14.20.015 - 14.20.025 and applies to work at a facility licensed or certified by the
27 Department of Education and Early Development or who applies to work in a child
28 care facility or residential child care facility in a position as a certificated teacher with
29 supervised access may request that the individual's criminal justice information and
30 national criminal history record check on file with the Department of Education and
31 Early Development be used to satisfy the requirements of (d) and (e) of this section.

1 (k) In this section,

2 (1) "child care facility" has the meaning given in AS 47.25.095;

3 (2) "residential child care facility" has the meaning given in
4 AS 47.32.900;

5 (3) "supervised access" means that a supervisor maintains a prudent
6 level of awareness of the whereabouts of the individual for whom supervised access is
7 required to ensure the protection of recipients of services.

8 * **Sec. 20.** AS 47.17.020(a) is amended to read:

9 (a) The following persons who, in the performance of their occupational
10 duties, [OR WITH RESPECT TO (8) OF THIS SUBSECTION, IN THE
11 PERFORMANCE OF] their appointed duties **under (8) of this subsection, or their**
12 **volunteer duties under (9) of this subsection**, have reasonable cause to suspect that a
13 child has suffered harm as a result of child abuse or neglect shall immediately report
14 the harm to the nearest office of the department:

15 (1) practitioners of the healing arts;

16 (2) school teachers and school administrative staff members, including
17 athletic coaches, of public and private schools;

18 (3) peace officers and officers of the Department of Corrections;

19 (4) administrative officers of institutions;

20 (5) child care providers;

21 (6) paid employees of domestic violence and sexual assault programs,
22 and crisis intervention and prevention programs as defined in AS 18.66.990;

23 (7) paid employees of an organization that provides counseling or
24 treatment to individuals seeking to control their use of drugs or alcohol;

25 (8) members of a child fatality review team established under
26 AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created
27 under AS 47.14.300;

28 **(9) volunteers who interact with children in a public or private**
29 **school for more than four hours a week.**

30 * **Sec. 21.** AS 47.17.020 is amended by adding a new subsection to read:

31 (j) This section does not require an athletic coach who is an unpaid volunteer

1 to report child abuse or neglect under (a)(2) of this section unless the coach

2 (1) volunteers for more than

3 (A) four hours a week for four consecutive weeks; or

4 (B) 20 hours a week in a one-month period;

5 (2) has received the training required under AS 47.17.022; and

6 (3) has signed a form acknowledging that the coach is required to
7 report child abuse or neglect under this section.

8 * **Sec. 22.** AS 47.17.022(b) is amended to read:

9 (b) Each department of the state and school district that employs persons
10 required to report abuse or neglect of children shall provide

11 (1) initial training required by this section to each new employee
12 **within 45 days after the first day** [DURING THE EMPLOYEE'S FIRST SIX
13 MONTHS] of employment, and to any existing employee who has not received
14 equivalent training; and

15 (2) [AT LEAST ONCE EVERY FIVE YEARS,] appropriate in-
16 service training required by this section as determined by the department or school
17 district.

18 * **Sec. 23.** AS 47.17.022 is amended by adding a new subsection to read:

19 (e) Each school district that provides training under this section shall provide
20 notice to public and private schools located in the school district of the availability of
21 the training and invite volunteers who are required to report abuse or neglect of
22 children under AS 47.17.020 to participate in the training at no cost to the volunteer.

23 * **Sec. 24.** AS 47.17.290(1) is amended to read:

24 (1) "athletic coach" **means**

25 **(A)** [INCLUDES] a paid leader or assistant of a sports team; **or**

26 **(B)** **a volunteer leader or assistant of a sports team who**
27 **volunteers as a leader or assistant of a sports team for more than four**
28 **hours a week;**

29 * **Sec. 25.** AS 14.03.075(a), 14.03.075(b), 14.03.075(c), 14.03.075(e)(1);
30 AS 14.07.165(a)(5), 14.07.165(b); AS 14.30.070(a), and 14.30.120 are repealed.

31 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 ALASKA SAFE CHILDREN'S ACT TASK FORCE. (a) The Alaska Safe Children's
3 Act Task Force is created in the Department of Education and Early Development for the
4 purpose of providing recommendations to the Department of Education and Early
5 Development regarding model curricula for use by school districts. The task force shall
6 provide recommendations for age-appropriate model curricula and teacher training materials
7 related to

8 (1) suicide prevention training required under ch. 34, SLA 2012, and
9 AS 14.30.362, enacted by sec. 15 of this Act;

10 (2) sexual abuse and sexual assault awareness training and prevention required
11 under AS 14.30.355, enacted by sec. 14 of this Act;

12 (3) dating violence and abuse awareness training and prevention required
13 under AS 14.30.356, enacted by sec. 14 of this Act;

14 (4) alcohol and drug related disabilities training required for teachers and staff
15 under AS 14.20.680, as amended by sec. 12 of this Act; and

16 (5) alcohol and drug abuse education described under AS 14.30.360.

17 (b) The task force consists of 10 members as follows:

18 (1) two senators appointed by the president of the senate;

19 (2) two representatives appointed by the speaker of the house of
20 representatives;

21 (3) the commissioner of education and early development or the
22 commissioner's designee;

23 (4) the chair of the state Board of Education and Early Development or the
24 chair's designee;

25 (5) the executive director of the Council on Domestic Violence and Sexual
26 Assault established under AS 18.66.010 or the executive director's designee;

27 (6) the executive director of the Alaska children's trust established under
28 AS 37.14.200 or the executive director's designee;

29 (7) the executive director of the Statewide Suicide Prevention Council
30 established under AS 44.29.300 or the executive director's designee; and

31 (8) a representative from the Rasmuson Foundation.

1 (c) The legislative members of the task force described in (b)(1) and (2) of this
2 section are ex officio members. The voting members of the task force shall select the chair of
3 the task force.

4 (d) The task force shall, not later than June 30, 2016, provide the Department of
5 Education and Early Development with the recommendations for model curricula and teacher
6 training materials described in (a) of this section.

7 (e) The task force shall meet as frequently as necessary to carry out its
8 responsibilities.

9 (f) The staff of the Department of Education and Early Development shall provide
10 administrative and other support to the task force.

11 (g) The task force expires June 30, 2016.

12 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 APPLICABILITY. AS 14.20.020(k), enacted by sec. 10 of this Act, applies to teacher
15 certificates issued on or after the effective date of sec. 10 of this Act. A teacher certificate
16 issued before the effective date of sec. 10 of this Act may not be renewed on or after the
17 effective date of sec. 10 of this Act unless the teacher has completed the training required
18 under AS 14.20.020(k), enacted by sec. 10 of this Act.

19 * **Sec. 28.** Sections 1, 4, 10, 14, and 20 - 24 of this Act take effect June 30, 2017.

20 * **Sec. 29.** Section 25 of this Act takes effect June 30, 2016.

21 * **Sec. 30.** Section 15 of this Act takes effect July 1, 2016.