

SENATE CS FOR CS FOR HOUSE BILL NO. 60(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 5/11/23

Referred: Rules

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to the licensing of runaway shelters; allowing minors 16 years of age or older to consent to behavioral health and mental health services; authorizing school personnel to recommend a behavioral health or mental health professional to a child 16 years of age or older; relating to advisors to the board of trustees of the Alaska Mental Health Trust Authority; relating to the sharing of confidential health information between the Department of Health and the Department of Family and Community Services; relating to the duties of the Department of Health and the Department of Family and Community Services; and providing for an effective date."

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

*** Section 1.** AS 12.62.400(a) is amended to read:

(a) To obtain a national criminal history record check for determining a person's qualifications for a license, permit, registration, employment, or position, a

1 person shall submit the person's fingerprints to the department with the fee established
 2 by AS 12.62.160. The department may submit the fingerprints to the Federal Bureau
 3 of Investigation to obtain a national criminal history record check of the person for the
 4 purpose of evaluating a person's qualifications for

5 (1) a license or conditional contractor's permit to manufacture, sell,
 6 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage
 7 under AS 04.11;

8 (2) licensure as a mortgage lender, a mortgage broker, or a mortgage
 9 loan originator under AS 06.60;

10 (3) admission to the Alaska Bar Association under AS 08.08;

11 (4) licensure as a collection agency operator under AS 08.24;

12 (5) a certificate of fitness to handle explosives under AS 08.52;

13 (6) licensure as a massage therapist under AS 08.61;

14 (7) licensure to practice nursing or certification as a nurse aide under
 15 AS 08.68;

16 (8) certification as a real estate appraiser under AS 08.87;

17 (9) a position involving supervisory or disciplinary power over a minor
 18 or dependent adult for which criminal justice information may be released under
 19 AS 12.62.160(b)(9);

20 (10) a teacher certificate under AS 14.20;

21 (11) a registration or license to operate a marijuana establishment
 22 under AS 17.38;

23 (12) admittance to a police training program under AS 18.65.230 or for
 24 certification as a police officer under AS 18.65.240 if that person's prospective
 25 employer does not have access to a criminal justice information system;

26 (13) licensure as a security guard under AS 18.65.400 - 18.65.490;

27 (14) a concealed handgun permit under AS 18.65.700 - 18.65.790;

28 (15) licensure as an insurance producer, managing general agent,
 29 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines
 30 broker, or independent adjuster under AS 21.27;

31 (16) serving and executing process issued by a court by a person

1 designated under AS 22.20.130;

2 (17) a school bus driver license under AS 28.15.046;

3 (18) licensure as an operator or an instructor for a commercial driver
4 training school under AS 28.17;

5 (19) registration as a broker-dealer, agent, investment adviser
6 representative, or investment adviser under AS 45.56.300 - 45.56.350;

7 (20) licensure, license renewal, certification, certification renewal, or
8 payment from the Department of Health of an individual and an entity subject to the
9 requirements for a criminal history check under AS 47.05.310, including

10 (A) a public home care provider described in AS 47.05.017;

11 (B) a provider of home and community-based waiver services
12 financed under AS 47.07.030(c);

13 (C) a case manager to coordinate community mental health
14 services under AS 47.30.530;

15 (D) an entity listed in AS 47.32.010(b) and (c), including an
16 owner, officer, director, member, partner, employee, volunteer, or contractor of
17 an entity; or

18 (E) an individual or entity not described in (A) - (D) of this
19 paragraph that is required by statute or regulation to be licensed or certified by
20 the Department of Health or that is eligible to receive payments, in whole or in
21 part, from the Department of Health to provide for the health, safety, and
22 welfare of persons who are served by the programs administered by the
23 Department of Health;

24 (21) employment as a village public safety officer under AS 18.65.672
25 or certification as a village public safety officer under AS 18.65.682;

26 (22) licensure, license renewal, certification, or certification renewal
27 by the Department of Family and Community Services of an individual or entity, or
28 payment from the Department of Family and Community Services to an individual or
29 entity, subject to the requirements for a criminal history check under AS 47.05.310
30 [FOR A FOSTER HOME, CHILD PLACEMENT AGENCY, AND RUNAWAY
31 SHELTER LISTED IN AS 47.32.010(c)], including an entity listed in

1 **AS 47.32.010(c) and** an owner, officer, director, member, partner, employee,
 2 volunteer, or contractor of an entity.

3 * **Sec. 2.** AS 14.30.171 is amended by adding a new subsection to read:

4 (c) Notwithstanding (a) of this section, school personnel may recommend a
 5 behavioral health professional or mental health professional to a child who is 16 years
 6 of age or older. In this subsection, "behavioral health professional" and "mental health
 7 professional" have the meanings given in AS 14.30.174(b).

8 * **Sec. 3.** AS 14.30.174(a) is amended to read:

9 (a) Notwithstanding AS 14.30.171(a)(3) and (5), a behavioral or mental health
 10 professional working within a public school system may, in compliance with federal
 11 education law or applicable state law,

12 (1) recommend, but not require, a psychiatric or behavioral health
 13 evaluation of a child; [AND]

14 (2) recommend, but not require, psychiatric, psychological, or
 15 behavioral treatment for a child; **and**

16 **(3) obtain informed consent from and provide behavioral or**
 17 **mental health services to a child who is 16 years of age or older.**

18 * **Sec. 4.** AS 18.65.340(f)(1) is amended to read:

19 (1) "department" means a department of state government listed in
 20 **AS 44.17.005(2) - (16)** [AS 44.17.005(2) - (15)];

21 * **Sec. 5.** AS 25.20.025(a) is amended to read:

22 (a) Except as prohibited under AS 18.16.010(a)(3),

23 (1) a minor who is living apart from the minor's parents or legal
 24 guardian and who is managing the minor's own financial affairs, regardless of the
 25 source or extent of income, may give consent for medical and dental services for the
 26 minor;

27 (2) a minor may give consent for medical and dental services if the
 28 parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling
 29 either to grant or withhold consent; however, **if** [WHERE] the parent or legal guardian
 30 cannot be contacted or, **when** [IF] contacted, is unwilling either to grant or to withhold
 31 consent, the provider of medical or dental services shall counsel the minor keeping in

mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them;

(3) a minor who is the parent of a child may give consent to medical and dental services for the minor or the child;

(4) a minor may give consent for diagnosis, prevention, or treatment of pregnancy, and for diagnosis and treatment of venereal disease;

(5) a minor who is 16 years of age or older may give consent to receive behavioral or mental health services from a behavioral health professional or mental health professional; in this paragraph, "behavioral health professional" and "mental health professional" have the meanings given in AS 14.30.174(b) [THE PARENT OR GUARDIAN OF THE MINOR IS RELIEVED OF ALL FINANCIAL OBLIGATION TO THE PROVIDER OF THE SERVICE UNDER THIS SECTION].

* **Sec. 6.** AS 25.20.025 is amended by adding a new subsection to read:

(d) The parent or guardian of a minor is relieved of all financial obligation to the provider of a service under this section.

* **Sec. 7.** AS 44.25.260 is amended to read:

Sec. 44.25.260. Board advisors. The commissioners of health, family and community services, natural resources, and revenue, or their respective designees, are advisors to the board.

* **Sec. 8.** AS 47.05 is amended by adding a new section to article 1 to read:

Sec. 47.05.115. Access to identifiable health information. Notwithstanding a contrary provision of law, the Department of Health and the Department of Family and Community Services shall share identifiable health information, regardless of the confidential nature of the information, between and within the departments as necessary to enable administration or operation of the sending or receiving department. Information shared in accordance with this section shall be acquired, used, disclosed, and stored in a confidential manner that safeguards the security of the information in a physically, administratively, and technologically secure environment. In this section, "identifiable health information" has the meaning given in AS 18.15.395.

1 * **Sec. 9.** AS 47.10.300 is amended to read:

2 **Sec. 47.10.300. Powers and duties [OF THE DEPARTMENT].** The
3 **Department of Health** [DEPARTMENT] shall

4 (1) review, inspect, and approve or disapprove for licensing proposed
5 or established programs for runaway minors to ensure the health and safety of minors
6 in the program;

7 (2) [MAINTAIN A REGISTER OF LICENSED PROGRAMS FOR
8 RUNAWAY MINORS;

9 (3) AWARD NONPROFIT CORPORATIONS OR
10 MUNICIPALITIES GRANTS FOR THE ESTABLISHMENT OR OPERATION OF
11 LICENSED PROGRAMS FOR RUNAWAY MINORS;

12 (4)] adopt regulations for the administration of AS 47.10.300 -
13 47.10.390, including regulations providing for the coordination of services to be
14 provided by licensed programs for runaway minors and by the **Department of Health**
15 [DEPARTMENT].

16 * **Sec. 10.** AS 47.10.300 is amended by adding a new subsection to read:

17 (b) The Department of Family and Community Services shall

18 (1) maintain a register of licensed programs for runaway minors;

19 (2) award nonprofit corporations or municipalities grants for the
20 establishment or operation of licensed programs for runaway minors.

21 * **Sec. 11.** AS 47.10.310(b) is amended to read:

22 (b) The **Department of Health** [DEPARTMENT] may license a program for
23 runaway minors under AS 47.10.300 - 47.10.390 only if the program

24 (1) is operated by a corporation or a municipality; and

25 (2) meets the requirements of (c) of this section.

26 * **Sec. 12.** AS 47.10.310(c) is amended to read:

27 (c) A program for runaway minors shall

28 (1) explain to a minor who seeks assistance from the program the legal
29 rights and responsibilities of runaway minors and the services and assistance provided
30 for runaway minors by the program and by the state or local municipality;

31 (2) upon admission of a minor to the program, attempt to determine

1 why the minor is a runaway and what services may be necessary or appropriate for
2 reuniting the minor with the minor's family;

3 (3) provide or help arrange for the provision of services necessary to
4 promote the health and welfare of a minor in the program and, if appropriate, members
5 of the minor's family; services may include, but are not limited to, the provision of
6 food, shelter, clothing, medical care, and individual, group, or family counseling;

7 (4) within one state working day after admission of a minor to the
8 program inform the **Department of Family and Community Services**
9 [DEPARTMENT] of a minor in the program

10 (A) who claims to be the victim of child abuse or neglect, as
11 defined in AS 47.17.290;

12 (B) whom an employee of the program has cause to believe has
13 been a victim of child abuse or neglect; or

14 (C) whom an employee of the program has reason to believe is
15 evading the supervision of the department, the person to whom the department
16 has entrusted supervision, or the minor's legal guardian;

17 (5) be operated with the goal of reuniting runaway minors with their
18 families, except in cases in which reunification is clearly contrary to the best interest
19 of the minor; and

20 (6) maintain adequate staffing and accommodations to ensure physical
21 security and to provide crisis services to minors residing in a facility operated by the
22 program; a program that, as determined by the **Department of Health**
23 [DEPARTMENT], regularly receives state money in an amount that exceeds one-
24 fourth of the program's costs shall maintain semi-secure portions of its facilities in a
25 proportion that meets regulations established by the **Department of Health**
26 [DEPARTMENT]; residents under 18 years of age shall be segregated from residents
27 who are 18 years of age or older.

28 * **Sec. 13.** AS 47.10.390(1) is amended to read:

29 (1) "licensed program for runaway minors" means a residential or
30 nonresidential program licensed by the **Department of Health** [DEPARTMENT]
31 under AS 47.10.310;

1 * **Sec. 14.** AS 47.10.396 is amended to read:

2 **Sec. 47.10.396. Confidentiality of records.** If the **Department of Health or**
 3 **the Department of Family and Community Services** [DEPARTMENT] requires
 4 record keeping by a shelter for runaways or by a corporation that is licensed to
 5 designate shelters for runaways, records of the shelter and the corporation that identify
 6 a runaway minor who has been sheltered in a shelter for runaways or has sought
 7 assistance from a shelter for runaways are confidential and are not subject to
 8 inspection or copying under AS 40.25.110 - 40.25.120 unless

9 (1) after being informed of the minor's right to privacy, the minor
 10 consents in writing to the disclosure of the records;

11 (2) the records are relevant to an investigation or proceeding involving
 12 child abuse or neglect or a child in need of aid petition; or

13 (3) disclosure of the records is necessary to protect the life or health of
 14 the minor.

15 * **Sec. 15.** AS 47.10.398(a) is amended to read:

16 (a) A person in a shelter for runaways, or in a home for which an application
 17 to be designated a shelter for runaways is being considered by a corporation licensed
 18 for that purpose by the **Department of Health** [DEPARTMENT], that is operated in a
 19 manner that is consistent with AS 47.10.392 - 47.10.399 and regulations adopted
 20 under those sections is not criminally liable under AS 11.51.130(a)(4).

21 * **Sec. 16.** AS 47.10.398(b) is amended to read:

22 (b) Except as provided in (c) of this section, the provider of a shelter for
 23 runaways, or of a home for which an application to be designated a shelter for
 24 runaways is being considered by a corporation approved for that purpose by the
 25 **Department of Health** [DEPARTMENT], that is operated in a manner that is
 26 consistent with AS 47.10.392 - 47.10.399 and regulations adopted under those
 27 sections and the members of the provider's household, other than a runaway minor, are
 28 not liable for civil damages as a result of an act or omission

29 (1) in admitting or refusing to admit a runaway minor to the shelter or
 30 home; or

31 (2) by a runaway minor who is sheltered in the shelter or home.

1 * **Sec. 17.** AS 47.10.399(2) is amended to read:

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

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

8 (B) has been designated a shelter for runaways by a corporation
9 licensed for that purpose under AS 47.32; and

10 (C) has a permit issued by the **Department of Health**
11 [DEPARTMENT] under AS 47.32.

12 * **Sec. 18.** AS 47.32.010(b) is amended to read:

13 (b) The following entities are subject to this chapter and regulations adopted
14 under this chapter by the Department of Health:

- 15 (1) ambulatory surgical centers;
- 16 (2) assisted living homes;
- 17 (3) child care facilities;
- 18 (4) freestanding birth centers;
- 19 (5) home health agencies;
- 20 (6) hospices, or agencies providing hospice services or operating
21 hospice programs;
- 22 (7) hospitals;
- 23 (8) intermediate care facilities for individuals with an intellectual
24 disability or related condition;
- 25 (9) maternity homes;
- 26 (10) nursing facilities;
- 27 (11) residential child care facilities;
- 28 (12) residential psychiatric treatment centers;
- 29 (13) rural health clinics;
- 30 (14) subacute mental health facilities;
- 31 **(15) runaway shelters.**

1 * **Sec. 19.** AS 47.32.032 is amended to read:

2 **Sec. 47.32.032. Foster care license; variance.** (a) The **Department of Family**
 3 **and Community Services** [DEPARTMENT] shall streamline the application and
 4 licensing paperwork necessary for a person to be approved as a foster parent or
 5 relative placement to the extent consistent with federal law.

6 (b) The **Department of Family and Community Services** [DEPARTMENT]
 7 shall approve a variance of the applicable building code requirements for licensure of
 8 a foster care home to the extent permitted by federal law if an applicant does not meet
 9 the requirements at the time of inspection and

10 (1) the home design and construction is consistent with homes located
 11 in the community; and

12 (2) the home is otherwise a safe environment for a child.

13 (c) To the extent feasible, the **Department of Family and Community**
 14 **Services** [DEPARTMENT] shall approve or deny a foster care home license,
 15 including a request for a variance under this section, not more than 45 days after the
 16 date the department receives the application for a foster care home license. If it is not
 17 feasible to approve or deny a foster care home license not more than 45 days after
 18 receiving the application, a supervisory-level employee may authorize a longer period
 19 of time for the decision, but the period must be the shortest period feasible.

20 * **Sec. 20.** AS 47.32.060(e) is amended to read:

21 (e) The **applicable** department shall adopt regulations establishing the
 22 grounds for nonrenewal of a license for each entity that department licenses under
 23 AS 47.32.010 for purposes of AS 47.32.050 and this section.

24 * **Sec. 21.** AS 47.32.150(b) is amended to read:

25 (b) Upon receipt of a timely request for a hearing by an entity regarding an
 26 enforcement action under AS 47.05.310, AS 47.32.070, or 47.32.140(d)(1), (2), (4),
 27 (8), (10), (11), or (12) or (f), the applicable department shall conduct a hearing in front
 28 of an officer appointed by **that department's** [THE] commissioner. A hearing under
 29 this subsection may be conducted on the record, in an informal manner, and may not
 30 be conducted under AS 44.62 or AS 44.64. The appointed hearing officer may be a
 31 state employee.

1 * **Sec. 22.** AS 47.32.180(b) is amended to read:

2 (b) With the exception of information that identifies a complainant or a
 3 recipient of services from an entity, a copy of a department's report of investigation or
 4 inspection under AS 47.32.120, an entity's written response to the report, and
 5 information regarding a department's imposition of an enforcement action under
 6 AS 47.32.130 or 47.32.140 are public records under AS 40.25.100 - 40.25.295. The
 7 **Department of Health and the Department of Family and Community Services**
 8 [DEPARTMENTS] shall make this information available to the public for inspection
 9 and copying within time frames specified in AS 40.25.100 - 40.25.295 or regulations
 10 adopted under AS 40.25.100 - 40.25.295 after the

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

14 (2) applicable department's notice of enforcement action under
 15 AS 47.32.130 or 47.32.140 becomes a final administrative order without a hearing
 16 under AS 47.32.130(c) or 47.32.140(i); or

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

18 * **Sec. 23.** AS 47.32.900(2) is amended to read:

19 (2) "assisted living home"

20 (A) means a residential facility that serves three or more adults
 21 who are not related to the owner by blood or marriage, or that receives state or
 22 federal payment for services regardless of the number of adults served; the
 23 **Department of Health** [DEPARTMENT] shall consider a facility to be an
 24 assisted living home if the facility

25 (i) provides housing and food services to its residents;

26 (ii) offers to provide or obtain for its residents
 27 assistance with activities of daily living;

28 (iii) offers personal assistance as defined in
 29 AS 47.33.990; or

30 (iv) provides or offers any combination of these
 31 services;

1 (B) does not include

2 (i) a correctional facility;

3 (ii) an emergency shelter;

4 (iii) a program licensed under AS 47.10.310 for
5 runaway minors;

6 (iv) a type of entity listed in AS 47.32.010(b)(6) - (10)
7 or (c)(2);

8 * **Sec. 24.** AS 47.32.900 is amended by adding a new paragraph to read:

9 (24) "applicable department" means the department with licensing
10 authority for an entity under AS 47.32.010.

11 * **Sec. 25.** AS 47.32.010(c)(3) is repealed.

12 * **Sec. 26.** This Act takes effect immediately under AS 01.10.070(c).