

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3005

SB

124

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED CUT
APR 27 2005
SENATE FINANCE
COMMITTEE

DATE: 3/18/05

FURTHER:

DATE TURNED
IN TO OFFICE: 4/27/05

Finance Committee considered

SENATE BILL NO. 124

SB 124 FISHERIES BUSINESS LICENSE; BOND

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 124 (L+C)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Rev.	4/1/05			✓	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DCED	2/4/05			✓	2
F&G	12/16/04			✓	3
Labor	2/21/05			✓	4
Labor	2/24/05			✓	5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT

APR 27 2005

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 124 (Y)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Bonds & Accountability; Processors/UI RDU Revenue Programs & Services
/UI/OSHA Component Tax Division
Sponsor Governor
Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill represents several modifications to existing fisheries business tax licensing and surety bond requirements: 1) it adds the Seafood Marketing Assessment, UI tax, OSHA fines, and local fish taxes to the list of liabilities that must be paid in full to obtain and hold a fisheries business license; 2) lowers the requirements for payment of UI tax from a processors surety bond while retaining priority for employees and fishermen; and 3) increases protections in place for employees and fishermen by modifying the rules under which bonding requirements are raised for processors that fail to pay employees, fishermen, or UI tax.

We do not expect to incur additional costs as a result of the legislation. We expect to collect additional Seafood Marketing Assessments under this legislation.

Prepared by: Chuck Harlamert Phone 465-2320
Division Tax Division Date/Time 4/1/05 8:11 AM
Approved by: Tom Boutin, Deputy Commissioner Date 4/1/2005
Agency Revenue

APR 27 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Fisheries Business License and RDU Investments (122)
Fish Processor/Primary Buyer Bonds Component Investments
Sponsor Rules
Requester By Request of the Governor Component No. 383

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPIT. EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes requirements to obtain and maintain a fisheries business license, and to the bonding requirements for fish processors and primary fish buyers. It does not impact the operations of the division.

Prepared by: Greg Winegar, Director
Division: Investments
Approved by: Edgar Blatchford, Commissioner
Agency: Department of Commerce, Community & Economic Development

Phone 907.465.2510
Date/Time 2/4/05 6:25 PM
Date 2/4/2005

4/22/2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Relating to requirements to obtain and RDU _____
maintain a fisheries business license Component _____
Sponsor Rules Committee _____
Requester Governor Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone 465-6137
Division: Legislative Liaison Date/Time 12/6/04 3:01 PM
Approved by: Commissioner Kevin Duffy Date 12/6/2004
Agency: Alaska Department of Fish & Game

APR 27 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: SB 124
(S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: "An Act relating to requirements to obtain RDU: Employment Security
and maintain a fisheries business license..." Component: Unemployment Insurance
Sponsor: Rules
Requester: Governor Component Number: 2276

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Tom W. Nelson, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 2/24/05 10:47 AM
Approved by: Greg O'Claray, Commissioner Date: 2/24/2005
Agency: Department of Labor and Workforce Development

FISCAL NOTE

REPORTED OUT

APR 27 2005

SENATE FINANCE
COMMITTEE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 5
 Bill Version: SB 124
 (S) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: "An Act relating to requirements to obtain RDU: Labor Standards and Safety
 and maintain a fisheries business license..." Component: Wage and Hour
 Sponsor: Rules
 Requester: Governor Component Number: 345

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation changes bonding requirements for fish processors and primary fish buyers. There is no anticipated financial impact to the department as a result of this legislation.

Prepared by: Groy Mitchell, Director Phone: 465-4855
 Division: Labor Standards and Safety Date/Time: 2/24/05 10:47 AM
 Approved by: Greg O'Clary, Commissioner Date: 2/24/2005
 Agency: Department of Labor and Workforce Development

SB 124

Overview

The bill adds Employment Security Contributions, OSHA fines, the Seafood Marketing Assessment, and local fish taxes to the list of obligations that a processor must be current with to hold a fisheries business license. Current law requires processors to be current with their taxes under Title 43, principally fish taxes and the corporate net income tax. The change will significantly improve collections of the added obligations and reduce the degree to which employers and employees subsidize non-paying employers. The provisions are contained in Section 1 of the bill.

The bill streamlines the process under which the Department of Labor and Workforce Development collects unpaid Employment Security Contributions from a processor's labor bond. Existing law requires a court ordered judgment - an expensive and sometimes ineffective process. Priority for claims is given to employees and fishermen. The provisions are contained in Section 2 of the bill.

The bill modifies bond requirements to increase bond levels and restrict the form of the bond in response to processor behavior. These provisions are contained in Section 2 of the bill.

- Bond level made more responsive to processor behavior. Existing law increases the bond requirement if the bond is insufficient to satisfy a claim actually paid from the bond. Processors who have failed to pay ESC, employees or fishermen can avoid higher bond requirements by simply paying the judgment directly. The bill specifies that bond levels are adjusted upward in response to a judgment without regard for the source of payment under this bill.
- Restriction on use of real property in lieu of bond. Under current law, processors with real property in Alaska are not required to post bond if their equity is at least equal to their bond requirement. It is normally not economically feasible to pursue claims against the processors real property, particularly for small claims. The bill prohibits the use of real property in lieu of bond by processors who incur a judgment for unpaid wages or fish. The use of real property is also denied any processor that fails to pay ESC of \$10,000 or more.

CS SENATE BILL No. 124

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

SECTIONAL ANALYSIS
OFFICE OF THE ATTORNEY GENERAL

Section 1: Amends 43.75.020(a) to require a fisheries business license applicant to agree to pay, as a condition of their license, all title 43 taxes, seafood marketing assessments under AS 16.51, employment security contributions imposed under AS 23.20, administrative penalties assessed for a State occupational safety and health standards violation, and local fishery sales taxes. Current law requires payment of taxes under title 43 only.

Amends 43.75.020(b) to require the Department of Revenue (department) to deny an applicant a license if the applicant has failed to pay any of the obligations they agreed to pay in 43.75.020(a).

Section 2: Amends 43.75.055 to allow an applicant for a fisheries business license to secure payment of estimated tax for the year of application using security already provided to the department to secure payment of unpaid tax for the prior year as long as the department approves of the security previously posted and the applicant has timely paid their title 43 taxes in the preceding three years.

Section 3: This section repeals and reenacts AS 44.25.040 as follows:

44.25.040(a) requires a fish processor or primary fish buyer to file a performance bond with the department, promising to pay: 1) wages and contractual benefits to their employees, 2) fisherman for fish purchased from them, and 3)

employment security contributions required by AS 23.230. This subsection restates existing law.

44.25.040(b) sets the presumptive amount of the bond at \$10,000 for all primary fish buyers and processors who process at least 30,000 pounds of fish per year. This restates existing law. This subsection also describes three events which trigger an increase in the bond amount, if this event took place within five years of the current licensing year.

(1) **Final Judgment:** a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$10,000 but less than \$50,000, the bond requirement is increased to \$50,000. If the final judgment is \$50,000 or more, the bond requirement is increased to \$100,000. This makes a change to existing law. Existing law requires the bond to actually be used to satisfy the judgment before the bond amount can be increased. The \$10,000, \$50,000, and \$100,000 bond levels are unchanged.

(2) **Department finding of non-compliance:** if the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$100,000. This restates existing law.

(3) **Delinquent Employment Security Contributions:** the bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$10,000, but less than \$50,000, the bond requirement is increased to \$50,000. If the amount of the delinquency is \$50,000 or more, the bond requirement is increased to \$100,000. There is a 45 day wait period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency.

Current law required a final judgment to collect against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(c) sets the presumptive amount of the bond at \$2,000 for processors who process 30,000 pounds of fish per year or less. This subsection also describes the same three events which trigger an increase in the bond amount in (b), if this event took place within five years of the current licensing year. The amounts of the bond, and bond increases are unchanged.

(1) **Final Judgment:** a final judgment against the bond can increase the amount of the bond. If the final judgment is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the final judgment is \$10,000 or more, the bond requirement is increased to \$20,000. This restates existing law with the minor modification noted in (b)(1).

(2) **Department finding of non-compliance:** If the department discovers the licensee is operating without a bond or with a bond that is less than the required amount, and also has an unsatisfied judgment to an employee or fisherman, the bond requirement is increased to \$20,000. This restates existing law.

(3) **Delinquent Employment Security Contributions:** The bond amount can also increase if the department has allowed the Department of Labor to collect against the bond for delinquent employment security contributions. If the amount of the delinquency is more than \$2,000 but less than \$10,000, the bond requirement is increased to \$10,000. If the amount of the delinquency is \$10,000 or more, the bond requirement is increased to \$20,000. There is a 45 day wait period before these bond increases go in effect after Department of Labor has given the department notice of the licensee's delinquency. Current law required a final judgment to collect

against the bond for delinquent employment security contributions and does not provide a wait period.

44.25.040(d) requires a processor who posted a \$2,000 bond under subsection (c) to notify and post with the department a \$10,000 bond within a week of exceeding the 30,000 pounds a fish per year threshold, or cease operations. This subsection restates existing law.

44.25.040(e) describes the different forms of performance bonds that are acceptable: surety bond, cash deposit, or other negotiable security. This subsection also requires the department to waive the posting of a bond if the licensee demonstrates to the department they have sufficient equity in the real property to cover their required bond amount and they are not required to post an increased bond amount due to one of the three events set out in (b) or (c). Current law allows the use of real property in lieu of bond for amounts in excess of \$10,000 irrespective of the processor or primary fish buyer's record of paying fishermen, wages, or employment security contributions.

44.25.040(f) provides that the department may issue a license upon a showing the licensee has posted the bond required by this section. This subsection restates existing law.

44.25.040(g) describes the process for an employee, fisherman, or fish tender to file a civil action to collect against the bond posted under this section. This subsection also describes the department's obligation to inform the surety of the existence of a civil action and keep a record of these actions. This section restates current law except that the existing authority for the commissioner to accept assignment of a claim against the bond, and to bring suit on behalf of the assignor is repealed.

44.25.040(h) describes the requirements the Department of Labor must follow to file an administrative claim against the bond for delinquent employment security contributions. These requirements are designed to assure the licensee has been afforded due process at the administrative level before the licensee's bond can be used to satisfy Department of Labor's administrative claim. This subsection is new law.

44.25.040(i) describes the process the department is to follow after deciding to accept or deny the Department of Labor's request to collect their administrative claim from the bond under (h). This subsection is new law.

44.25.040(j) preserves the priority for using the bond to satisfy the claims of fisherman and employees over the Department of Labor's administrative claims under (h). This is achieved by requiring the Department of Labor to 'kick back' to the department money they received from the bond if a fisherman or employee subsequently gets a judgment against the bond under (g) and the: 1) licensee has not replenished the bond after it was used to satisfy Department of Labor's claim, or 2) amount of the fisherman or employee's judgment exceeds the amount of the bond currently posted. This section is new law.

44.25.040(k) provides for the bond's expiration two years after the processor or buyer is no longer licensed. However, if during this two year waiting period, a claim is filed against the bond, the bond will not expire until five years after the processor or buyer is no longer licensed. This subsection also provides for a 30 day notice by the surety to cancel a bond posted under this section. This section restates existing law.

Section 4: Amends 44.25.042 to require the department to suspend the processor or buyer's license if the

Department of Labor has been allowed to collect against the bond using their administrative claim under AS 44.25.040(i) and the licensee does not immediately replenish the bond. This is new law.

Section 5: The section provides an immediate effective date.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 124 (Y)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Bonds & Accountability: Processors/UI RDU Revenue Programs & Services
/UI/OSHA Component Tax Division
 Sponsor Governor
 Requester House Rules Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()	25.0	15.0	15.0	15.0	15.0	15.0

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 The bill represents several modifications to existing fisheries business tax licensing and surety bond requirements: 1) it adds the Seafood Marketing Assessment, UI tax, OSHA fines, and local fish taxes to the list of liabilities that must be paid in full to obtain and hold a fisheries business license; 2) lowers the requirements for payment of UI tax from a processors surety bond while retaining priority for employees and fishermen; and 3) increases protections in place for employees and fishermen by modifying the rules under which bonding requirements are raised for processors that fail to pay employees, fishermen, or UI tax.

We do not expect to incur additional costs as a result of the legislation. We expect to collect additional Seafood Marketing Assessments under this legislation.

Prepared by: Chuck Harlamert Phone 465-2320
 Division Tax Division Date/Time 4/1/05 8:11 AM
 Approved by: Tom Boutin, Deputy Commissioner Date 4/1/2005
 Agency Revenue

SB124



FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

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JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 1, 2005

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

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill recommending changes to the requirements to obtain and maintain a fisheries business license and to the bonding requirements for fish processors and primary fish buyers.

This bill proposes to require, as a condition of obtaining and maintaining a fisheries business license under AS 43.75.020, an acknowledgment of the obligation to pay the taxes levied under AS 43, Alaska Seafood Marketing Institute (ASMI) assessments under AS 16.51, employment security contributions under AS 23.20, and Alaska Occupational, Safety, and Health Administration (OSHA) fines under AS 18.60. The bill proposes denying an applicant a fisheries business license until the applicant has paid in full all of those same taxes, assessments, contributions, and fines that are outstanding.

The bill also would repeal and reenact AS 44.25.040, which requires the filing of a performance bond by fish processors and primary fish buyers. Under the bill, the performance bond would be more accessible for collection of claims by the Department of Labor and Workforce Development (DLWD) for unpaid employment security contributions. The bill would achieve this by providing a process for the DLWD to file directly with the commissioner of revenue a claim against the bond instead of obtaining a court judgment against the bond. However, this bill would preserve the existing statutory priority for use of the bond to pay fishermen and employees first. To achieve this, the DLWD would be obligated to return money collected from the bond if the processor or buyer does not replenish the bond and a fisherman or employee has obtained a final judgment against the bond.

COMMITTEE COPY

The Honorable Ben Stevens

March 1, 2005

Page 2

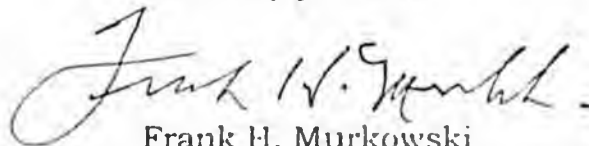
Additionally, the bill would provide that if a bond is depleted by the DLWD's claim, the fish processor or fish buyer would be subjected to an increased bonding requirement (the bill would preserve the existing increased bonding requirement in the case of a final court judgment against the bond).

Last, the bill proposes to prevent the use of real property as a bond substitute if the fish processor or fish buyer has been subjected to an increased bonding requirement or if a final judgment has been obtained against the bond in the preceding five years.

My purpose in introducing changes to the licensing requirements is to prevent the licensure of a fisheries business that has demonstrated that it is, and remains, unwilling to pay its taxes, ASMI assessments, employment security contributions, or OSHA fines. My purpose in introducing changes to the bonding requirements is to expedite the collection of unpaid unemployment insurance contributions by the DLWD and to make the bonding amount more representative of the risk of nonpayment posed to fishermen and employees who work for these bonded fish processors and buyers.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 3/2/05

FURTHER: Finance

Date of 5-Day Notice: 3/3/05
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/18/05

Labor and Commerce Committee considered SENATE BILL NO. 124

SB 124 FISHERIES BUSINESS LICENSE; BOND

"An Act relating to requirements to obtain and maintain a fisheries business license; relating to security required of fish processors and primary fish buyers; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB124 (LEO)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LWF	2/4/03			✓	5
LWF	2/24/05			✓	4
REG	2/16/05			✓	3
DCED	2/4/05			✓	2
REV	2/3/05	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Davis	<i>Betty Davis</i>	X			
Ellis	<i>[Signature]</i>			X	
Seelins	<i>Ralph Seelins</i>	✓			
Bunde	CHAIR: <i>[Signature]</i>	✓			

SB

125

HFIN

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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: SB 125
 (S) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO LICENSING BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

RDU Public Health

Component Certification and Licensing

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester GOVERNOR

Component No. 245

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Because the purpose of this legislation is to streamline the licensing process to achieve those goals of efficiency and cost effectiveness by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights in DISS, no additional costs or staff resources within the department are anticipated.

Prepared by: Richard Mandsager, MD
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3139
 Date/Time: 02/17/2005
 Date: 02/28/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 125(JUD)
(S) Publish Date: 5/1/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the licensing, regulation, RDU CIVIL
enforcement, and appeal rights of certain ...facilities" Component Human Services
Sponsor Senate Rules
Requester Senate Health Education and Human Svces Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
This bill would centralize almost all DHSS licensing statutes under a new chapter to AS 47. Currently, there are 12 different statutory schemes for the licensure of different entities by the DHSS. By centralizing these disparate procedures into a streamlined licensing process under a uniform statutory framework, the DHSS hopes to be able to administer these functions in a much more efficient and cost effective manner. Significant revisions to the corresponding regulations will be required and will result in a fiscal impact to the Department of Law in the first year or two following passage of this legislation. The Department of Health and Social Services has received a federal grant, requested in the Division of Public Health's FY 2006 budget, that will allow centralization to occur. The grant includes the funds needed by Department of Law for regulation revision and review.

Prepared by: Kathryn Daughhettee, Director Phone 465-3673
Division: Administrative Services Date/Time 4/12/05 3:49 PM
Approved by: Kathryn Daughhettee for David Marquez, Attorney General Date 4/12/2005
Agency: Department of Law

HOUSE CS FOR CS FOR SENATE BILL NO. 125(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the licensing, regulation, enforcement, and appeal rights of
2 ambulatory surgical centers, assisted living homes, child care facilities, child placement
3 agencies, foster homes, free-standing birth centers, home health agencies, hospices or
4 agencies providing hospice services or operating hospice programs, hospitals,
5 intermediate care facilities for the mentally retarded, maternity homes, nursing
6 facilities, residential child care facilities, residential psychiatric treatment centers,
7 runaway shelters, and rural health clinics; relating to possession of a firearm at licensed
8 entities and facilities; relating to criminal history requirements, and a registry,
9 regarding certain licenses, certifications, approvals, and authorizations by the
10 Department of Health and Social Services; making conforming amendments; and
11 providing for an effective date."

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

1 * Section 1. AS 09.55.560(1) is amended to read:

2 (1) "health care provider" means an acupuncturist licensed under
3 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11; a
4 chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
5 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
6 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
7 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
8 physical therapist or occupational therapist licensed under AS 08.84; a physician or
9 physician assistant licensed under AS 08.64; a podiatrist; a psychologist and a
10 psychological associate licensed under AS 08.86; a hospital as defined in
11 AS 47.32.900 [AS 18.20.130], including a governmentally owned or operated
12 hospital; an employee of a health care provider acting within the course and scope of
13 employment; an ambulatory surgical facility and other organizations whose primary
14 purpose is the delivery of health care, including a health maintenance organization,
15 individual practice association, integrated delivery system, preferred provider
16 organization or arrangement, and a physical hospital organization;

17 * Sec. 2. AS 09.65.095(b)(2) is amended to read:

18 (2) "hospital" means a hospital as defined in AS 47.32.900
19 [AS 18.20.130], including a governmentally owned or operated hospital.

20 * Sec. 3. AS 09.65.096(d)(2) is amended to read:

21 (2) "hospital" has the meaning given in AS 47.32.900 [AS 18.20.130]
22 and includes a governmentally owned or operated hospital;

23 * Sec. 4. AS 11.61.195(a) is amended to read:

24 (a) A person commits the crime of misconduct involving weapons in the
25 second degree if the person knowingly

26 (1) possesses a firearm during the commission of an offense under
27 AS 11.71.010 - 11.71.040;

28 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
29 parking lot immediately adjacent to

30 (A) a public or private preschool, elementary, junior high, or
31 secondary school without the permission of the chief administrative officer of

1 the school or district or the designee of the chief administrative officer; or

2 (B) an entity [A CENTER], other than a private residence,
3 licensed as a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or
4 recognized by the federal government for the care of children; or

5 (3) discharges a firearm at or in the direction of

6 (A) a building with reckless disregard for a risk of physical
7 injury to a person; or

8 (B) a dwelling.

9 * Sec. 5. AS 11.61.220(a) is amended to read:

10 (a) A person commits the crime of misconduct involving weapons in the fifth
11 degree if the person

12 (1) is 21 years of age or older and knowingly possesses a deadly
13 weapon, other than an ordinary pocket knife or a defensive weapon,

14 (A) that is concealed on the person, and, when contacted by a
15 peace officer, the person fails to

16 (i) immediately inform the peace officer of that
17 possession; or

18 (ii) allow the peace officer to secure the deadly weapon,
19 or fails to secure the weapon at the direction of the peace officer,
20 during the duration of the contact;

21 (B) that is concealed on the person within the residence of
22 another person unless the person has first obtained the express permission of
23 an adult residing there to bring a concealed deadly weapon within the
24 residence;

25 (2) knowingly possesses a loaded firearm on the person in any place
26 where intoxicating liquor is sold for consumption on the premises;

27 (3) being an unemancipated minor under 16 years of age, possesses a
28 firearm without the consent of a parent or guardian of the minor;

29 (4) knowingly possesses a firearm

30 (A) within the grounds of or on a parking lot immediately
31 adjacent to an entity [A CENTER], other than a private residence, licensed as

1 a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or recognized
 2 by the federal government for the care of children, except that a person 21
 3 years of age or older may possess an unloaded firearm in the trunk of a
 4 motor vehicle or encased in a closed container of a motor vehicle:

5 (B) within a

6 (i) courtroom or office of the Alaska Court System; or

7 (ii) courthouse that is occupied only by the Alaska

8 Court System and other justice-related agencies; or

9 (C) within a domestic violence or sexual assault shelter that
 10 receives funding from the state;

11 (5) possesses or transports a switchblade or a gravity knife; or

12 (6) is less than 21 years of age and knowingly possesses a deadly
 13 weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed
 14 on the person.

15 * Sec. 6. AS 18.07.031(b) is amended to read:

16 (b) Notwithstanding the expenditure threshold in (a) of this section, a person
 17 may not convert a building or part of a building to a nursing home that requires
 18 licensure as a nursing facility under AS 47.32 [AS 18.20.020] unless authorized
 19 under the terms of a certificate of need issued by the department.

20 * Sec. 7. AS 18.20.130 is amended to read:

21 Sec. 18.20.130. Definitions. In AS 18.20.075 - 18.20.130 [AS 18.20.010 -
 22 18.20.130],

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

24 (2) "governmental unit" means the state, a municipality, or other
 25 political subdivision, or a department, division, board, or other agency of any of them;

26 (3) "hospital" means an institution or establishment, public or private,
 27 devoted primarily to providing diagnosis, treatment, or care over a continuous period
 28 of 24 hours each day for two or more nonrelated individuals suffering from illness,
 29 physical or mental disease, injury or deformity, or any other condition for which
 30 medical or surgical services would be appropriate.

31 * Sec. 8. AS 18.20.310(a) is amended to read:

1 (a) If the department finds that a nursing facility, or a partner, officer, director,
 2 owner of five percent or more of the nursing facility's assets, or managing employee of
 3 the nursing facility substantially failed or refused to comply with AS 08.68.340 -
 4 08.68.390, AS 08.70, AS 18.20.075 - 18.20.085 [AS 18.20.010 - 18.20.130],
 5 AS 47.07, or with a regulation adopted under any of those statutes, or, for a nursing
 6 facility that provides Medicaid services under AS 47.07, failed or refused to comply
 7 with the Medicaid requirements of 42 U.S.C. 1396r (Title XIX of the Social Security
 8 Act, as amended; or a regulation adopted under that statute, the department may take
 9 the following actions:

10 (1) ban the admission of new residents to the nursing facility;

11 (2) as provided in AS 18.20.320, deny payment under AS 47.07 and
 12 AS 47.25.120 - 47.25.300 for any Medicaid or general relief-medical resident admitted
 13 to the nursing facility after notice by the department of denial of payment; residents
 14 who are eligible for Medicaid or general relief-medical are not responsible for
 15 payment when the department takes action under this paragraph;

16 (3) assess a civil fine in accordance with AS 18.20.340;

17 (4) suspend or terminate the nursing facility's participation in the
 18 Medicaid program;

19 (5) suspend, revoke, or refuse to renew the nursing facility's license
 20 issued under this chapter;

21 (6) seek an appointment of temporary administration as provided in
 22 AS 18.20.360 or of a receiver under AS 18.20.370;

23 (7) in case of an emergency, seek an order from the court either to
 24 close the nursing facility or to transfer residents from that facility, or both.

25 * Sec. 9. AS 18.23.070(3) is amended to read:

26 (3) "health care provider" means an acupuncturist licensed under
 27 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
 28 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
 29 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
 30 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
 31 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a

1 psychologist and a psychological associate licensed under AS 08.86; a hospital as
 2 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or
 3 operated hospital; and an employee of a health care provider acting within the course
 4 and scope of employment;

5 * Sec. 10. AS 18.26.220 is amended to read:

6 Sec. 18.26.220. **Facility compliance with health and safety laws and**
 7 **licensing requirements.** A medical facility constructed, acquired, improved,
 8 financed, or otherwise under the provisions of this chapter and all actions of the
 9 authority are subject to AS 18.07, AS 47.32 [AS 18.20], and any other present or
 10 future state licensing requirements for the facilities or services provided under this
 11 chapter. A medical facility issued a certificate of need under sec. 4, ch. 275, SLA
 12 1976, by virtue of being in existence or under construction before July 1, 1976, must
 13 fully meet the requirements of AS 18.07 in order to be eligible for funding under this
 14 chapter.

15 * Sec. 11. AS 18.50.950(4) is amended to read:

16 (4) "child adoption agency" means a child adoption agency licensed as
 17 a child placement agency under AS 47.32 or former AS 47.35;

18 * Sec. 12. AS 21.86.030(c) is amended to read:

19 (c) Nothing in this section relieves a health maintenance organization that
 20 wishes to exercise the power described in (a)(1) of this section from the requirements
 21 of

22 (1) AS 18.07, regarding obtaining a certificate of need;

23 (2) AS 47.32 [AS 18.20], regarding regulation of hospitals; and

24 (3) other statutes applicable to hospitals or other health care facilities.

25 * Sec. 13. AS 25.23.185(c) is amended to read:

26 (c) A child adoption agency licensed under former AS 47.35 and a child
 27 placement agency licensed under AS 47.32 shall maintain records of the information
 28 required to be furnished to the court under this section or under regulations of the
 29 commissioner implementing this section. If a child adoption agency or child
 30 placement agency ceases to place persons for adoption, it shall transfer its records to
 31 the commissioner.

1 * Sec. 14. AS 37.05.146(c)(67) is amended to read:

2 (67) fees received by the Department of Health and Social Services
3 under AS 47.32 [AS 47.33.910 FOR LICENSING ASSISTED LIVING HOMES];

4 * Sec. 15. AS 44.62.330(a) is amended by adding a new paragraph to read:

5 (45) Department of Health and Social Services relating to the
6 centralized registry under AS 47.05.330 - 47.05.390.

7 * Sec. 16. AS 44.64.030(a) is amended by adding a new paragraph to read:

8 (36) AS 47.32 (licensing by the Department of Health and Social
9 Services).

10 * Sec. 17. AS 47.05.010 is amended to read:

11 **Sec. 47.05.010. Duties of department.** The Department of Health and Social
12 Services shall

13 (1) administer adult public assistance, the Alaska temporary assistance
14 program, and all other assistance programs, and receive and spend money made
15 available to it;

16 (2) adopt regulations necessary for the conduct of its business and for
17 carrying out federal and state laws granting adult public assistance, temporary cash
18 assistance, diversion payments, or self-sufficiency services for needy families under
19 the Alaska temporary assistance program, and other assistance;

20 (3) establish minimum standards for personnel employed by the
21 department and adopt necessary regulations to maintain those standards;

22 (4) require those bonds and undertakings from persons employed by it
23 which in its judgment are necessary, and pay the premiums on them;

24 (5) cooperate with the federal government in matters of mutual
25 concern pertaining to adult public assistance, the Alaska temporary assistance
26 program, and other forms of public assistance;

27 (6) make the reports, in the form and containing the information, that
28 the federal government from time to time requires;

29 (7) cooperate with the federal government, its agencies or
30 instrumentalities in establishing, extending, and strengthening services for the
31 protection and care of homeless, dependent, and neglected children in danger of

1 becoming delinquent, and receive and expend funds available to the department by the
2 federal government, the state or its political subdivisions for that purpose;

3 (8) cooperate with the federal government in adopting state plans to
4 make the state eligible for federal matching in appropriate categories of assistance, and
5 in all matters of mutual concern, including adoption of the methods of administration
6 that are found by the federal government to be necessary for the efficient operation of
7 welfare programs;

8 (9) adopt regulations, not inconsistent with law, defining need,
9 prescribing the conditions of eligibility for assistance, and establishing standards for
10 determining the amount of assistance that an eligible person is entitled to receive; the
11 amount of the assistance is sufficient when, added to all other income and resources
12 available to an individual, it provides the individual with a reasonable subsistence
13 compatible with health and well-being; an individual who meets the requirements for
14 eligibility for assistance shall be granted the assistance promptly upon application for
15 it;

16 (10) grant to a person claiming or receiving assistance and who is
17 aggrieved because of the department's action or failure to act, reasonable notice and an
18 opportunity for a fair hearing by the department, and the department shall adopt
19 regulations relative to this;

20 (11) enter into reciprocal agreements with other states relative to
21 public assistance, welfare services, and institutional care that are considered advisable;

22 (12) establish the requirements of residence for public assistance,
23 welfare services, and institutional care that are considered advisable, subject to the
24 limitations of other laws of the state, or law or regulation imposed as conditions for
25 federal financial participation;

26 (13) establish the divisions and local offices that are considered
27 necessary or expedient to carry out a duty or authority assigned to it and appoint and
28 employ the assistants and personnel that are necessary to carry on the work of the
29 divisions and offices, and fix the compensation of the assistants or employees except
30 that a person engaged in business as a retail vendor of general merchandise, or a
31 member of the immediate family of a person who is so engaged, may not serve as an

1 acting, temporary or permanent local agent of the department, unless the
 2 commissioner of health and social services certifies in writing to the governor, with
 3 relation to a particular community, that no other qualified person is available in the
 4 community to serve as local welfare agent; for the purposes of this paragraph, a
 5 "member of the immediate family" includes a spouse, child, parent, brother, sister,
 6 parent-in-law, brother-in-law or sister-in-law;

7 (14) provide education and health-related services and referrals
 8 designed to reduce the number of out-of-wedlock pregnancies and the number of
 9 induced pregnancy terminations in the state;

10 (15) investigate reports of abuse, neglect, or misappropriation of
 11 property by certified nurse aides in facilities licensed by the department under
 12 AS 47.32 [AS 18.20].

13 * Sec. 18. AS 47.05.055(a) is amended to read:

14 (a) If the department has reason to believe that a certified nurse aide employed
 15 in a facility licensed by the department under AS 47.32 as a hospital or nursing
 16 home [AS 18.20] has committed abuse, neglect, or misappropriation of property in
 17 connection with the person's duties as a certified nurse aide at the facility, the
 18 department shall investigate the matter. The department shall conduct proceedings to
 19 determine whether [IF] a finding of abuse, neglect, or misappropriation of property
 20 should be made. These proceedings shall be conducted under AS 44.62.330 -
 21 44.62.630. A finding under this subsection that a certified nurse aide has committed
 22 abuse, neglect, or misappropriation of property shall be reported by the department to
 23 the Board of Nursing.

24 * Sec. 19. AS 47.05 is amended by adding new sections to read:

25 **Article 3. Criminal History; Registry.**

26 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -
 27 47.05.390 apply to any individual or entity that is required by statute or regulation to
 28 be licensed or certified by the department or that is eligible to receive payments, in
 29 whole or in part, from the department to provide for the health, safety, and welfare of
 30 persons who are served by the programs administered by the department.

31 (b) Those individual service providers subject to AS 47.05.310 - 47.05.390

1 under (a) of this section include

- 2 (1) public home care providers described in AS 47.05.017;
 3 (2) providers of home and community-based waiver services financed
 4 under AS 47.07.030(c); and
 5 (3) case managers to coordinate community mental health services
 6 under AS 47.30.530.

7 **Sec. 47.05.310. Criminal history; criminal history check; compliance.** (a)

8 If an individual has been charged with, convicted of, found not guilty by reason of
 9 insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the
 10 standards for licensure or certification established by the department by regulation,
 11 that individual may not own an entity, or be an officer, director, partner, member, or
 12 principal of the business organization that owns an entity. In addition, an entity may
 13 not

- 14 (1) allow that individual to operate the entity;
 15 (2) hire or retain that individual at the entity as an employee,
 16 independent contractor, or unsupervised volunteer of the entity;
 17 (3) allow that individual to reside in the entity if not a recipient of
 18 services; or
 19 (4) allow that individual to be present in the entity if the individual
 20 would have regular contact with individuals who receive services from the entity,
 21 unless that individual is a family member of or visitor of an individual who receives
 22 services from the entity.

23 (b) The department may not issue or renew a license or a certification for an
 24 entity that is in violation of (a) of this section or that would be in violation based on
 25 the information received as part of the application process.

26 (c) The department may not issue or renew a license or certification for an
 27 entity if an individual is applying for a license, license renewal, certification, or
 28 certification renewal for the entity and that

- 29 (1) individual has been found by a court or agency of this or another
 30 jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under
 31 AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another

1 jurisdiction, or to have committed medical assistance fraud under AS 47.05.210 or a
2 substantially similar provision in another jurisdiction; or

3 (2) individual's name appears on the centralized registry established
4 under AS 47.05.330 or a similar registry of this state or another jurisdiction.

5 (d) An entity shall provide to the department a release of information
6 authorization for a criminal history check for an individual who is not a recipient of
7 services from the entity and, after the entity has been issued a license, license renewal,
8 certification, or certification renewal by the department,

9 (1) who intends to become an owner of the entity, or an officer,
10 director, partner, member, or principal of the business organization that owns the
11 entity;

12 (2) whom the entity intends to hire or retain as the operator of the
13 entity's business;

14 (3) whom the entity intends to hire or retain as an employee,
15 independent contractor, or unsupervised volunteer of the entity; or

16 (4) who will be present in the entity or at the places of operation of
17 entity, and would have regular contact with individuals who receive services from the
18 entity, but who is not a family member or visitor of an individual who receives
19 services from the entity.

20 (e) An individual for whom a release of information authorization has been
21 provided to the department shall submit the individual's fingerprints to the department,
22 with the fee established under AS 12.62.160, for a report of criminal justice
23 information under AS 12.62 and for submission by the Department of Public Safety to
24 the Federal Bureau of Investigation for a national criminal history record check. The
25 Department of Public Safety shall provide the report of criminal justice information
26 and the results of the national criminal history record check to the department for its
27 use in considering an application for a license, license renewal, certification, or
28 certification renewal, or in considering other approval or selection regarding an entity,
29 for compliance with the standards established in this section. For purposes of
30 obtaining access to criminal justice information maintained by the Department of
31 Public Safety under AS 12.62, the department is a criminal justice agency conducting

1 a criminal justice activity. The department may waive the requirement for fingerprint
2 submission if an individual is unable to provide fingerprints due to a medical or
3 physical condition that is documented by a licensed physician.

4 (f) The provisions of this section do not apply if the department grants an
5 exception from a requirement of (a) - (e) of this section under a regulation adopted by
6 the department.

7 (g) The department shall adopt regulations listing those criminal offenses that
8 are inconsistent with the standards for licensure or certification by the department.

9 (h) An individual service provider is subject to the provisions of (a) - (g) of
10 this section as if the individual service provider were an entity subject to those
11 provisions.

12 (i) For purposes of (b) and (c) of this section, in place of nonissuance or
13 nonrenewal of a license or certification, an entity or individual service provider that is
14 not required to be licensed or certified by the department or a person wishing to
15 become an entity or individual service provider that is not required to be licensed or
16 certified by the department is instead ineligible to receive a payment, in whole or in
17 part, from the department to provide for the health, safety, and welfare of persons who
18 are served by the programs administered by the department if the entity, individual
19 service provider, or person

20 (1) is in violation of (a) of this section or would be in violation based
21 on information received by the department as part of an application, approval, or
22 selection process;

23 (2) has been found by a court or agency of this or another jurisdiction
24 to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10,
25 AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction, or to
26 have committed medical assistance fraud under AS 47.05.210 or a substantially
27 similar provision in another jurisdiction; or

28 (3) appears on the centralized registry established under AS 47.05.330
29 or a similar registry of this state or another jurisdiction.

30 **Sec. 47.05.320. Criminal history use standards.** The department shall by
31 regulation establish standards for the consideration and use by the department, an

1 entity, or an individual service provider of the criminal history of an individual
2 obtained under AS 47.05.310.

3 **Sec. 47.05.330. Centralized registry.** (a) The department shall by regulation
4 provide for a centralized registry to facilitate the licensing or certification of entities
5 and individual service providers, the authorization of payments to entities or
6 individual service providers by the department, and the employment of individuals by
7 entities and individual service providers.

8 (b) Except for the name of each victim being redacted before the information
9 is placed on the registry, the registry shall consist of the following information for an
10 entity or individual service provider, an applicant on behalf of an entity or individual
11 service provider, or an employee or unsupervised volunteer of an entity or individual
12 service provider:

13 (1) decisions, orders, judgments, and adjudications finding that the
14 applicant, employee, or unsupervised volunteer committed

15 (A) abuse, neglect, or exploitation under AS 47.10, AS 47.24,
16 AS 47.62, or a substantially similar provision in another jurisdiction; or

17 (B) medical assistance fraud under AS 47.05.210 or a
18 substantially similar provision in another jurisdiction;

19 (2) orders under a state statute or a substantially similar provision in
20 another jurisdiction that a license or certification of the entity or individual service
21 provider to provide services related to the health, safety, and welfare of persons was
22 denied, suspended, revoked, or conditioned.

23 (c) As a condition for applying for licensure or certification of an entity or
24 individual service provider, or for payment to an entity or individual service provider
25 by the department, an applicant must agree to submit timely to the registry the
26 information required under this section relating to the entity, any individual, the
27 applicant, employees, and unsupervised volunteers of the entity or individual service
28 provider.

29 (d) Within 24 hours of a court decision, order, judgment, or adjudication that
30 an entity, individual service provider, or employee or unsupervised volunteer of an
31 entity or individual service provider committed an act listed under (b) of this section,

1 the entity, individual service provider, or employee or unsupervised volunteer of an
2 entity or individual service provider shall report the court action to the department.

3 (c) Within 24 hours of receiving notice of an allegation that an employee,
4 unsupervised volunteer, or former employee or unsupervised volunteer of an entity or
5 individual service provider committed an act listed under (b) of this section within the
6 past 10 years, the entity or individual service provider shall report the allegation to the
7 department.

8 (f) The department shall prescribe by regulation the form or format by which
9 an applicant shall submit required information to the registry.

10 (g) Notwithstanding any contrary provision of law, the department may also
11 submit information described in this section to the registry. An entity or individual
12 that is exempt from department licensure or certification and that does not receive
13 money from the department for its services may voluntarily submit information
14 described in this section to the department for placement in the registry.

15 (h) Information contained in the registry is confidential and is not subject to
16 public inspection and copying under AS 40.25.110 - 40.25.125. However, information
17 contained in the registry may be released to entities, individual service providers, and
18 governmental agencies authorized and in a manner provided under this section and
19 regulations adopted under this section.

20 (i) A person is presumed to be acting in good faith and is immune from civil
21 and criminal liability if the person

22 (1) makes a report of medical assistance fraud, abuse, neglect, or
23 exploitation;

24 (2) submits information to the registry; or

25 (3) fails to hire or retain an employee or unsupervised volunteer
26 because the employee or unsupervised volunteer is included in the registry.

27 (j) A person about whom information is placed in the registry shall be notified
28 of the placement by the department and may request the department to delete or
29 modify the information to correct inaccuracies. The department shall investigate the
30 request and make necessary deletions or modifications if the department finds no
31 relationship between the information placed in the registry and the risk of harm to the

1 entity's clientele.

2 **Sec. 47.05.340. Regulations.** The department shall adopt regulations to
3 implement AS 47.05.300 - 47.05.390.

4 **Sec. 47.05.350. Use of information; immunity.** An entity or individual
5 service provider that obtains information about an employee under a criminal history
6 check under AS 47.05.310 may use that information only as provided for in
7 regulations adopted by the department under AS 47.05.320. However, if an entity or
8 individual service provider reasonably relies on the information provided under the
9 regulations adopted by the department to deny employment to an individual who was
10 selected for hire as an employee, including during a period of provisional
11 employment, the entity or individual service provider is not liable in an action brought
12 by the individual based on the employment determination resulting from the
13 information.

14 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context
15 otherwise requires,

16 (1) "criminal history records" has the meaning given in AS 12.64.010;

17 (2) "criminal justice activity" has the meaning given in AS 12.62.900;

18 (3) "criminal justice agency" has the meaning given in AS 12.62.900;

19 (4) "criminal justice information" has the meaning given in
20 AS 12.62.900;

21 (5) "department" means the Department of Health and Social Services;

22 (6) "entity" means an entity listed in AS 47.32.010(b) and includes an
23 owner, officer, director, member or partner of the entity;

24 (7) "individual service provider" means an individual described in
25 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

26 (8) "license" includes a provisional license;

27 (9) "unsupervised" means that an individual who is licensed under
28 AS 47.32, after submitting a criminal history background check, is not physically
29 present to observe the volunteer at the entity.

30 * **Sec. 20.** AS 47.10.141(b) is amended to read:

31 (b) A peace officer shall take into protective custody a minor described in (a)

1 of this section if the minor is not otherwise subject to arrest or detention. Unless (c) of
 2 this section applies, when a peace officer takes a minor into protective custody under
 3 this subsection,

4 (1) the peace officer shall

5 (A) return the minor to the minor's parent or guardian at the
 6 parent's or guardian's residence if the residence is in the same community
 7 where the minor was found and if the minor's parent or guardian consents to
 8 the return, except that the officer may not use this option if the officer has
 9 reasonable cause to believe that the minor has experienced physical or sexual
 10 abuse in the parent's or guardian's household;

11 (B) take the minor to a nearby location agreed to by the minor's
 12 parent or guardian if the parent or guardian does not consent to return of the
 13 minor under (A) of this paragraph and the officer does not have reasonable
 14 cause to believe that the minor has experienced physical or sexual abuse in the
 15 parent's or guardian's household; or

16 (C) if disposition of the minor is not made under (A) or (B) of
 17 this paragraph, take the minor to

18 (i) an office specified by the Department of Health and
 19 Social Services;

20 (ii) a program for runaway minors licensed by the
 21 department under AS 47.10.310;

22 (iii) a shelter for runaways that has a permit from the
 23 department under AS 47.32 [AS 47.35.085] that agrees to shelter the
 24 minor;

25 (iv) a facility or contract agency of the department; or

26 (v) another suitable location and promptly notify the
 27 department if an office specified by the department, a licensed program
 28 for runaway minors, a shelter for runaways that will accept the minor,
 29 or a facility or contract agency of the department does not exist in the
 30 community;

31 (2) if the peace officer plans to take the minor to an office, program,

1 shelter, or facility under (1)(C) of this subsection, the peace officer shall give the
 2 highest priority to taking the minor to an office, program, shelter, or facility that is
 3 semi-secure;

4 (3) a minor under protective custody may not be housed in a jail or
 5 other detention facility but may be housed in a semi-secure portion of an office,
 6 program, shelter, or other facility under (1) (C) of this subsection;

7 (4) the peace officer, immediately upon taking a minor into protective
 8 custody, shall

9 (A) advise the minor of available mediation services and of the
 10 right to social services under AS 47.10.142(b); and

11 (B) if the identity of the minor's parent or guardian is known,
 12 advise the minor's parent or guardian that the minor has been taken into
 13 protective custody and that counseling services for the minor's parent or
 14 guardian and the minor's household may be available under AS 47.10.142(b).

15 * Sec. 21. AS 47.10.392 is amended to read:

16 **Sec. 47.10.392. Certificate required.** A private residence may not be held
 17 out publicly as a shelter for runaway minors unless the residence

18 (1) is designated a shelter for runaways by a corporation that is
 19 licensed to make the designation under AS 47.32 [AS 47.35.085]; and

20 (2) has a valid permit from the department signifying that designation.

21 * Sec. 22. AS 47.10.399(2) is amended to read:

22 (2) "shelter for runaways" or "shelter for runaway minors" means a
 23 private residence whose legal occupant agrees to shelter, with or without
 24 compensation, a runaway minor accepted into the residence by the legal occupant and
 25 that

26 (A) is not simultaneously licensed under AS 47.10.310 as a
 27 program for runaway minors;

28 (B) has been designated a shelter for runaways by a corporation
 29 licensed for that purpose under AS 47.32 [AS 47.35.085]; and

30 (C) has a permit issued by the department under AS 47.32
 31 [AS 47.35.085].

1 * Sec. 23. AS 47.10.990(10) is amended to read:

2 (10) "foster care" means care provided by a person or household under
3 a foster home license required under AS 47.32 [AS 47.35.015];

4 * Sec. 24. AS 47.10.990(24) is amended to read:

5 (24) "secure residential psychiatric treatment center" has the meaning
6 given "residential psychiatric treatment center" in AS 47.32.900 [AS 47.35.900].

7 * Sec. 25. AS 47.12.990(14) is amended to read:

8 (14) "secure residential psychiatric treatment center" has the meaning
9 given "residential pschiatric treatment center" in AS 47.32.900: [AS 47.35.900.]

10 * Sec. 26. AS 47.24.013(a) is amended to read:

11 (a) If a report received under AS 47.24.010 regards the abandonment,
12 exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is 60 years of
13 age or older that is alleged to have been committed by or to have resulted from the
14 negligence of the staff or a volunteer of an out-of-home care facility, including a
15 facility licensed under AS 47.32 [AS 18.20], in which the vulnerable adult resides, the
16 department shall transfer the report for investigation to the long term care ombudsman
17 under AS 47.62.015.

18 * Sec. 27. AS 47.24.017(d) is amended to read:

19 (d) If the protective services under this section include the placement of a
20 vulnerable adult in an assisted living home at the state's expense, the minimum daily
21 reimbursement rate to the assisted living home for the vulnerable adult is \$70. The
22 department may, under its regulations, provide for a daily rate higher than \$70 if the
23 additional care provided to the vulnerable adult in the assisted living home justifies the
24 additional reimbursement. In this subsection, "assisted living home" means an assisted
25 living home licensed under AS 47.32 [AS 47.33].

26 * Sec. 28. AS 47.25.071(b) is amended to read:

27 (b) To qualify for a grant under (a) or (d) of this section, the child care facility
28 must

29 (1) be currently licensed under AS 47.32 [AS 47.35] and applicable
30 municipal licensing requirements;

31 (2) participate in the day care assistance program under AS 47.25.001 -

1 47.25.095; and

2 (3) provide care under a payment system as provided in (g) of this
3 section.

4 * Sec. 29. AS 47.25.095(2) is amended to read:

5 (2) "child care facility" means an establishment licensed as a child
6 care facility under AS 47.32 [AS 47.35], including day care centers, family day care
7 homes, and schools for preschool age children, that provides care for children not
8 related by blood, marriage, or legal adoption to the owner, operator, or manager of the
9 facility;

10 * Sec. 30. AS 47.25.095(4) is amended to read:

11 (4) "day care facility" means a center or home licensed in accordance
12 with the provisions of AS 47.32 as a child care facility [AS 47.35] or recognized by
13 the federal government for the care of children;

14 * Sec. 31. AS 47.25.195(f)(1) is amended to read:

15 (1) "assisted living home" means an assisted living home licensed
16 under AS 47.32 [AS 47.33];

17 * Sec. 32. AS 47.30.915(5) is amended to read:

18 (5) "evaluation facility" means a health care facility that has been
19 designated or is operated by the department to perform the evaluations described in
20 AS 47.30.660 - 47.30.915, or a medical facility licensed under AS 47.32
21 [AS 18.20.020] or operated by the federal government;

22 * Sec. 33. AS 47.31.100(4) is amended to read:

23 (4) "evaluation facility" means a health care facility that has been
24 designated by the department to perform the evaluations described in AS 47.30.670 -
25 47.30.915, including a facility licensed under AS 47.32 [AS 18.20.020] or operated by
26 the federal government;

27 * Sec. 34. AS 47 is amended by adding a new chapter to read:

28 **Chapter 32. Centralized Licensing and Related Administrative Procedures.**

29 **Sec. 47.32.010. Purpose and applicability.** (a) The purpose of this chapter
30 is to establish centralized licensing and related administrative procedures for the
31 delivery of services in this state by the entities listed in (b) of this section. These

1 procedures are intended to promote safe and appropriate services by setting standards
 2 for licensure that will reduce predictable risk; improve quality of care; foster
 3 individual and patient rights; and otherwise advance public health, safety, and welfare.

4 (b) This chapter and regulations adopted under this chapter apply to the
 5 following entities:

- 6 (1) ambulatory surgical centers;
- 7 (2) assisted living homes;
- 8 (3) child care facilities;
- 9 (4) child placement agencies;
- 10 (5) foster homes;
- 11 (6) free-standing birth centers;
- 12 (7) home health agencies;
- 13 (8) hospices, or agencies providing hospice services or operating
 14 hospice programs;
- 15 (9) hospitals;
- 16 (10) intermediate care facilities for the mentally retarded;
- 17 (11) maternity homes;
- 18 (12) nursing facilities;
- 19 (13) residential child care facilities;
- 20 (14) residential psychiatric treatment centers;
- 21 (15) rural health clinics;
- 22 (16) runaway shelters.

23 **Sec. 47.32.020. Requirement to obtain a license.** (a) An entity may not
 24 operate a facility described in AS 47.32.010(b) without first obtaining a license under
 25 this chapter unless the entity is exempt under regulations adopted under AS 47.32.030.

26 (b) If an entity encompasses more than one type of activity listed in
 27 AS 47.32.010(b), the entity shall apply for and receive a separate license under this
 28 chapter before operating that type of activity unless exempt under regulations adopted
 29 under AS 47.32.030.

30 **Sec. 47.32.030. Powers of the department; delegation to municipality.** (a)
 31 The department may

1 (1) administer and enforce the provisions of this chapter;
 2 (2) coordinate and develop policies, programs, and planning related to
 3 licensure and operation of entities listed in AS 47.32.010(b) as defined by regulation;

4 (3) adopt regulations necessary to carry out the purposes of this
 5 chapter, including regulations that

6 (A) establish fees for licensing of each type of entity listed in
 7 AS 47.32.010(b);

8 (B) impose requirements for licensure, including standards for
 9 license renewal, that are in addition to the requirements of this chapter or of
 10 any other applicable state or federal statute or regulation;

11 (C) impose requirements and standards on licensed entities that
 12 are in addition to those imposed by this chapter or by any other applicable state
 13 or federal statute or regulation, including

14 (i) requirements and standards necessary for an entity or
 15 the state to receive money from the department from any source,
 16 including federal money;

17 (ii) record-keeping requirements;

18 (iii) reporting requirements; and

19 (iv) requirements and standards regarding health, safety,
 20 and sanitation;

21 (D) provide for waivers, variances, and exemptions from the
 22 requirements of this chapter, including the requirement to obtain a license, if
 23 the department finds it necessary for the efficient administration of this
 24 chapter; and

25 (E) establish requirements for the operation of entities licensed
 26 under this chapter;

27 (4) investigate

28 (A) entities described in AS 47.32.010(b);

29 (B) applicants for licensure, including individuals named in an
 30 application; and

31 (C) other persons that the department has reason to believe are

1 operating an entity required to be licensed under this chapter, or are residing or
2 working in an entity for which licensure has been sought under this chapter;
3 this subparagraph does not apply to persons receiving services from an entity
4 for which licensure has been sought under this chapter;

5 (5) inspect and monitor licensed entities for compliance with this
6 chapter, regulations adopted under this chapter, and any other applicable statutes or
7 regulations;

8 (6) enter into contracts and agreements necessary to carry out the
9 functions, powers, and duties of the department under this chapter;

10 (7) enter into agreements with private entities, municipalities, and
11 individuals to investigate and make recommendations to the department regarding the
12 licensure and monitoring of entities under this chapter;

13 (8) require an individual who is or will be operating an entity to
14 complete training related to the operation of the entity;

15 (9) waive the application requirements for an entity seeking licensure
16 if the entity submits documentation verifying that it

17 (A) has a license issued by an organization or other agency that
18 has licensing authority under state or federal law if the standards for that
19 licensure are approved by the department under this chapter or regulations
20 adopted under this chapter;

21 (B) has accreditation from a nationally recognized organization
22 if the standards for that accreditation are equal to or more stringent than the
23 standards for licensure under this chapter or regulations adopted under this
24 chapter; or

25 (C) is an entity that federal law does not require to be licensed.

26 (b) The department shall delegate the department's authority to regulate child
27 care facilities to a municipality that has adopted an ordinance providing for child care
28 licensing under home rule powers under AS 29.10.010 or as authorized under
29 AS 29.35.200 - 29.35.210. The department shall make the delegation described in this
30 subsection within 90 days after receiving a written request from the municipality to
31 delegate the authority. A municipality receiving a delegation under this subsection

1 may adopt additional requirements for child care facilities operating within the
2 boundaries of the municipality if the requirements meet or exceed the requirements
3 under state law.

4 (c) The issuance of a license by the department does not obligate the
5 department to place or maintain an individual in an entity or through an entity, or to
6 provide financial support to an entity.

7 **Sec. 47.32.040. Application for license.** A person shall apply to the
8 department for a license under this chapter. The application must be made to the
9 department on a form provided by the department or in a format approved by the
10 department, and must be accompanied by

11 (1) any fee established by regulation; and

12 (2) documents and information required by regulation.

13 **Sec. 47.32.050. Provisional license; biennial license.** (a) The department
14 may issue a provisional license to an entity for which application is made under
15 AS 47.32.040 if, after inspection and investigation, the department determines that the
16 application and the entity meet the requirements of this chapter, regulations adopted
17 under this chapter, and any other applicable statutes or regulations. A provisional
18 license is valid for a period not to exceed one year, except that the department may
19 extend a provisional license for one additional period not to exceed one year.

20 (b) Before expiration of a provisional license issued under (a) of this section,
21 the department shall inspect and investigate the entity to determine whether the entity
22 is operating in compliance with this chapter, regulations adopted under this chapter,
23 and any other applicable statutes or regulations. After inspection and investigation
24 under this subsection and before expiration of a provisional license, the department
25 shall issue a biennial license for the entity if the department finds that

26 (1) the entity meets the requirements for biennial licensure established
27 in this chapter, regulations adopted under this chapter, and other applicable statutes
28 and regulations;

29 (2) a ground for nonrenewal of a license does not exist; and

30 (3) any applicable fee has been paid.

31 (c) The department may place one or more conditions on a provisional or

1 biennial license issued under this section in order to further the purposes of this
2 chapter.

3 **Sec. 47.32.060. License renewal.** (a) At least 90 days before expiration of a
4 biennial license, a licensed entity that intends to remain licensed shall submit an
5 application for renewal of the license on a form provided by the department or in a
6 format approved by the department, accompanied by

7 (1) all documents and information identified in regulation as being
8 required for renewal of the license; and

9 (2) any fee established by regulation.

10 (b) Before expiration of a biennial license, the department or its representative
11 may inspect an entity that is the subject of a renewal application to determine whether
12 the entity is operating in compliance with this chapter, regulations adopted under this
13 chapter, and other applicable statutes or regulations. After any inspection and
14 investigation under this subsection and before expiration of the biennial license, the
15 department shall renew a biennial license if the department finds that

16 (1) the licensed entity meets the requirements for renewal;

17 (2) a ground for nonrenewal of a license does not exist; and

18 (3) any applicable fee has been paid.

19 (c) If an application for renewal of a license is submitted but the department is
20 unable to complete its review of the application before the expiration of the biennial
21 license, the license is automatically extended for six months or until the department
22 completes its review and either approves or denies the application, whichever occurs
23 earlier.

24 (d) The department may place one or more conditions on a renewed license
25 issued under this section to further the purposes of this section.

26 (e) The department shall adopt regulations establishing the grounds for
27 nonrenewal of a license for purposes of AS 47.32.050 and this section.

28 **Sec. 47.32.070. Denial of or conditions on license.** (a) If the department
29 denies an application for or places conditions on a provisional or biennial license or
30 license renewal, the department shall provide the applicant or entity with a notice of
31 the action by certified mail. The notice must contain a written statement of the reason

1 for the action and information about requesting a hearing under (b) of this section.

2 (b) An applicant or entity that receives a notice of action under (a) of this
3 section may appeal the department's decision by requesting a hearing within 15 days
4 after receipt of the notice. The appeal must be on a form provided by the department
5 or in a format approved by the department.

6 **Sec. 47.32.080. Posting of license; license not transferable.** (a) A license
7 issued under this chapter shall be posted in a conspicuous place on the licensed
8 premises. Any notice of a variance issued by the department shall be posted near the
9 license.

10 (b) A license issued under this chapter is not transferable unless authorized by
11 the department.

12 **Sec. 47.32.090. Complaints and investigation.** (a) A person who believes
13 that an entity has violated an applicable statute or regulation or a condition of a license
14 issued under this chapter may file a verbal or written complaint with the department.

15 (b) The department may investigate a complaint filed under this section. The
16 department may decline to investigate a complaint if the department reasonably
17 concludes and documents that the complaint is without merit based on information
18 available to the department at the time of the complaint. The department may
19 consolidate complaints if the department concludes that a single investigation would
20 further the efficient administration of this chapter.

21 (c) A licensed entity may not take retaliatory action against a person who files
22 a complaint. Except as provided in AS 47.05.350 and AS 47.32.160, a complainant
23 against whom a retaliatory action has been taken may recover treble damages in a civil
24 action upon a showing that the action was taken in retaliation for the filing of a
25 complaint.

26 **Sec. 47.32.100. Cooperation with investigation.** An entity shall cooperate
27 with an investigation initiated by the department. An investigated entity shall

28 (1) permit representatives of the department to inspect the entity;
29 review records, including files of individuals who received services from the entity;
30 interview staff; and interview individuals receiving services from the entity; and

31 (2) upon request, provide the department with information and

1 documentation regarding compliance with applicable statutes and regulations.

2 **Sec. 47.32.110. Right of access and inspection.** (a) A designated agent or
3 employee of the department shall have right of access to an entity

4 (1) to determine whether an application for licensure or renewal is
5 appropriate;

6 (2) to conduct a complaint investigation;

7 (3) to conduct a standard inspection;

8 (4) to inspect documents, including personnel records, accounts, the
9 building, or the premises;

10 (5) to interview staff or residents; or

11 (6) if the department has reasonable cause to believe that the entity is
12 operating in violation of this chapter or the regulations adopted under this chapter.

13 (b) If an entity denies access, the department may petition the court for an
14 order permitting access, or the department may seek to revoke the entity's license
15 under AS 47.32.140.

16 (c) Upon petition of the department and after a hearing held upon reasonable
17 notice to the entity, the court shall issue an order to an officer or employee of the
18 department authorizing the officer or employee to enter for any of the purposes
19 described in (a) of this section.

20 **Sec. 47.32.120. Report.** (a) Within 10 working days after completing an
21 investigation or inspection under AS 47.32.090 - 47.32.110, the department shall
22 prepare a report of the results of the investigation or inspection and mail a copy of the
23 report to the entity. The report shall include a description of

24 (1) any violation, including a citation to each statute or regulation that
25 has been violated; and

26 (2) any enforcement action the department intends to take under
27 AS 47.32.130 or 47.32.140.

28 (b) An entity that receives a copy of a report under this section may submit a
29 written response to the report to the department. The department may require an entity
30 to submit a response to a report received under this section.

31 (c) Within 14 days after the entity receives a copy of the report under this

1 section, upon request of the complainant, the department shall provide a copy of the
2 report to the complainant.

3 **Sec. 47.32.130. Enforcement action: immediate revocation or suspension.**

4 (a) If the department's report of investigation or inspection under AS 47.32.120
5 concludes that the department has reasonable cause to believe that a violation of an
6 applicable statute or regulation has occurred that presents an immediate danger to the
7 health, safety, or welfare of an individual receiving services from the entity, the
8 department, without an administrative hearing and without providing an opportunity to
9 cure or correct the violation, may immediately revoke or suspend the entity's license
10 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
11 become licensed under this chapter or to provide services as an entity exempted under
12 this chapter. A suspension or revocation under this subsection takes effect
13 immediately upon initial notice to the entity from the department, is in addition to any
14 enforcement action under AS 47.32.140, and continues until a final determination
15 under (c) of this section or AS 47.32.150.

16 (b) Notice under this section shall be provided as follows:

17 (1) the department shall provide initial notice to the entity at the time
18 the department determines that an immediate suspension or revocation is required;
19 initial notice may be oral, except that, if an entity representative is not present at the
20 entity, the department shall post written notice on the front door of the entity; the
21 initial notice must provide information regarding the entity's appeal rights;

22 (2) the department shall provide formal written notice to the entity
23 within 14 working days after the immediate revocation or suspension decision; formal
24 written notice must include

25 (A) a copy of the department's report under AS 47.32.120, a
26 statement of the entity's right to submit a written response to the report, and
27 any department requirement that the entity submit a written response to the
28 report;

29 (B) a description of any enforcement action the department
30 intends to take under AS 47.32.140(d) or (f); and

31 (C) information regarding the entity's appeal rights.

1 (c) An entity to which a notice has been provided under this section may
2 appeal the department's decision to impose the enforcement action, including an
3 enforcement action the department intends to take under AS 47.32.140(d) or (f), by
4 filing a written request for a hearing, on a form provided by the department, within 15
5 days after receipt of the notice. If a hearing is not timely requested under this
6 subsection, the department's notice constitutes final administrative order for which
7 the department may seek the court's assistance in enforcing.

8 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
9 investigation or inspection under AS 47.32.120 concludes that the department has
10 reasonable cause to believe that a violation of an applicable statute or regulation has
11 occurred, the department shall provide notice to the entity of the violation and an
12 opportunity to cure the violation within a reasonable time specified by the department.
13 The notice must include a copy of the department's report under AS 47.32.120, a
14 statement that the entity may submit a written response to the report, any department
15 requirement that the entity submit a written response to the report, a description of any
16 enforcement action the department intends to take under (d) or (f) of this section, and
17 information regarding the entity's appeal rights.

18 (b) An entity receiving a notice under (a) of this section, or a notice under
19 AS 47.32.130(b)(2) that contains the information specified in AS 47.32.130(b)(2)(B),
20 shall submit a plan of correction to the department for approval. Once it has cured its
21 violations, the entity shall submit to the department an allegation of compliance.
22 Upon receipt of the allegation of compliance, the department may conduct a follow-up
23 investigation or inspection to determine compliance. The department may take one or
24 more enforcement actions under (d) and (f) of this section regardless of whether the
25 entity achieves compliance under this subsection.

26 (c) If the department believes that an entity has not voluntarily corrected the
27 violation or entered into a plan of correction with the approval of the department, the
28 department may require that the entity participate in a plan of correction under
29 regulations of the department. Once the entity has cured its violations, it shall submit
30 to the department an allegation of compliance. Upon receipt of the allegation of
31 compliance, the department may conduct a follow-up investigation or inspection to

1 determine compliance. The department may take one or more enforcement actions
 2 under (d) and (f) of this section regardless of whether the entity achieves compliance
 3 under this subsection.

4 (d) The department may take one or more of the following enforcement
 5 actions under this section:

6 (1) delivery of a warning notice to the licensed entity and to any
 7 additional person who was the subject of the investigation or inspection;

8 (2) modification of the term or scope of the entity's existing license,
 9 including changing a biennial license to a provisional license or adding a condition to
 10 the license;

11 (3) suspension of the entity's operations for a period of time set by the
 12 department;

13 (4) suspension of or a ban on the entity's provision of services to
 14 individuals not already receiving services from the entity for a period of time set by
 15 the department;

16 (5) nonrenewal of the entity's license;

17 (6) revocation of the entity's license or, if the entity is not licensed
 18 under this chapter, revocation of the entity's ability to become licensed under this
 19 chapter;

20 (7) issuance of an order requiring closure, immediate or otherwise, of
 21 the entity regardless of whether the entity is licensed or unlicensed;

22 (8) denial of payments under AS 47.07 for the entity's provision of
 23 services to an individual not already receiving services from the entity;

24 (9) assumption of either temporary or permanent management of the
 25 entity or pursuit of a court-ordered receiver for the entity;

26 (10) reduction of the number of individuals receiving services from the
 27 entity under the license;

28 (11) imposition of a penalty authorized under law;

29 (12) inclusion in the registry established under AS 47.05.330;

30 (13) requirement that the entity prepare and submit a plan of
 31 correction.

1 (e) The department may not take action under (d)(9) of this section unless the
2 commissioner has reasonable cause to believe that continued management by the
3 entity while the entity is attempting to cure a violation would be injurious to the
4 health, safety, or welfare of an individual who is receiving a service from the entity.

5 (f) In addition to any other enforcement actions the department may take
6 under this section, the department may assess a civil fine against an entity for a
7 violation of an applicable statute or regulation, taking into account the type and size of
8 the entity and the type and severity of the violation. A fine assessed under this
9 subsection may not exceed \$2,500 a day for each day of violation for a continuing
10 violation or \$25,000 for a single violation.

11 (g) An entity to which a notice has been provided under this section regarding
12 an enforcement action under (d) or (f) of this section may appeal the department's
13 decision to impose the enforcement action by filing a written request for a hearing, on
14 a form provided by the department, within 15 days after receipt of the notice of the
15 enforcement action.

16 (h) An enforcement action under (d) or (f) of this section may not be imposed
17 until

18 (1) the time period for requesting a hearing under AS 47.32.130(c) or
19 under (g) of this section, as applicable, has passed without a hearing being requested;
20 or

21 (2) a final agency decision has been issued following a hearing
22 requested under AS 47.32.130(c) or under (g) of this section, as applicable.

23 (i) If a hearing is not timely requested under AS 47.32.130(c) or under (g)
24 this section, as applicable, the department's notice regarding an enforcement action
25 under (d) or (f) of this section constitutes a final administrative order. The department
26 may seek the court's assistance in enforcing the final administrative order.

27 (j) An entity against which an enforcement action under (d) or (f) of this
28 section has been taken may not apply for a license or license renewal until after the
29 time period set by the department in its final administrative order under
30 AS 47.32.130(c), this section, or AS 47.32.150, as applicable. If a time period has not
31 been set, a final administrative order against the entity has the effect of a permanent

1 revocation and the entity may not apply for a license or license renewal. If the
 2 ownership, control, or management of an entity changes, the department may allow
 3 the entity to seek licensure if the entity submits documents showing the change.

4 (k) Assessment of a civil fine under this section does not preclude imposition
 5 of a criminal penalty under AS 47.32.170.

6 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing
 7 by an entity regarding an enforcement action under AS 47.32.130(a) or
 8 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
 9 administrative law judge appointed under AS 44.64.020 to appoint an administrative
 10 law judge employed or retained by the office of administrative hearings to preside
 11 over a hearing conducted under this section. AS 44.62.330 - 44.62.630 and
 12 AS 44.64.060 apply to the hearing.

13 (b) Upon receipt of a timely request for a hearing by an entity regarding an
 14 enforcement action under AS 47.32.070 or 47.32.140(d)(1), (2), (4), (8), (10), (11),
 15 (12), or (13), the department shall conduct a hearing in front of an officer appointed by
 16 the commissioner. A hearing under this subsection may be conducted on the record,
 17 in an informal manner, and may not be conducted under AS 44.62 or AS 44.64. The
 18 appointed hearing officer may be a state employee.

19 (c) The decision following a hearing conducted under (a) or (b) of this section
 20 constitutes a final agency administrative order.

21 (d) A hearing conducted under this section shall take place within 120 days
 22 after the department's receipt of the request for hearing. A hearing may be held on an
 23 expedited basis upon a showing of good cause. An expedited hearing shall be held
 24 within 60 days after the department's receipt of the request for a hearing.

25 **Sec. 47.32.160. Immunity.** (a) The department, its employees, and its agents
 26 are not liable for civil damages as a result of an act or omission in the licensure
 27 process, the monitoring of a licensed entity, or any activities under this chapter.

28 (b) A volunteer who works for a hospice program licensed under this chapter
 29 is not liable for damages for personal injury, wrongful death, or property damage for
 30 an act or omission committed in the course of hospice-related duties unless the act or
 31 omission constitutes gross negligence, recklessness, or intentional misconduct.

1 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with
2 criminal negligence violates a provision of this chapter or a regulation adopted under
3 this chapter related to the health and safety of persons served by an entity required to
4 comply with this chapter is guilty of a class B misdemeanor.

5 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except
6 as otherwise provided by law, the following are confidential and may not be disclosed
7 to the public without a court order: complaints; investigations; inspections; records
8 related to a complaint, investigation, or inspection; and the identity of a complainant
9 and of individuals receiving services from an entity.

10 (b) With the exception of information that identifies a complainant or a
11 recipient of services from an entity, a copy of the department's report of investigation
12 or inspection under AS 47.32.120, an entity's written response to the report, and
13 information regarding any department imposition of an enforcement action under
14 AS 47.32.130 or 47.32.140 are public records under AS 40.25. The department shall
15 make this information available to the public for inspection and copying within
16 timeframes specified in AS 40.25 or regulations adopted under AS 40.25 after the

17 (1) entity receives its copy of the report of investigation under
18 AS 47.32.120, if the department has determined that an enforcement action under AS
19 47.32.130 or 47.32.140 will not be taken regarding the entity;

20 (2) department's notice of enforcement action under AS 47.32.130 or
21 47.32.140 becomes a final administrative order without a hearing under
22 AS 47.32.130(c) or 47.32.140(i); or

23 (3) issuance of a decision following a hearing under AS 47.32.150.

24 **Sec. 47.32.190. Access to information.** Notwithstanding any contrary
25 provision of law, the divisions of the department assigned public health and public
26 assistance functions shall have access to any information compiled or retained by
27 other divisions within the department, regardless of the nature of the information or
28 whether the information is considered confidential, in order to assist in administering
29 the provisions of this chapter.

30 **Sec. 47.32.200. Notice of changes from an entity.** (a) An entity shall
31 provide the department with written notice of a change of mailing address at least 14

1 days before the effective date of the change.

2 (b) An entity shall notify the department within 24 hours after having
3 knowledge that an administrator, employee, volunteer, or household member, as
4 required by the type of entity under department regulations, has been

5 (1) convicted of, has been charged by information or complaint with,
6 or is under indictment or presentment for an offense listed in regulations adopted
7 under AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar
8 elements; or

9 (2) found to have neglected or abused a child as described in AS 47.10.

10 (c) An entity shall notify the department within 24 hours after having
11 knowledge of any allegation or suspicion of abuse, neglect, or misappropriation of
12 money or other property of an individual receiving services from the entity. The entity
13 shall conduct an investigation and make a written report to the department within five
14 days following notification to the department under this subsection.

15 (d) Not less than 20 days before the effective date of a decision to relinquish
16 the entity's license, the entity shall notify the department of the decision.

17 (e) Not more than one day after signing a contract for sale of the licensed
18 entity, the entity shall notify the department of the sale.

19 (f) Not less than 30 days before an entity wishes to change the location of the
20 entity, the entity shall notify the department of the change.

21 **Sec. 47.32.900. Definitions.** In this chapter,

22 (1) "ambulatory surgical center" means a facility that

23 (A) is not a part of a hospital or a physician's general medical
24 practice; and

25 (B) operates primarily for the purpose of providing surgical
26 services to patients who do not require hospitalization;

27 (2) "assisted living home"

28 (A) means a residential facility that serves three or more adults
29 who are not related to the owner by blood or marriage, or that receives state or
30 federal payment for services regardless of the number of adults served; the
31 department shall consider a facility to be an assisted living home if the facility

- 1 (i) provides housing and food services to its residents;
 2 (ii) offers to provide or obtain for its residents
 3 assistance with activities of daily living;
 4 (iii) offers personal assistance as defined in
 5 AS 47.33.990; or
 6 (iv) provides or offers any combination of these
 7 services;
- 8 (B) does not include
 9 (i) a correctional facility;
 10 (ii) an emergency shelter;
 11 (iii) a program licensed under AS 47.10.310 for
 12 runaway minors;
 13 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
 14 (9), (10), (11), or (12);
- 15 (3) "child placement agency" means an agency that arranges for
 16 placement of a child
 17 (A) in a foster home, residential child care facility, or adoptive
 18 home; or
 19 (B) for guardianship purposes;
- 20 (4) "commissioner" means the commissioner of health and social
 21 services;
- 22 (5) "department" means the Department of Health and Social Services;
 23 (6) "entity" means an entity listed in AS 47.32.010(b);
 24 (7) "foster home" means a place where the adult head of household
 25 provides 24-hour care on a continuing basis to one or more children who are apart
 26 from their parents;
- 27 (8) "free-standing birth center" means a facility that is not a part of a
 28 hospital and that provides a birth service to maternal clients;
- 29 (9) "frontier extended stay clinic" means a rural health clinic that is
 30 authorized to provide 24-hour care to one or more individuals;
- 31 (10) "home health agency" means a public agency or private

1 organization, or a subdivision of a public agency or private organization, that
2 primarily engages in providing skilled nursing services in combination with physical
3 therapy, occupational therapy, speech therapy, or services provided by a home health
4 aide to an individual in the individual's home, an assisted living home, or another
5 residential setting; in this paragraph.

6 (A) "public agency" means an agency operated by the state or a
7 local government;

8 (B) "subdivision" means a component of a multi-function
9 facility or home health agency, such as the home health care division of a
10 hospital or the division of a public agency, that independently meets the
11 requirements for licensure as a home health agency;

12 (11) "hospice" or "agency providing hospice services or operating
13 hospice programs" means a program that provides hospice services;

14 (12) "hospice services" means a range of interdisciplinary palliative
15 and supportive services

16 (A) provided in a home or at an inpatient facility to persons
17 who are terminally ill and to those persons' families in order to meet their
18 physical, psychological, social, emotional, and spiritual needs; and

19 (B) based on hospice philosophy; for purposes of this
20 subparagraph "hospice philosophy" means a philosophy that is life affirming,
21 recognizes dying as a normal process of living, focuses on maintaining the
22 quality of remaining life, neither hastens nor postpones death, strengthens the
23 client's role in making informed decisions about care, and stresses the delivery
24 of services in the least restrictive setting possible and with the least amount of
25 technology necessary by volunteers and professionals who are trained to help a
26 client with the physical, social, psychological, spiritual, and emotional issues
27 related to terminal illness so that the client can feel better prepared for the
28 death that is to come;

29 (13) "hospital" means a public or private institution or establishment
30 devoted primarily to providing diagnosis, treatment, or care over a continuous period
31 of 24 hours each day for two or more unrelated individuals suffering from illness,

1 physical or mental disease, injury or deformity, or any other condition for which
 2 medical or surgical services would be appropriate; "hospital" does not include a
 3 frontier extended stay clinic;

4 (14) "intermediate care facility for the mentally retarded" has the
 5 meaning given in 42 C.F.R. 440.150;

6 (15) "licensed entity" means an entity that has a license issued under
 7 this chapter;

8 (16) "maternity home" means a place of residence the primary function
 9 of which is to give care, with or without compensation, to pregnant individuals,
 10 regardless of age, or that provides care, as needed, to mothers and their newborn
 11 infants;

12 (17) "nursing facility" means a facility that is primarily engaged in
 13 providing skilled nursing care or rehabilitative services and related services for those
 14 who, because of their mental or physical condition, require care and services above the
 15 level of room and board; "nursing facility" does not include a facility that is primarily
 16 for the care and treatment of mental diseases;

17 (18) "residential child care facility" means a place, staffed by
 18 employees, where one or more children who are apart from their parents receive 24-
 19 hour care on a continuing basis;

20 (19) "residential psychiatric treatment center" means a secure or semi-
 21 secure facility, or an inpatient program in another facility, that provides, under the
 22 direction of a physician, psychiatric diagnostic, evaluation, and treatment services on a
 23 24-hour-a-day basis to children with severe emotional or behavioral disorders;

24 (20) "runaway shelter" means a facility housing a runaway child;

25 (21) "rural health clinic"

26 (A) means a facility or clinic that is authorized to provide
 27 health care services and is located in a rural area;

28 (B) includes a frontier extended stay clinic;

29 (C) does not include a rehabilitation agency or a facility
 30 primarily for the care and treatment of mental diseases.

31 * Sec. 35. AS 47.32.010, added by sec. 34 of this Act, is amended by adding a new

1 subsection to read:

2 (c) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history,
3 criminal history checks, criminal history use standards, and a centralized registry,
4 apply to entities listed in (b) of this section, as provided in AS 47.05.300.

5 * Sec. 36. AS 47.33.010 is amended to read:

6 **Sec. 47.33.010. Applicability.** (a) Except as provided in (b) of this section,
7 this chapter applies to assisted living homes as defined in AS 47.32.900
8 [RESIDENTIAL FACILITIES OPERATED IN THE STATE THAT SERVE THREE
9 OR MORE ADULTS WHO ARE NOT RELATED TO THE OWNER OF THE
10 FACILITY BY BLOOD OR MARRIAGE BY

11 (1) PROVIDING HOUSING AND FOOD SERVICE TO ITS
12 RESIDENTS; AND

13 (2) PROVIDING OR OBTAINING, OR OFFERING TO PROVIDE
14 OR OBTAIN FOR ITS RESIDENTS

15 (A) ASSISTANCE WITH THE ACTIVITIES OF DAILY
16 LIVING;

17 (B) PERSONAL ASSISTANCE; OR

18 (C) A COMBINATION OF SERVICES UNDER (A) AND (B)
19 OF THIS PARAGRAPH].

20 (b) Notwithstanding (a) of this section, this chapter does not apply to

21 (1) a correctional facility;

22 (2) a facility for treatment of alcoholism that is regulated under
23 AS 47.37;

24 (3) an emergency shelter;

25 (4) a medical facility, including a nursing home, licensed under
26 AS 47.32 [AS 18.20];

27 (5) a program for runaway minors licensed under AS 47.10.310; or

28 (6) a maternity home licensed under AS 47.32 [AS 47.35].

29 * Sec. 37. AS 47.33.070(a) is amended to read:

30 (a) An assisted living home shall maintain, for each resident of the home, a
31 file that includes

1 (1) the name and birth date, and, if provided by the resident, the social
2 security number of the resident;

3 (2) the name, address, and telephone number of the resident's closest
4 relative, service coordinator, if any, and representative, if any;

5 (3) a statement of what actions, if any, the resident's representative is
6 authorized to take on the resident's behalf;

7 (4) a copy of the resident's assisted living plan;

8 (5) a copy of the residential services contract between the home and
9 the resident;

10 (6) a notice, as required under AS 47.33.030, regarding the depository
11 in which the resident's advance payment money is being held;

12 (7) written acknowledgment by the resident or the resident's
13 representative that the resident has received a copy of and has read, or has been read
14 the

15 (A) resident's rights under AS 47.33.300;

16 (B) resident's right to pursue a grievance under AS 47.33.340;

17 (C) resident's right to protection from retaliation under
18 AS 47.33.350;

19 (D) provisions of AS 47.32.160 [AS 47.33.510], regarding
20 immunity; and

21 (E) home's house rules;

22 (8) an acknowledgment and agreement relating to home safekeeping
23 and management of the resident's money, as required by AS 47.33.040;

24 (9) a copy of the resident's living will, if any, or an advance health care
25 directive made under AS 13.52, if any; and

26 (10) a copy of a power of attorney or other written designation,
27 including an advance health care directive made under AS 13.52, of an agent,
28 representative, or surrogate by the resident.

29 * Sec. 38. AS 47.40.021 is amended to read:

30 **Sec. 47.40.021. Licensing and supervision.** Facilities providing services that
31 are purchased by the department under AS 47.40.011 - 47.40.091 [,] shall, if required

1 by the department, be licensed and supervised under AS 47.32 [AS 47.35].

2 * Sec. 39. AS 47.40.110 is amended to read:

3 **Sec. 47.40.110. Licensing and supervision.** A person providing services
4 purchased by the Department of Health and Social Services under AS 47.40.100 -
5 47.40.120 shall, if required to be licensed under AS 47.32 [AS 47.35], be licensed and
6 supervised in the same manner as foster homes and maternity homes under AS 47.32
7 [AS 47.35].

8 * Sec. 40. AS 47.55.010(d) is amended to read:

9 (d) The department may employ the necessary subordinate officers and
10 employees, and shall prescribe methods for operation of the homes, standards of care
11 and service to home residents, and rules governing personnel. The methods for
12 operation and standards of care and services to residents prescribed under this
13 subsection shall be the same as the methods for operation and standards of care
14 established by the department for an assisted living home licensed under AS 47.32
15 [AS 47.33].

16 * Sec. 41. AS 47.62.090(2) is amended to read:

17 (2) "long term care facility" means an assisted living home, as defined
18 in AS 47.32.900, [THAT IS REQUIRED TO BE LICENSED UNDER AS 47.33] and
19 a nursing facility, [HOME] as defined in AS 47.32.900 [AS 08.70.180];

20 * Sec. 42. AS 47.80.140 is repealed and reenacted to read:

21 **Sec. 47.80.140. Licensing and certificates of need.** (a) A person may not
22 establish or operate a residential facility until the facility has been licensed under
23 AS 47.32.

24 (b) A certificate of need is required as a prerequisite for the licensing of a
25 residential facility established after July 1, 1978, and not otherwise provided for in
26 AS 18.07.031 - 18.07.111. A certificate shall be issued and regulated in the same
27 manner as provided in AS 18.07.031 - 18.07.111 for certificates of need for health
28 care facilities. This subsection does not apply to an assisted living home licensed
29 under AS 47.32.

30 * Sec. 43. AS 14.43.148(h)(1)(B)(iii) is repealed.

31 * Sec. 44. AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,

1 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
2 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
3 18.18.470, and 18.18.490 are repealed.

4 * Sec. 45. AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,
5 18.20.070, 18.20.090, 18.20.110, 18.20.120, 18.20.130(2), 18.20.230, 18.20.240, 18.20.250,
6 18.20.260, and 18.20.302 are repealed.

7 * Sec. 46. AS 25.27.244(s)(2)(B)(ii) is repealed.

8 * Sec. 47. AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

9 * Sec. 48. AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33), and 44.64.030(a)(34)
10 are repealed.

11 * Sec. 49. AS 47.33.100, 47.33.400, 47.33.410, 47.33.430, 47.33.500, 47.33.510,
12 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910, 47.33.920,
13 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

14 * Sec. 50. AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
15 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
16 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
17 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
18 repealed.

19 * Sec. 51. AS 47.37.270(2) and 47.37.270(3) are repealed.

20 * Sec. 52. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **APPLICABILITY REGARDING CERTAIN SECTIONS; DEPARTMENT ACTION.**

23 (a) The changes made by secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act apply
24 to

25 (1) applications or requests submitted within the 90 days before, or submitted
26 on or after, the effective dates of sec. 34 of this Act for initial licensure, certification, or other
27 approval of an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act; and

28 (2) applications submitted within the 90 days before, or submitted on or after,
29 the effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act for renewal
30 of a license issued before the effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 -
31 51 of this Act under a statute repealed or amended by this Act, and regarding a type of entity

1 listed in AS 47.32.010(b), enacted by sec. 34 of this Act.

2 (b) The Department of Health and Social Services may not make a final determination
3 regarding an application or request described in (a) of this section earlier than the effective
4 date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act.

5 * Sec. 53. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 APPLICABILITY REGARDING SECS. 19 AND 35 OF THIS ACT;
8 DEPARTMENT ACTION. (a) The changes made by secs. 19 and 35 of this Act apply to

9 (1) applications or requests submitted within the 30 days before, or submitted
10 on or after, the effective date of secs. 19 and 35 of this Act for initial licensure, certification,
11 or other approval or selection as any of the following:

12 (A) an entity or individual service provided that is subject to
13 AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

14 (B) an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act,
15 that is not described in (A) of this paragraph; and

16 (2) applications or requests submitted within the 30 days before, or submitted
17 on or after, the effective date of secs. 19 and 35 of this Act, for renewal of a license,
18 certification, or other approval or selection for an entity or individual service provider that is
19 subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act.

20 (b) The Department of Health and Social Services may not make a final determination
21 regarding an application or request described in (a) of this section earlier than the effective
22 date of secs. 19 and 35 of this Act.

23 (c) In this section,

24 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
25 sec. 19 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that
26 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

27 (2) "individual service provider" has the meaning given in AS 47.05.390,
28 enacted by sec. 19 of this Act.

29 * Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES. (a)

1 Notwithstanding AS 47.32.020, enacted by sec. 34 of this Act, a facility that is a type of entity
 2 listed in AS 47.32.010(b), enacted by sec. 34 of this Act, and that on the effective date of secs.
 3 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act is being operated under a valid license
 4 or under an approval issued by the department under a statute repealed or amended by this
 5 Act, may continue to be operated under that license or approval as provided in this section.

6 (b) References to AS 47.32 in the following sections are interpreted to include, until
 7 June 30, 2006, the relevant former licensing provision repealed in this Act:

- 8 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;
- 9 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;
- 10 (3) AS 47.05.010, as amended by sec. 17 of this Act;
- 11 (4) AS 47.05.055(a), as amended by sec. 18 of this Act;
- 12 (5) AS 47.10.141(b), as amended by sec. 20 of this Act;
- 13 (6) AS 47.10.392, as amended by sec. 21 of this Act;
- 14 (7) AS 47.10.399(2), as amended by sec. 22 of this Act;
- 15 (8) AS 47.10.990, as amended by secs. 23 and 24 of this Act;
- 16 (9) AS 47.24.013(a), as amended by sec. 26 of this Act;
- 17 (10) AS 47.24.017(d), as amended by sec. 27 of this Act;
- 18 (11) AS 47.25.071(b), as amended by sec. 28 of this Act;
- 19 (12) AS 47.25.095(2), as amended by sec. 29 of this Act;
- 20 (13) AS 47.25.095(4), as amended by sec. 30 of this Act;
- 21 (14) AS 47.25.195(f)(1), as amended by sec. 31 of this Act;
- 22 (15) AS 47.30.915(5), as amended by sec. 32 of this Act;
- 23 (16) AS 47.31.100(4), as amended by sec. 33 of this Act;
- 24 (17) AS 47.33.010, as amended by sec. 36 of this Act;
- 25 (18) AS 47.33.070(a), as amended by sec. 37 of this Act;
- 26 (19) AS 47.40.021, as amended by sec. 38 of this Act;
- 27 (20) AS 47.40.110, as amended by sec. 39 of this Act;
- 28 (21) AS 47.55.010(d), as amended by sec. 40 of this Act; and
- 29 (22) AS 47.62.090(2), as amended by sec. 41 of this Act.

30 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the
 31 requirements and standards, including department oversight, monitoring, and enforcement

1 actions, regarding operation of a facility that is authorized to continuing operating under this
 2 section are those that were in effect in statute or regulation on the day before the effective date
 3 of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act.

4 (d) Unless the terms of the facility's current license provide for an earlier expiration
 5 date, and unless an enforcement action taken by the department as provided in (c) of this
 6 section affects the validity of the current license, the expiration date of the current license of a
 7 facility described in (a) of this section is June 30, 2006.

8 (e) Application for license renewal must be made under AS 47.32.060, enacted by
 9 sec. 34 of this Act, by the date required by that statute, for a facility described in (a) of this
 10 section for which renewal of licensure is desired before expiration of the facility's current
 11 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
 12 by sec. 34 of this Act, the current license for the facility is considered to be a biennial license
 13 under AS 47.32.

14 (f) In this section,

15 (1) "current license" means a license or approval described in (a) of this
 16 section;

17 (2) "department" means the Department of Health and Social Services.

18 * Sec. 55. The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

20 TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90
 21 DAYS. (a) An application for licensure or approval regarding a facility that is a type of
 22 entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that was submitted more than
 23 90 days before the effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this
 24 Act under a statute repealed or amended by this Act and that is pending department action on
 25 the effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act shall
 26 continue to be processed, and either granted or denied, by the department under the applicable
 27 statutes and regulations that were in effect on the day before the effective date of secs. 1 - 14,
 28 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act.

29 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
 30 section, the requirements and standards, including department oversight, monitoring, and
 31 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)

1 of this section are those that were in effect in statute or regulation on the day before the
2 effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51 of this Act.

3 (c) Unless an enforcement action taken by the department as provided in (b) of this
4 section affects the validity of the license or approval, a license or approval issued by the
5 department on or after the effective date of secs. 1 - 14, 16 - 18, 20 - 34, 36 - 41, and 43 - 51
6 of this Act under the provisions of (a) of this section expires June 30, 2006.

7 (d) Application must be made under AS 47.32.060, enacted by sec. 34 of this Act, by
8 the date required by that statute, for a facility described in (a) of this section for which a
9 license or approval was issued under (a) of this section and for which renewal of a license is
10 desired, before expiration of the license or approval issued under (a) of this section. For
11 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 34
12 of this Act, the license or approval issued under (a) of this section regarding the facility is
13 considered to be a biennial license under AS 47.32.

14 (e) In this section,

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

16 (2) "license" includes a renewed license.

17 * Sec. 56. The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **TRANSITION: PENDING APPLICATIONS AND OTHER REQUESTS**
20 **REGARDING SEC. 19 OF THIS ACT.** (a) An application or other request for licensure,
21 certification, or other approval or selection as an entity or individual service provider that
22 would be subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act, that was
23 submitted more than 30 days before the effective date of sec. 19 of this Act and is pending
24 department action on the effective date of sec. 19 of this Act shall continue to be processed,
25 and either granted or denied, by the department under the applicable statutes and regulations
26 that were in effect on the day before the effective date of sec. 19 of this Act. In this
27 subsection,

28 (1) "entity" means an entity that would be subject to AS 47.05.300 -
29 47.05.390, enacted by sec. 19 of this Act;

30 (2) "individual service provider" has the meaning given in AS 47.05.390,
31 enacted by sec. 19 of this Act.

1 (b) In this section,

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

3 (2) "license" includes a renewed license.

4 * Sec. 57. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
7 may proceed to adopt regulations necessary to implement secs. 1 - 14, 16 - 18, 20 - 34, 36 -
8 41, and 43 - 51 of this Act. The regulations take effect under AS 44.62 (Administrative
9 Procedure Act), but not before the effective date of the statutory changes.

10 (b) The Department of Health and Social Services may proceed to adopt regulations
11 necessary to implement secs. 15, 19, and 35 of this Act. The regulations take effect under
12 AS 44.62 (Administrative Procedure Act).

13 * Sec. 58. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant
16 governor shall certify to the revisor of statutes the effective date of the regulations adopted by
17 the Department of Health and Social Services under sec. 57 of this Act.

18 * Sec. 59. Sections 52, 55, and 57 of this Act take effect immediately under
19 AS 01.10.070(c).

20 * Sec. 60. Sections 15, 19, and 35 of this Act take effect on the effective date of the
21 regulations adopted by the Department of Health and Social Services under sec. 57(b) of this
22 Act, or March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.

23 * Sec. 61. Except as provided in secs. 59 and 60 of this Act, this Act takes effect July 2,
24 2005.

5/7/05

24-GS1016L.1
Mischel
5/7/05

AMENDMENT

1 Adopted

OFFERED IN THE HOUSE

TO: CSSB 125(JUD)

- 1 Page 25, line 15, following "in":
2 Insert "AS 47.05.350 and"
3
4 Page 42, lines 16 - 17:
5 Delete all material and insert:
6 "(17) AS 47.33.010, as amended by sec. 36 of this Act;
7 (18) AS 47.33.070(a), as amended by sec. 37 of this Act;
8 (19) AS 47.40.021, as amended by sec. 38 of this Act;
9 (20) A 47.40.110, as amended by sec. 39 of this Act;
10 (21) AS 47.55.010(d), as amended by sec. 40 of this Act; and
11 (22) AS 47.62.090(2), as amended by sec. 41 of this Act."

Adopted

AMENDMENT #2

OFFERED IN HOUSE FINANCE
TO: CSSB 125 (JUD)

BY REPRESENTATIVE CROFT

Page 10, line 16, before "volunteer":
INSERT: "unsupervised"

Page 11, line 15, before "volunteer":
INSERT: "unsupervised"

Page 13, line 11, before "volunteer":
INSERT: "unsupervised"

Page 13, line 14, before "volunteer":
INSERT: "unsupervised"

Page 13, line 27, before "volunteer":
INSERT: "unsupervised"

Page 14, line 3, before "volunteer":
INSERT: "unsupervised"

Page 14, line 23, before "volunteer":
INSERT: "unsupervised"

Page 14, line 24, before "volunteer":
INSERT: "unsupervised"

Re-number accordingly.

It is the intent of this amendment to remove the requirement for criminal background checks for supervised volunteers in the facilities listed in this bill. As CSSB 125 (JUD) is a complicated bill streamlining requirements from several sections of the statute, the passage of this amendment should be taken as direction by LAA Legal Services to accomplish the intended goal.

adopted 5/7/05

A M E N D M E N T N E W # 3

OFFERED IN HOUSE FINANCE BY
REPRESENTATIVE CROFT
TO: CSSB 125 (JUD)

Page 14, line 25 after "registry":

INSERT: ""shall be notified of such placement and"

Page 14, line 28, after "modifications":

INSERT: "if the department finds no relation between the information placed on the registry and the risk of harm to the entity's clientele"

AMENDMENT

3

OFFERED IN HOUSE FINANCE

BY REPRESENTATIVE CROFT

TO: CSSB 125 (JUD)

Page 14, line 25 after "registry":

INSERT: ""shall be notified of such placement and"

Page 14, line 28, after "modifications":

INSERT: "unless the department finds no substantial relation between the criminal history and the risk of harm to the entity's clientele"



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

CSSB 125(JUD), a Bill to Consolidate
DHSS Licensing, Certification and
Background Check Functions

Dr. Richard Mandsager, M.D.
Director, Division of Public Health
Alaska Department of Health and Social Services

5/07/2005

Why are we doing this? What's wrong with things the way they are?



- The existing statutory and regulatory environment is a complex patchwork, with holes, duplication and unnecessary variants.
 - Agencies which offer more than one type of care services must meet different requirements for licensing created by evolving program standards and historical licensing criteria.
 - These differences limit the flexibility of licensing staff to operate across different program types.
 - There is no compelling rationale to maintain these differences, and much benefit to be derived from eliminating them.
- Some provider types are not covered today, for either requirements of licensing or background check requirements, or both.
- Some individuals can currently pass a background screen, who shouldn't.
- Tracking of required care provider information has not been consistent.
- Existing requirements can also raise the costs to care provider applicants.

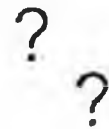
"Recruiting and hiring ... is an area we cannot afford even a single failure of the system." Matthew Jones, Executive Director, Assets Inc.

The existing regulation of long term care has not prevented instances of abuse and neglect.

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
 - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.

Besides the gaps in the oversight process and risks to Alaskans in care, there is significant cost and effort to provide the required management of care programs.

- Currently, 19 programs are administered under at least 12 different statutory schemes for licensure by DHSS.
 - The complexity of the different standards and program compliance requirements have resulted in a cumbersome administrative structure.
 - Care providers are faced with a patchwork of regulations and sometimes conflicting requirements for service delivery, particularly the agencies that operate multiple types of care services.
 - For example, under current practices a Care Coordinator might be employable at one agency, but not acceptable to another agency. And an individual acceptable for Care Coordination would not be acceptable to an Assisted Living Home, or an Assisted Living Home employee might not be employable in Child Care.
 - Yet many of the care agencies operate in all these programs
 - Licensing and Certification surveyors/licensing staff must learn and deal with the variants of each service program.
 - A consolidated program promotes greater depth in staff expertise and cross training.
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.

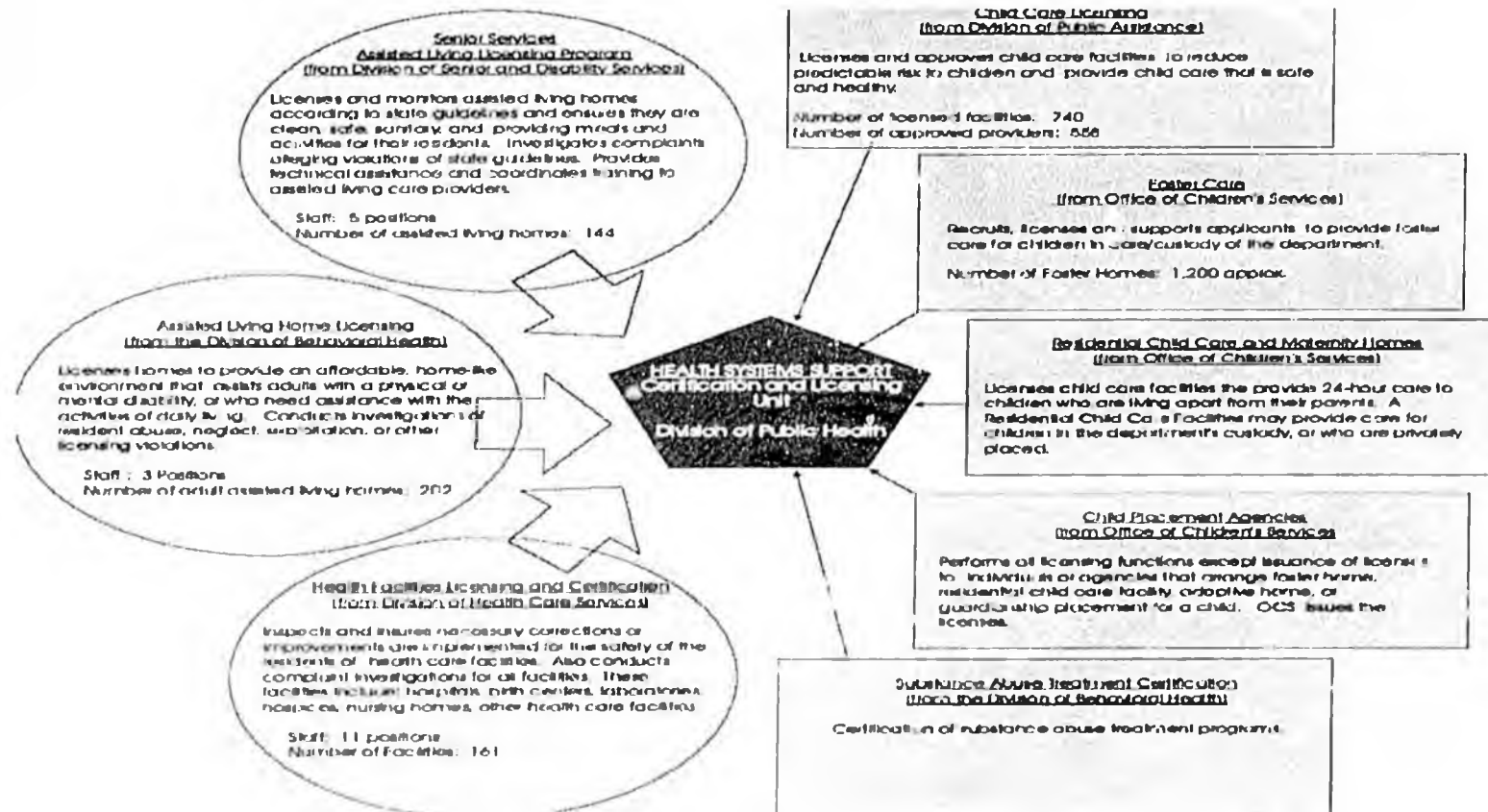


The three units that have been consolidated represent Phase I of the consolidation process.

Department of Health and Social Services Certification and Licensing Integration Project

Phase I – FY 2005

Potential Phase II - FY 2006 – 2009



Our aim is to reduce predictable risk, improve quality of care, foster patient rights, and advance public health, safety and welfare.

- **Centralized Licensing and Related Administrative Procedures, for:**

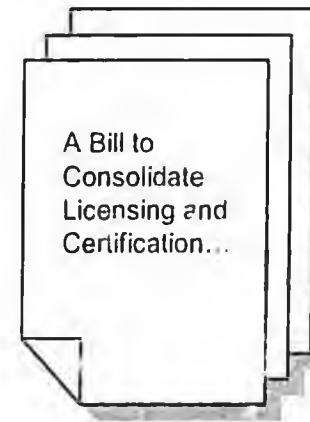
- | | | |
|-----------------------------|----------------------|--|
| Ambulatory Surgical Centers | Home Health Agencies | Residential Child Care Facilities |
| Assisted Living Homes | Hospices | Residential Psychiatric Treatment Ctrs |
| Child Care Facilities | Hospitals | Rural Health Clinics |
| Child Placement Agencies | ICF/MRs | *Supported Living Homes |
| Foster Homes | Maternity Homes | *Personal Care Attendants |
| Freestanding Birth Centers | Nursing Facilities | *Case Mgmt/Care Coordination |
| | | *Adult Day Care/Respite |

- **Defines and Consolidates:**

- Definitions
- Requirements to get a license
- License renewal process
- Requirements for a background check
- Conditions for denial of license
- Complaints process and appeals
- Enforcement actions and penalties
- Confidentiality requirements

* Subject to background check provisions only

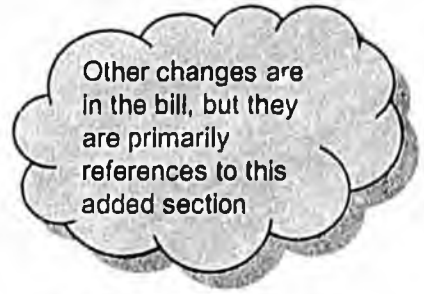
[Licensed Certified Both]



How CSSB 125(JUD) impacts the existing statutory definition of current DHSS licensed programs...

18.20.075-085	Hospital reg, risk mgmt, inspection
18.20.300	Nursing Facilities - state policy
18.20.305-390	Nursing regs, penalties, appeals, fines, ...
47.33.005-090	ALH Purpose, applicability, payments, rules, ...
47.33.200-360	ALH rights, grievances, contracts
18.18.100	Hospice licensing requirements
18.18.200	Volunteer Hospice licensing requirements
18.18.300-340	General Hospice requirements
18.18.390	Hospice definitions
18.18.490	HHA definitions
18.20.230-260	Hospital charges
14.43.148	Defines nonrenewal of licenses in general Amended to include children and A/DA licensing
18.20.130	Defines nonrenewal of licenses in general
47.33.990	ALH Definitions, removed references to controlled subs.
47.37.270	Removed selected definitions related to treatment facilities
18.05.040(a)(10)	Direct Entry Midwifery free standing birth centers
18.19.005-040	Hospice regulation
18.20.090-120	Disclosure of information, penalties
18.18.350	Hospice disclosure requirements
18.18.410-470	Home Health Agencies
18.20-18.20.070	Hospitals and intermediate care facility licensing
18.20.302	Criminal background check, nursing employees
47.33.100	ALH criminal background checks
47.33.400-920	ALH Licensing process & procedures
47.35.005-260	Maternity, RPTCs, childrens services process and procedures

Retained
Retained
Retained
Retained
Retained



moved to regulation
moved to regulation
moved to regulation
moved to regulation
moved to regulation
moved to regulation



Amended
Amended
Amended
Amended



Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed



Note: "move to regulation" removes a regulatory level of detail from statute, but retains the spirit and intent of the statute in the forthcoming regulatory rewrite.

Repealed means the statute is being removed from the statutory code. It is not being replaced in the process of a new statute with a similar title. It is being removed from the code and will not be replaced. The new statute will be added to the code and will be a new statute. It is not being replaced in the code and will not be replaced. The new statute will be added to the code and will be a new statute. It is not being replaced in the code and will not be replaced. The new statute will be added to the code and will be a new statute.

What's in CSSB 125(JUD)?

- **Addition of a new chapter to centralize licensing and administration of covered entities:**
 - Defines what entities must be licensed
 - Defines license conditions, appeals, complaint process
 - Defines DHSS rights and responsibilities
 - Provides confidentiality protections
 - Provides criminal penalties for violations
- **Addition of a new article to centralize background checks and registry functions:**
 - Defines who is required to have background checks
 - Provides for regulatory definition of barrier conditions
 - Requires a centralized registry be created and maintained
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**