



LAWS OF ALASKA

1996

Source

HCS CSSB 296(JUD)

Chapter No.

35

AN ACT

Requiring criminal background checks before certain persons may be employed in a nursing home or assisted living facility; and prohibiting the hiring or retention of certain nursing home and assisted living facility employees convicted of specified offenses.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: May 22, 1996

Actual Effective Date: August 20, 1996

AN ACT

1 Requiring criminal background checks before certain persons may be employed in a nursing
2 home or assisted living facility; and prohibiting the hiring or retention of certain nursing home
3 and assisted living facility employees convicted of specified offenses.

4

5 * **Section 1.** AS 18.20 is amended by adding a new section to read:

6 Sec. 18.20.302. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)
7 A nursing facility may not employ an individual in a paid position that the department
8 has determined is covered by this section, according to its regulations, unless the
9 individual, before beginning employment,

10 (1) provides to the facility a sworn statement as to whether the individual
11 has been convicted of an offense described in (c) of this section;

12 (2) provides to the facility the results of a name-check criminal
13 background investigation that was completed by the Department of Public Safety no
14 more than 30 days before the individual is hired; and

15 (3) submits to the facility two full sets of the individual's fingerprints.

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1 (b) Within 30 days after employing an individual in a paid position, a nursing
2 facility shall submit to the Department of Public Safety the fingerprints obtained under
3 (a)(3) of this section. The Department of Public Safety shall submit the fingerprints to
4 the Federal Bureau of Investigation for a national criminal history record check. When
5 the results are received, the department shall advise the facility of

6 (1) the date on which the fingerprint background check was completed;
7 and

8 (2) whether the check shows that the individual has committed an offense
9 described in (c) of this section.

10 (c) A nursing facility may not hire or retain an employee who has been
11 convicted of an offense listed in the department's regulations as being an offense covered
12 by this section.

13 * Sec. 2. AS 47.33 is amended by adding a new section to article 1 to read:

14 Sec. 47.33.100. CRIMINAL BACKGROUND CHECK FOR EMPLOYEES. (a)

15 An assisted living home may not employ an individual in a paid position that the
16 applicable licensing agency has determined is covered by this section, according to its
17 regulations, unless the individual, before beginning employment,

18 (1) provides to the home a sworn statement as to whether the individual
19 has been convicted of an offense described in (c) of this section; and

20 (2) provides to the home the results of a name-check criminal background
21 investigation that was completed by the Department of Public Safety no more than 30
22 days before the individual is hired; and

23 (3) submits to the home two full sets of the individual's fingerprints.

24 (b) Within 30 days after employing an individual in a paid position, an assisted
25 living home shall submit to the Department of Public Safety the fingerprints obtained
26 under (a)(3) of this section. The Department of Public Safety shall submit the
27 fingerprints to the Federal Bureau of Investigation for a national criminal history record
28 check. When the results are received, the department shall advise the home of

29 (1) the date on which the fingerprint background check was completed;
30 and

31 (2) whether the check shows that the individual has committed an offense

1 described in (c) of this section.

2 (c) An assisted living home may not hire or retain an employee who has been
3 convicted of an offense listed in the regulations of the applicable licensing agency as
4 being an offense covered by this section.

5 * Sec. 3. AS 47.33.920 is amended to read:

6 Sec. 47.33.920. REGULATIONS. The commissioner of health and social
7 services and the commissioner of administration each may adopt regulations to carry out
8 the provisions of this chapter, including regulations regarding licensure and renewal
9 requirements, license application and renewal procedures; application and license fees;
10 types, duration, renewal, and transferability of licenses; staffing and home operation
11 standards; and variances to licensure and operating standards. Regulations adopted under
12 this chapter may provide for the waiver or modification of the requirements of this
13 chapter for homes with fewer than six residents **except that the regulations may not**
14 **provide for waiver or modification of the requirements of AS 47.33.100.**

15 * Sec. 4. APPLICABILITY. (a) AS 18.20.302(a) and (b), added by sec. 1 of this Act, and
16 AS 47.33.100(a) and (b), added by sec. 2 of this Act, apply only to persons hired on or after
17 the effective date of this Act and may not be construed to modify a collective bargaining
18 agreement in effect on the effective date of this Act.

19 (b) AS 18.20.302(c), added by sec. 1 of this Act, and AS 47.33.100(c), added by sec.
20 2 of this Act, do not apply to convictions for offenses that were committed before the
21 effective date of this Act if the offense was committed by a person who was hired before the
22 effective date of this Act.

23 (c) Notwithstanding (a) and (b) of this section, until the effective date of new
24 regulations adopted to implement this Act, regulations that are in effect on the effective date
25 of this Act remain enforceable to the extent that they pertain to retention or nonretention of
26 an administrator or care provider in an assisted living home based on criminal offenses
27 described in the regulations.