

29-LS0692\V
Glover
2/23/16

CS FOR SENATE BILL NO. 74(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS KELLY, Giessel

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the controlled substance prescription database; relating to the duties**
2 **of the Board of Pharmacy; establishing the Alaska Medical Assistance False Claim and**
3 **Reporting Act; relating to medical assistance programs administered by the Department**
4 **of Health and Social Services; relating to public record status of records related to the**
5 **Alaska Medical Assistance False Claim and Reporting Act; relating to accounting for**
6 **program receipts; relating to annual audits of state medical assistance providers;**
7 **relating to seizure and forfeiture of property for medical assistance fraud; relating to**
8 **reporting overpayments of medical assistance payments; relating to limitations of**
9 **actions; establishing authority to assess civil penalties for violations of medical**
10 **assistance program requirements; relating to competitive bidding for medical assistance**
11 **products and services; relating to verification of eligibility for public assistance**
12 **programs administered by the Department of Health and Social Services; relating to the**

1 **duties of the Department of Health and Social Services; establishing medical assistance**
2 **demonstration projects; amending Rules 4, 5, 7, 12, 24, 26, 27, 41, 77, 79, 82, and 89,**
3 **Alaska Rules of Civil Procedure; amending Rule 37, Alaska Rules of Criminal**
4 **Procedure; and providing for an effective date."**

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

6 * **Section 1.** AS 09.10 is amended by adding a new section to read:

7 **Sec. 09.10.075. Actions related to claims based on medical assistance**
8 **payment fraud.** Except as provided in AS 09.58.070, a person may not bring an
9 action under AS 09.58.010 - 09.58.060, unless the action is commenced by the earlier
10 of (1) six years after the act or omission was committed, or (2) three years after the
11 date when facts material to the action were known, or reasonably should have been
12 known, by the attorney general or the Department of Health and Social Services, but
13 in no event more than 10 years after the date the violation under AS 09.58.010
14 occurred.

15 * **Sec. 2.** AS 09.10.120(a) is amended to read:

16 (a) **Except as provided in AS 09.10.075, an** [AN] action brought in the name
17 of or for the benefit of the state, any political subdivision, or public corporation may
18 be commenced only within six years **after** [OF] the date of accrual of the cause of
19 action. However, if the action is for relief on the ground of fraud, the limitation
20 commences from the time of discovery by the aggrieved party of the facts constituting
21 the fraud.

22 * **Sec. 3.** AS 09 is amended by adding a new chapter to read:

23 **Chapter 58. Alaska Medical Assistance False Claim and Reporting Act.**

24 **Sec. 09.58.010. False claims for medical assistance; civil penalty.** (a) A
25 medical assistance provider or medical assistance recipient may not

26 (1) knowingly submit, authorize, or cause to be submitted to an officer
27 or employee of the state a false or fraudulent claim for payment or approval under the
28 medical assistance program;

29 (2) knowingly make, use, or cause to be made or used, directly or

1 indirectly, a false record or statement to get a false or fraudulent claim for payment
2 paid or approved by the state under the medical assistance program;

3 (3) conspire to defraud the state by getting a false or fraudulent claim
4 paid or approved under the medical assistance program;

5 (4) knowingly make, use, or cause to be made or used, a false record or
6 statement to conceal, avoid, increase, or decrease an obligation to pay or transmit
7 money or property to the medical assistance program;

8 (5) knowingly enter into an agreement, contract, or understanding with
9 an officer or employee of the state for approval or payment of a claim under the
10 medical assistance program knowing that the information in the agreement, contract,
11 or understanding is false or fraudulent.

12 (b) A beneficiary of an intentional or inadvertent submission of a false or
13 fraudulent claim under the medical assistance program who later discovers the claim is
14 false or fraudulent shall disclose the false or fraudulent claim to the state not later than
15 60 days after discovering the false claim.

16 (c) In addition to any criminal penalties or seizure or forfeiture of property
17 under AS 47.05, a medical assistance provider or medical assistance recipient who
18 violates (a) or (b) of this section shall be liable to the state in a civil action for

19 (1) a civil penalty of not less than \$5,500 and not more than \$11,000;

20 (2) three times the amount of actual damages sustained by the state;

21 and

22 (3) reasonable attorney fees and costs calculated under applicable court
23 rules.

24 (d) Liability for actual damages under (c) of this section may be reduced to not
25 less than twice the amount of actual damages that the state sustains if the court finds
26 that a person liable for an act under (a) or (b) of this section

27 (1) furnished the attorney general or the Department of Health and
28 Social Services with all information known to the person about the violation not later
29 than 30 days after the date the information was obtained;

30 (2) fully cooperated with the investigation of the violation under
31 AS 09.58.020; and

1 (3) at the time the person furnished the attorney general with the
2 information about the violation, no criminal prosecution, civil action, investigation, or
3 administrative action had been started in this state with respect to the violation, and the
4 person did not have actual knowledge of the existence of an investigation of the
5 violation.

6 (e) A corporation, partnership, or other individual is liable under this chapter
7 for acts of its agents if the agent acted with apparent authority, regardless of whether
8 the agent acted, in whole or in part, to benefit the principal and regardless of whether
9 the principal adopted or ratified the agent's claims, representations, statement, or other
10 action or conduct.

11 **Sec. 09.58.015. Attorney general investigation; civil action.** (a) The attorney
12 general or the Department of Health and Social Services may investigate an alleged
13 violation of AS 09.58.010. The attorney general may request assistance from the
14 Department of Health and Social Services in an investigation under this section.

15 (b) The attorney general may bring a civil action in superior court under
16 AS 09.58.010 - 09.58.060.

17 **Sec. 09.58.020. Private plaintiff; civil action.** (a) Notwithstanding
18 AS 09.58.015, a person may bring an action under this section for a violation of
19 AS 09.58.010 in the name of the person and the state.

20 (b) To bring an action under this section, a person shall file a complaint, in
21 camera and under seal, and serve on the attorney general

22 (1) a copy of the complaint; and

23 (2) written disclosure of substantially all material evidence and
24 information the person possesses that pertains to the claim.

25 (c) A complaint filed under this section must remain under seal for at least 60
26 days and may not be served on the defendant until the court so orders. The attorney
27 general may elect to intervene and proceed with the action within 60 days after the
28 attorney general receives both the complaint and the material evidence and the
29 information required under (b) of this section. The attorney general may, for good
30 cause shown, move the court, under seal, for an extension of the time during which the
31 complaint remains under seal under this subsection.

1 (d) Before the expiration of the 60-day period or an extension of time granted
2 under (c) of this section, the attorney general shall conduct an investigation and make
3 a written determination as to whether substantial evidence exists that a violation of
4 AS 09.58.010 has occurred. After the investigation and determination are complete,
5 the attorney general shall provide the person who brought the action and the
6 Department of Health and Social Services with a copy of the determination unless the
7 action has been referred to the division of the Department of Law that has
8 responsibility for criminal cases.

9 (e) Before the expiration of the 60-day period or an extension obtained under
10 (c) of this section, the attorney general shall

11 (1) intervene in the action and proceed with the action on behalf of the
12 state;

13 (2) notify the court that the attorney general declines to take over the
14 action, in which case the person bringing the action has the right to conduct the action;
15 or

16 (3) if the attorney general determines that substantial evidence does not
17 exist that a violation of AS 09.58.010 has occurred, or that the action is barred under
18 AS 09.58.050, the attorney general shall move the court to dismiss the action.

19 (f) The named defendant in a complaint filed under this section is not required
20 to respond to a complaint filed under this section until after the complaint is unsealed
21 by the court and a copy of the summons and complaint are served on the defendant
22 under the applicable Alaska Rules of Civil Procedure.

23 (g) When a person brings an action under this section, only the attorney
24 general may intervene or bring a related action based on similar facts to the underlying
25 action.

26 **Sec. 09.58.025. Subpoenas.** In conducting an investigation under
27 AS 09.58.015 or 09.58.020, the attorney general may issue subpoenas to compel the
28 production of books, papers, correspondence, memoranda, and other records in
29 connection with an investigation under or the administration of AS 09.58.010 -
30 09.58.060. If a medical assistance provider or a medical assistance recipient fails or
31 refuses, without just cause, to obey a subpoena issued under this subsection, the

1 superior court may, upon application by the attorney general, issue an order requiring
2 the medical assistance provider or medical assistance recipient to appear before the
3 attorney general to produce evidence.

4 **Sec. 09.58.030. Rights in false or fraudulent claims actions.** (a) If the
5 attorney general elects to intervene and proceed with an action under AS 09.58.020,
6 the attorney general has exclusive authority for prosecuting the action and is not bound
7 by an act of the person bringing the action. The person who brought the action has the
8 right to continue as a nominal party to the action, but does not have the right to
9 participate in the action except as a witness or as otherwise directed by the attorney
10 general. If the attorney general elects to intervene under AS 09.58.020, the attorney
11 general may file a new complaint or amend the complaint filed by the person who
12 brought the action under AS 09.58.020(b).

13 (b) Notwithstanding the objections of the person who brought the action, the
14 attorney general may

15 (1) move to dismiss the action at any time under this chapter if the
16 attorney general has notified the person who brought the action of the intent to seek
17 dismissal and the court has provided the person who brought the action with an
18 opportunity to respond to the motion;

19 (2) settle the action with the defendant at any time, if the court
20 determines, after a hearing, that the proposed settlement is fair, adequate, and
21 reasonable under all the circumstances; upon a showing of good cause, the hearing
22 described in this paragraph shall be held in camera.

23 (c) If the attorney general elects not to proceed under AS 09.58.020 with the
24 action, the person who brought the action has the right to proceed and conduct the
25 action. The attorney general may request at any time during the proceedings to be
26 served with copies of all documents related to the action, including pleadings,
27 motions, and discovery. The attorney general shall pay for the reasonable copying
28 charges for documents provided under this subsection. If the person who brought the
29 action proceeds with the action, the court, without limiting the status and rights of the
30 person who brought the action, shall allow the attorney general to intervene at any
31 time.

1 (d) Whether or not the attorney general proceeds with the action under this
2 chapter, on a showing by the attorney general that certain actions of discovery by the
3 person bringing the action would interfere with pending investigation or prosecution
4 of a criminal or civil proceeding arising out of the same matter, the court may stay the
5 discovery for not more than 90 days. The court may extend the 90-day period on a
6 further showing, in camera, that the state has pursued the criminal or civil
7 investigation or proceedings with reasonable diligence and that proposed discovery in
8 the civil action under AS 09.58.010 - 09.58.060 may interfere with the ongoing
9 criminal or civil investigation or proceedings.

10 **Sec. 09.58.040. Award to false or fraudulent claim plaintiff.** (a) If the
11 attorney general proceeds with an action brought by a person for a violation of
12 AS 09.58.010, the person who brought the action shall receive at least 15 percent but
13 not more than 25 percent of the proceeds of the action or settlement of the claim,
14 depending on the extent to which the person bringing the action contributed to the
15 prosecution of the action. The court order or settlement agreement shall state the
16 percentage and the amount to be received by the person who brought the action. A
17 payment under this subsection to the person who brought the action may only be paid
18 from proceeds received from a judgment or settlement under this section.

19 (b) If the attorney general does not proceed with an action brought under
20 AS 09.58.020, the person bringing the action to judgment or settlement by court order
21 shall receive an amount that the court decides is reasonable for collecting the civil
22 penalty and damages based on the person's effort to prosecute the action successfully.
23 The amount shall be at least 25 percent but not more than 30 percent of the proceeds
24 of the action or settlement of the claim. A payment under this subsection to the person
25 who brought the action may only be paid from proceeds received from a judgment or
26 settlement received under this section.

27 (c) Whether or not the attorney general participates in the action, if the court
28 finds that the action was brought by a person who planned or initiated the violation
29 alleged in the action brought under AS 09.58.020, the court may, to the extent the
30 court considers appropriate, reduce the share of the proceeds of the action that the
31 person would otherwise receive under (a) or (b) of this section, taking into account the

1 role of that person in advancing the case to litigation and any relevant circumstances
2 pertaining to the violation. If the person bringing the action is convicted of criminal
3 conduct arising from the person's role in the violation of AS 09.58.010, the court shall
4 dismiss the person from the civil action and the person may not receive any share of
5 the proceeds of the action or settlement. A dismissal under this subsection does not
6 prejudice the right of the attorney general to continue the action.

7 (d) In this section, "proceeds of the action or settlement"

8 (1) includes damages, civil penalties, payment for cost of compliance,
9 and other economic benefits realized by the state as a result of a civil action brought
10 under AS 09.58.010 - 09.58.060;

11 (2) does not include attorney fees and costs awarded to the state.

12 **Sec. 09.58.050. Certain actions barred.** A person may not bring an action
13 under AS 09.58.020 if the action is

14 (1) based on evidence or information known to the state when the
15 action was brought;

16 (2) based on allegations or transactions that are the subject of a civil or
17 criminal action or an administrative proceeding in which the state is already a party;

18 (3) based on the public disclosure of allegations or actions in a
19 criminal or civil action or an administrative hearing, or from the news media, unless
20 the action is brought by the attorney general or the person bringing the action is an
21 original source of the information that was publicly disclosed; in this paragraph, a
22 person is an original source of the information that was publicly disclosed if the
23 person has independent knowledge, including knowledge based on personal
24 investigation of the defendant's conduct, of the information on which the allegations
25 are based, and has voluntarily provided or verified the information on which the
26 allegations are based or voluntarily provided the information to the attorney general
27 before filing an action under AS 09.58.020 that is based on the information; or

28 (4) against the state or current or former state employees.

29 **Sec. 09.58.060. State not liable for attorney fees, costs, and other expenses.**
30 The state, its agencies, current or former officers, and current or former employees, are
31 not liable for attorney fees, costs, and other expenses that a person incurs in bringing

1 an action under AS 09.58.020.

2 **Sec. 09.58.070. Employee protection for retaliation.** (a) An employee of a
3 medical assistance provider who is discharged, demoted, suspended, threatened,
4 harassed, or discriminated against in the terms and conditions of employment by the
5 employee's employer because of lawful acts done by the employee on behalf of the
6 employee or others in furtherance of an action under AS 09.58.010 - 09.58.060,
7 including investigation for, initiation of, testimony for or assistance in an action filed
8 or to be filed under AS 09.58.010 - 09.58.060, is entitled to the same relief authorized
9 under AS 39.90.120.

10 (b) Notwithstanding (a) of this section, a state employee who is discharged,
11 demoted, suspended, threatened, harassed, or discriminated against in the terms and
12 conditions of employment because of lawful acts done by the employee on behalf of
13 the employee or a person who brings an action under AS 09.58.020 or in furtherance
14 of an action under AS 09.58.010 - 09.58.060, including investigation, initiation of,
15 testimony for or assistance in an action filed or to be filed under AS 09.58.010 -
16 09.58.060, is entitled to relief under AS 39.90.100 - 39.90.150 (Alaska Whistleblower
17 Act).

18 (c) A person may not bring an action under this section unless the action is
19 commenced not later than three years after the date the employee was subject to
20 retaliation under (a) or (b) of this section.

21 **Sec. 09.58.080. Regulations.** The attorney general may adopt regulations
22 under AS 44.62 as necessary to carry out the purposes of this chapter.

23 **Sec. 09.58.090. Special provisions.** (a) This chapter does not apply to any
24 controversy involving damages to the state of less than \$5,500 in value.

25 (b) No punitive damages may be awarded in an action brought under
26 AS 09.58.010 - 09.58.060.

27 **Sec. 09.58.100. Definitions.** In this chapter,

28 (1) "attorney general" includes a designee of the attorney general;

29 (2) "claim" means a request for payment of health care services or
30 equipment, whether made to a contractor, grantee, or other person, when the state
31 provides, directly or indirectly, a portion of the money, property, or services requested

1 or demanded, or when the state will, directly or indirectly, reimburse the contractor,
2 grantee, or other recipient for a portion of the money, property, or services requested
3 or demanded;

4 (3) "controversy" means the aggregate of one or more false claims
5 submitted by the same medical assistance provider or medical assistance recipient
6 under this chapter;

7 (4) "knowingly" means that a person, with or without specific intent to
8 defraud,

9 (A) has actual knowledge of the information;

10 (B) acts in deliberate ignorance of the truth or falsity of the
11 information; or

12 (C) acts in reckless disregard of the truth or falsity of the
13 information;

14 (5) "medical assistance program" means the federal-state program
15 administered by the Department of Health and Social Services under AS 47.05 and
16 AS 47.07 and regulations adopted under AS 47.05 and AS 47.07;

17 (6) "medical assistance provider" has the meaning given under
18 AS 47.05.290;

19 (7) "medical assistance recipient" has the meaning given under
20 AS 47.05.290;

21 (8) "obligation" means an established duty, whether or not fixed,
22 arising from

23 (A) an express or implied contractual grantor or grantee or
24 licensor or licensee relationship;

25 (B) a fee-based or similar relationship;

26 (C) a statute or regulation; or

27 (D) the retention of any overpayment.

28 **Sec. 09.58.110. Short title.** This chapter may be cited as the Alaska Medical
29 Assistance False Claim and Reporting Act.

30 * **Sec. 4.** AS 17.30.200(b) is amended to read:

31 (b) The pharmacist-in-charge of each licensed or registered pharmacy,

1 regarding each schedule IA, IIA, IIIA, IVA, or VA controlled substance under state
2 law or a schedule I, II, III, IV, or V controlled substance under federal law dispensed
3 by a pharmacist under the supervision of the pharmacist-in-charge, and each
4 practitioner who directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled
5 substance under state law or a schedule I, II, III, IV, or V controlled substance under
6 federal law other than those administered to a patient at a health care facility, shall
7 submit to the board, by a procedure and in a format established by the board, the
8 following information for inclusion in the database **on a weekly basis**:

9 (1) the name of the prescribing practitioner and the practitioner's
10 federal Drug Enforcement Administration registration number or other appropriate
11 identifier;

12 (2) the date of the prescription;

13 (3) the date the prescription was filled and the method of payment; this
14 paragraph does not authorize the board to include individual credit card or other
15 account numbers in the database;

16 (4) the name, address, and date of birth of the person for whom the
17 prescription was written;

18 (5) the name and national drug code of the controlled substance;

19 (6) the quantity and strength of the controlled substance dispensed;

20 (7) the name of the drug outlet dispensing the controlled substance;

21 and

22 (8) the name of the pharmacist or practitioner dispensing the controlled
23 substance and other appropriate identifying information.

24 * **Sec. 5.** AS 17.30.200(d) is amended to read:

25 (d) The database and the information contained within the database are
26 confidential, are not public records, and are not subject to public disclosure. The board
27 shall undertake to ensure the security and confidentiality of the database and the
28 information contained within the database. The board may allow access to the
29 database only to the following persons, and in accordance with the limitations
30 provided and regulations of the board:

31 (1) personnel of the board regarding inquiries concerning licensees or

1 registrants of the board or personnel of another board or agency concerning a
2 practitioner under a search warrant, subpoena, or order issued by an administrative law
3 judge or a court;

4 (2) authorized board personnel or contractors as required for
5 operational and review purposes;

6 (3) a licensed practitioner having authority to prescribe controlled
7 substances **or an agent or employee of the practitioner whom the practitioner has**
8 **authorized to access the database on the practitioner's behalf**, to the extent the
9 information relates specifically to a current patient of the practitioner to whom the
10 practitioner is prescribing or considering prescribing a controlled substance;

11 (4) a licensed or registered pharmacist having authority to dispense
12 controlled substances **or an agent or employee of the pharmacist whom the**
13 **pharmacist has authorized to access the database on the pharmacist's behalf**, to
14 the extent the information relates specifically to a current patient to whom the
15 pharmacist is dispensing or considering dispensing a controlled substance;

16 (5) federal, state, and local law enforcement authorities may receive
17 printouts of information contained in the database under a search warrant, subpoena,
18 or order issued by a court establishing probable cause for the access and use of the
19 information; [AND]

20 (6) an individual who is the recipient of a controlled substance
21 prescription entered into the database may receive information contained in the
22 database concerning the individual on providing evidence satisfactory to the board that
23 the individual requesting the information is in fact the person about whom the data
24 entry was made and on payment of a fee set by the board under AS 37.10.050 that
25 does not exceed \$10;

26 **(7) a licensed pharmacist employed by the Department of Health**
27 **and Social Services who is responsible for administering prescription drug**
28 **coverage for the medical assistance program under AS 47.07, to the extent that**
29 **the information relates specifically to prescription drug coverage under the**
30 **program;**

31 **(8) a licensed pharmacist, licensed practitioner, or authorized**

1 employee of the Department of Health and Social Services responsible for
 2 utilization review of prescription drugs for the medical assistance program under
 3 AS 47.07, to the extent that the information relates specifically to utilization
 4 review of prescription drugs under the program;

5 (9) the state medical examiner, to the extent that the information
 6 relates specifically to investigating the cause and manner of a person's death; and

7 (10) an authorized employee of the Department of Health and
 8 Social Services may receive information from the database that does not disclose
 9 the identity of a patient, prescriber, dispenser, or dispenser location, for the
 10 purpose of identifying and monitoring public health issues in the state; however,
 11 the information provided under this paragraph may include the region of the
 12 state in which a patient, prescriber, and dispenser are located and the specialty of
 13 the prescriber.

14 * **Sec. 6.** AS 17.30.200(e) is amended to read:

15 (e) The failure of a pharmacist-in-charge, pharmacist, or practitioner to
 16 register or submit information to the database as required under this section is
 17 grounds for the board to take disciplinary action against the license or registration of
 18 the pharmacy or pharmacist or for another licensing board to take disciplinary action
 19 against a practitioner.

20 * **Sec. 7.** AS 17.30.200(h) is amended to read:

21 (h) An individual who has submitted information to the database in
 22 accordance with this section may not be held civilly liable for having submitted the
 23 information. [NOTHING IN THIS SECTION REQUIRES OR OBLIGATES A
 24 DISPENSER OR PRACTITIONER TO ACCESS OR CHECK THE DATABASE
 25 BEFORE DISPENSING, PRESCRIBING, OR ADMINISTERING A
 26 MEDICATION, OR PROVIDING MEDICAL CARE TO A PERSON.] Dispensers or
 27 practitioners may not be held civilly liable for damages for accessing or failing to
 28 access the information in the database.

29 * **Sec. 8.** AS 17.30.200(k) is amended to read:

30 (k) In the regulations adopted under this section, the board shall provide

31 (1) that prescription information in the database [SHALL] be purged

1 from the database after two years have elapsed from the date the prescription was
2 dispensed;

3 (2) a method for an individual to challenge information in the database
4 about the individual that the person believes is incorrect or was incorrectly entered by
5 a dispenser;

6 **(3) a procedure and time frame for registration with the database;**

7 **(4) that a pharmacist or practitioner shall access the database to**
8 **check a patient's prescription records before dispensing, prescribing, or**
9 **administering a controlled substance to the patient.**

10 * **Sec. 9.** AS 17.30.200 is amended by adding new subsections to read:

11 (o) A pharmacist who dispenses or a practitioner who prescribes, administers,
12 or directly dispenses a schedule IA, IIA, IIIA, IVA, or VA controlled substance under
13 state law or a schedule I, II, III, IV, or V controlled substance under federal law shall
14 register with the database by a procedure and in a format established by the board.

15 (p) The board shall promptly notify the State Medical Board, the Board of
16 Nursing, the Board of Dental Examiners, and the Board of Examiners in Optometry
17 when a practitioner registers with the database under (o) of this section.

18 (q) The board is authorized to provide unsolicited notification to a pharmacist
19 or practitioner if a patient has received one or more prescriptions for controlled
20 substances in quantities or with a frequency inconsistent with generally recognized
21 standards of safe practice.

22 (r) The board shall update the database on a weekly basis with the information
23 submitted to the board under (b) of this section.

24 * **Sec. 10.** AS 37.05.146(c) is amended by adding a new paragraph to read:

25 (88) monetary recoveries under AS 09.58 (Alaska Medical Assistance
26 False Claim and Reporting Act).

27 * **Sec. 11.** AS 40.25.120(a) is amended by adding a new paragraph to read:

28 (15) records relating to proceedings under AS 09.58 (Alaska Medical
29 Assistance False Claim and Reporting Act).

30 * **Sec. 12.** AS 47.05.015 is amended by adding a new subsection to read:

31 (e) Notwithstanding (c) of this section, the department may enter into a

1 contract through the competitive bidding process under AS 36.30 (State Procurement
2 Code) for medical assistance products and services offered under AS 47.07.030 if the
3 contract is for durable medical equipment or specific medical services that can be
4 delivered on a statewide basis.

5 * **Sec. 13.** AS 47.05 is amended by adding a new section to article 1 to read:

6 **Sec. 47.05.105. Enhanced computerized eligibility verification system.** (a)

7 The department shall establish an enhanced computerized income, asset, and identity
8 eligibility verification system for the purposes of verifying eligibility, eliminating
9 duplication of public assistance payments, and deterring waste and fraud in public
10 assistance programs administered by the department under AS 47.05.010. Nothing in
11 this section prohibits the department from verifying eligibility for public assistance
12 through additional procedures or authorizes the department or a third-party vendor to
13 use data to verify eligibility for a federal program if the use of that data is prohibited
14 by federal law.

15 (b) The department shall enter into a competitively bid contract with a third-
16 party vendor for the purpose of developing a system under this section to prevent
17 fraud, misrepresentation, and inadequate documentation when determining an
18 applicant's eligibility for public assistance before the payment of benefits and for
19 periodically verifying eligibility between eligibility redeterminations and during
20 eligibility redeterminations and reviews under AS 47.05.110 - 47.05.120. The
21 department may also contract with a third-party vendor to provide information to
22 facilitate reviews of recipient eligibility and income verification.

23 (c) The annual savings to the state resulting from the use of the system under
24 this section must exceed the cost of implementing the system. A contract under this
25 section must require the third-party vendor to report annual savings to the state
26 realized from implementing the system. Payment to the third-party vendor may be
27 based on a fee for each applicant and may include incentives for achieving a rate of
28 success established by the department for identifying duplication, waste, and fraud in
29 public assistance programs.

30 (d) To avoid a conflict of interest, the department may not award a contract to
31 provide services for the enrollment of public assistance providers or applicants under

1 this title to a vendor that is awarded a contract under this section.

2 * **Sec. 14.** AS 47.05.200(a) is amended to read:

3 (a) The department shall annually contract for independent audits of a
4 statewide sample of all medical assistance providers in order to identify overpayments
5 and violations of criminal statutes. The audits conducted under this section may not be
6 conducted by the department or employees of the department. The number of audits
7 under this section **may not be less than 50** each year [, AS A TOTAL FOR THE
8 MEDICAL ASSISTANCE PROGRAMS UNDER AS 47.07 AND AS 47.08, SHALL
9 BE 0.75 PERCENT OF ALL ENROLLED PROVIDERS UNDER THE
10 PROGRAMS, ADJUSTED ANNUALLY ON JULY 1, AS DETERMINED BY THE
11 DEPARTMENT, EXCEPT THAT THE NUMBER OF AUDITS UNDER THIS
12 SECTION MAY NOT BE LESS THAN 75]. The audits under this section must
13 include both on-site audits and desk audits and must be of a variety of provider types.
14 The department may not award a contract under this subsection to an organization that
15 does not retain persons with a significant level of expertise and recent professional
16 practice in the general areas of standard accounting principles and financial auditing
17 and in the specific areas of medical records review, investigative research, and Alaska
18 health care criminal law. The contractor, in consultation with the commissioner, shall
19 select the providers to be audited and decide the ratio of desk audits and on-site audits
20 to the total number selected. **In identifying providers who are subject to an audit**
21 **under this chapter, the department shall attempt to minimize concurrent state or**
22 **federal audits.**

23 * **Sec. 15.** AS 47.05.200(b) is amended to read:

24 (b) Within 90 days after receiving each audit report from an audit conducted
25 under this section, the department shall begin administrative procedures to recoup
26 overpayments identified in the audits and shall allocate the reasonable and necessary
27 financial and human resources to ensure prompt recovery of overpayments unless the
28 attorney general has advised the commissioner in writing that a criminal investigation
29 of an audited provider has been or is about to be undertaken, in which case, the
30 commissioner shall hold the administrative procedure in abeyance until a final
31 charging decision by the attorney general has been made. The commissioner shall

1 provide copies of all audit reports to the attorney general so that the reports can be
2 screened for the purpose of bringing criminal charges. The department may assess
3 interest and penalties on any identified overpayment. Interest under this
4 subsection shall be calculated using the statutory rates for postjudgment interest
5 accruing from the date of the issuance of the final agency decision to recoup
6 overpayments identified in the audit. In this subsection, the date of issuance of
7 the final agency decision is the later of the date of

8 (1) the department's written notification of the decision and the
9 provider's appeal rights; or

10 (2) if timely appealed by the provider, a final agency decision
11 under AS 44.64.060.

12 * **Sec. 16.** AS 47.05 is amended by adding a new section to read:

13 **Sec. 47.05.235. Duty to identify and repay self-identified overpayments.** (a)

14 An enrolled medical assistance provider shall conduct at least one annual review or
15 audit of all claims submitted to the department for reimbursement and, if
16 overpayments are identified, the medical assistance provider shall report the
17 overpayment to the department not later than 10 business days after identification of
18 the overpayment. The report must also identify how the medical assistance provider
19 intends to repay the department. After the department receives the report, the medical
20 assistance provider and the department shall enter into an agreement establishing a
21 schedule for repayment of the identified overpayment. The agreement may authorize
22 repayment in a lump sum, a payment plan, or by offsetting future billings as approved
23 by the department.

24 (b) The department may not assess interest or penalties on an overpayment
25 identified and repaid by a medical assistance provider under this section.

26 * **Sec. 17.** AS 47.05 is amended by adding new sections to read:

27 **Sec. 47.05.250. Civil penalties.** (a) The department may assess a civil penalty
28 against a provider who violates this chapter, AS 47.07, or regulations adopted under
29 this chapter or AS 47.07.

30 (b) The department shall adopt regulations establishing a range of civil
31 penalties that the department may assess against a provider under this section. In

1 establishing the range of civil penalties, the department shall take into account
2 appropriate factors, including the seriousness of the violation, the service provided by
3 the provider, and the severity of the penalty. The regulations may not provide for a
4 civil penalty of less than \$100 or more than \$25,000 for each violation.

5 (c) The provisions of this section are in addition to any other remedies
6 available under this chapter, AS 47.07, or regulations adopted under this chapter or
7 AS 47.07.

8 (d) A provider against whom a civil penalty of less than \$2,500 is assessed
9 may appeal the decision assessing the penalty to the commissioner or the
10 commissioner's designee. The commissioner shall, by regulation, establish time limits
11 and procedures for an appeal under this subsection. The decision of the commissioner
12 or the commissioner's designee may be appealed to the office of administrative
13 hearings established under AS 44.64.

14 (e) A provider against whom a civil penalty of \$2,500 or more is assessed may
15 appeal the decision assessing the penalty to the office of administrative hearings
16 established under AS 44.64.

17 **Sec. 47.05.260. Seizure and forfeiture of real or personal property in**
18 **medical assistance fraud cases.** (a) Upon written application by the attorney general
19 establishing probable cause that a medical assistance provider has committed or is
20 committing medical assistance fraud under AS 47.05.210, the court may authorize the
21 seizure of real or personal property listed in (e) of this section to cover the cost of the
22 alleged fraud. The application may be made ex parte if the attorney general establishes
23 sufficient facts to show that notice to the owner of the property would lead to the
24 waste or dissipation of assets subject to seizure. If the attorney general does not
25 establish sufficient facts to show that notice to the owner would lead to the waste or
26 dissipation of assets subject to seizure, the application for seizure must be served on
27 the owners of the property.

28 (b) Upon issuance of the court order authorizing seizure, the owners of the
29 property may not take any action to dispose of the property through transfer of title or
30 sale of the property without written permission from the court. However, an innocent
31 purchaser may not be required to forfeit property purchased in good faith. The

1 purchaser bears the burden of proof to establish that the property was purchased
2 innocently and in good faith.

3 (c) If a medical assistance provider is convicted of medical assistance fraud
4 under AS 47.05.210 after property is seized under this section, the court may order
5 that the property be forfeited to the state and disposed of as directed by the court. If
6 the property has been sold, the proceeds of the sale shall be transmitted to the proper
7 state officer or employee for deposit into the general fund. The attorney general shall
8 return to the owner of the property any property seized under this section that the court
9 does not order to be forfeited as soon as practicable after the court issues a final
10 judgment in the medical assistance fraud proceeding under AS 47.05.210 and the
11 medical assistance provider pays any fine or restitution ordered by the court.

12 (d) An action for forfeiture under this section may be joined with a civil or
13 criminal action brought by the state to recover damages resulting from alleged medical
14 assistance fraud.

15 (e) Property that may be seized under this chapter includes bank accounts,
16 automobiles, boats, airplanes, stocks, bonds, the medical assistance provider's business
17 inventory, and other real or personal property owned and used to conduct the medical
18 assistance provider's business.

19 **Sec. 47.05.270. Medical assistance reform program.** (a) The department
20 shall adopt regulations to design and implement a program for reforming the state
21 medical assistance program under AS 47.07. The reform program must include

22 (1) referrals to community and social support services, including career
23 and education training services available through the Department of Labor and
24 Workforce Development under AS 23.15, the University of Alaska, or other sources;

25 (2) electronic distribution of an explanation of medical assistance
26 benefits to recipients for health care services received under the program;

27 (3) expanding the use of telemedicine for primary care, behavioral
28 health, and urgent care;

29 (4) enhancing fraud prevention, detection, and enforcement;

30 (5) reducing the cost of behavioral health, senior, and disabilities
31 services provided to recipients of medical assistance under the state's home and

1 community-based services waiver under AS 47.07.045;

2 (6) pharmacy initiatives;

3 (7) enhanced care management;

4 (8) redesigning the payment process by implementing fee agreements
5 that include

6 (A) premium payments for centers of excellence;

7 (B) penalties for hospital-acquired infections, readmissions,
8 and outcome failures;

9 (C) bundled payments for specific episodes of care; or

10 (D) global payments for contracted payers, primary care
11 managers, and case managers for a recipient or for care related to a specific
12 diagnosis;

13 (9) stakeholder involvement in setting annual targets for quality and
14 cost-effectiveness;

15 (10) to the extent consistent with federal law, reducing travel costs by
16 requiring a recipient to obtain medical services in the recipient's home community, to
17 the extent appropriate services are available in the recipient's home community;

18 (11) guidelines for health care providers to develop health care
19 delivery models that encourage wellness and disease prevention.

20 (b) The department shall, in coordination with the Alaska Mental Health Trust
21 Authority, efficiently manage a comprehensive and integrated behavioral health
22 program that uses evidence-based, data-driven practices to achieve positive outcomes
23 for people with mental health or substance abuse disorders and children with severe
24 emotional disturbances. The goal of the program is to assist recipients of services
25 under the program to recover by achieving the highest level of autonomy with the least
26 dependence on state-funded services possible for each person. The program must
27 include

28 (1) a plan for providing a continuum of community-based services to
29 address housing, employment, criminal justice, and other relevant issues;

30 (2) services from a wide array of providers and disciplines, including
31 primary care providers; and

1 (3) efforts to reduce operational barriers that fragment services and
2 reduce the effectiveness and efficiency of the program.

3 (c) The department shall identify the areas of the state where improvements in
4 access to telemedicine would be most effective in reducing the costs of medical
5 assistance and improving access to health care services for medical assistance
6 recipients. The department shall make efforts to improve access to telemedicine for
7 recipients in those locations. The department may enter into agreements with Indian
8 Health Service providers, if necessary, to improve access by medical assistance
9 recipients to telemedicine facilities and equipment.

10 (d) On or before October 15 of each year, the department shall prepare a
11 report and submit the report to the senate secretary and the chief clerk of the house of
12 representatives and notify the legislature that the report is available. The report must
13 include

14 (1) realized cost savings related to reform efforts under this section;

15 (2) realized cost savings related to medical assistance reform efforts
16 undertaken by the department other than the reform efforts described in this Act;

17 (3) a statement of whether the department has met annual targets for
18 quality and cost-effectiveness;

19 (4) recommendations for legislative or budgetary changes related to
20 medical assistance reforms during the next fiscal year;

21 (5) changes in federal laws that the department expects will result in a
22 cost or savings to the state of more than \$1,000,000;

23 (6) a description of any medical assistance grants, options, or waivers
24 the department applied for in the previous fiscal year;

25 (7) the results of demonstration projects the department has
26 implemented;

27 (8) legal and technological barriers to the expanded use of
28 telemedicine, improvements in the use of telemedicine in the state, and
29 recommendations for changes or investments that would allow cost-effective
30 expansion of telemedicine;

31 (9) the percentage decrease in costs of travel for medical assistance

1 recipients compared to the previous fiscal year;

2 (10) the percentage decrease in the number of medical assistance
3 recipients identified as frequent users of emergency departments compared to the
4 previous fiscal year;

5 (11) the percentage increase or decrease in the number of hospital
6 readmissions within 30 days after a hospital stay for medical assistance recipients
7 compared to the previous fiscal year;

8 (12) the percentage increase or decrease in average state general fund
9 spending for each medical assistance recipient compared to the previous fiscal year;

10 (13) the percentage increase or decrease in uncompensated care costs
11 incurred by medical assistance providers compared to the percentage change in private
12 health insurance premiums for individual and small group health insurance;

13 (14) the cost, in state and federal funds, for providing optional services
14 under AS 47.07.030(b).

15 (e) In this section, "telemedicine" means the practice of health care delivery,
16 evaluation, diagnosis, consultation, or treatment, using the transfer of medical data
17 through audio, visual, or data communications that are performed over two or more
18 locations between providers who are physically separated from the recipient or from
19 each other.

20 * **Sec. 18.** AS 47.07.030(d) is amended to read:

21 (d) The department **shall** [MAY] establish as optional services a primary care
22 case management system or a managed care organization contract in which certain
23 eligible individuals are required to enroll and seek approval from a case manager or
24 the managed care organization before receiving certain services. **The purpose of a**
25 **primary care case management system or managed care organization contract is**
26 **to increase the use of primary and preventive care by medical assistance**
27 **recipients, while decreasing the use of specialty care and hospital emergency**
28 **department services.** The department shall

29 (1) establish enrollment criteria and determine eligibility for services
30 consistent with federal and state law; **the department shall require recipients with**
31 **multiple hospitalizations to enroll in a primary care case management system or**

with a managed care organization under this subsection;

(2) define the coordinated care services and provider types eligible to participate as primary care providers;

(3) create a performance and quality reporting system; and

(4) integrate the coordinated care demonstration projects described under AS 47.07.039 and the demonstration projects described under AS 47.07.036(e) with the primary care case management system or managed care organization contract established under this subsection.

* **Sec. 19.** AS 47.07.036 is amended by adding new subsections to read:

(d) Notwithstanding (a) - (c) of this section, the department may

(1) apply for a section 1915(i) option under 42 U.S.C. 1396n to improve services and care through home and community-based services to obtain a 50 percent federal match;

(2) apply for a section 1915(k) option under 42 U.S.C. 1396n to provide home and community-based services and support to increase the federal match for these programs from 50 percent to 56 percent;

(3) apply for a section 1945 option under 42 U.S.C. 1396w-4 to provide coordinated care through health homes for individuals with chronic conditions and to increase federal match for the services to 90 percent for the first eight quarters the required state plan amendment is in effect;

(4) evaluate and seek permission from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services to participate in various demonstration projects, including payment reform, care management programs, workforce development and innovation, and innovative services delivery models; and

(5) provide incentives for telemedicine, including increasing the capability for and reimbursement of telemedicine for recipients.

(e) Notwithstanding (a) - (c) of this section, and in addition to the projects and services described under (d) of this section, the department shall apply for a section 1115 waiver under 42 U.S.C. 1315(a) to establish one or more demonstration projects focused on innovative payment models for one or more groups of medical assistance

1 recipients in one or more specific geographic areas. The demonstration project or
2 projects may include

- 3 (1) managed care organizations as described under 42 U.S.C. 1396u-2;
- 4 (2) community care organizations;
- 5 (3) patient-centered medical homes as described under 42 U.S.C. 256a-
6 1; or
- 7 (4) other innovative payment models that ensure access to health care
8 without reducing the quality of care.

9 (f) In this section, "telemedicine" means the practice of health care delivery,
10 evaluation, diagnosis, consultation, or treatment, using the transfer of medical data
11 through audio, visual, or data communications that are performed over two or more
12 locations between providers who are physically separated from the recipient or from
13 each other.

14 * **Sec. 20.** AS 47.07 is amended by adding new sections to read:

15 **Sec. 47.07.038. Collaborative, hospital-based project to reduce use of**
16 **emergency department services.** (a) On or before December 1, 2016, the department
17 shall collaborate with a statewide professional hospital association to establish a
18 hospital-based project to reduce the use of emergency department services by medical
19 assistance recipients. The statewide professional hospital association shall operate the
20 project. The project may include shared savings for participating hospitals. The project
21 must include

- 22 (1) a process for defining and identifying frequent users of emergency
23 department services;
- 24 (2) to the extent consistent with federal law,
 - 25 (A) a system for electronic exchange of patient information
26 among emergency departments;
 - 27 (B) a process to disseminate lists of frequent users to hospital
28 personnel to ensure that frequent users can be identified through the electronic
29 information exchange system;
- 30 (3) a procedure for educating patients about the use of emergency
31 departments and appropriate alternative services and facilities for nonurgent care;

1 (4) a process for assisting frequent users of emergency department
2 services with plans of care and for assisting patients in making appointments with
3 primary care providers within 96 hours after an emergency department visit;

4 (5) strict guidelines for prescribing narcotics;

5 (6) a prescription drug monitoring program; and

6 (7) designation of medical personnel to review feedback reports
7 regarding emergency department use.

8 (b) The department shall adopt regulations necessary to implement this
9 section, request technical assistance from the United States Department of Health and
10 Human Services, and apply to the United States Department of Health and Human
11 Services for waivers or amendments to the state plan as necessary to implement the
12 projects under this section.

13 **Sec. 47.07.039. Coordinated care demonstration projects.** (a) The
14 department shall contract with one or more third parties to implement one or more
15 coordinated care demonstration projects for recipients of medical assistance identified
16 by the department. The purpose of a demonstration project under this section is to
17 assess the efficacy of a proposed health care delivery model with respect to cost for,
18 access to, and quality of care for medical assistance recipients. The department may
19 contract for separate demonstration projects to coordinate care for different groups of
20 medical assistance recipients to achieve more effective care for recipients at greater
21 cost savings for the medical assistance program. The department shall request
22 proposals for projects under this section on or before December 31, 2016, and may use
23 an innovative procurement process as described under AS 36.30.308. A proposal for a
24 demonstration project under this section must be submitted to the committee
25 established under (b) of this section and must include one or more of the following
26 elements:

27 (1) comprehensive primary-care-based management for medical
28 assistance services, including behavioral health services;

29 (2) care coordination, including the assignment of a primary care
30 provider located in the local geographic area of the recipient, to the extent practical;

31 (3) health promotion;

1 (4) comprehensive transitional care and follow-up care after inpatient
2 treatment;

3 (5) referral to community and social support services, including career
4 and education training services available through the Department of Labor and
5 Workforce Development under AS 23.15, the University of Alaska, or other sources;

6 (6) sustainability and the ability to achieve similar results in other
7 regions of the state;

8 (7) integration and coordination of benefits and services;

9 (8) local accountability for health and resource allocation.

10 (b) A project review committee is established in the department for the purpose
11 of reviewing proposals for demonstration projects under this section. The project
12 review committee consists of

13 (1) the commissioner of the department, or the commissioner's
14 designee;

15 (2) the director of the division of insurance, Department of Commerce,
16 Community, and Economic Development, or the director's designee;

17 (3) the chief executive officer of the Alaska Mental Health Trust
18 Authority, or the chief executive officer's designee;

19 (4) three representatives of stakeholder groups, appointed by the
20 governor;

21 (5) a nonvoting member who is a member of the senate, appointed by
22 the president of the senate; and

23 (6) a nonvoting member who is a member of the house of
24 representatives, appointed by the speaker of the house of representatives.

25 (c) The department may contract with a managed care organization, primary
26 care case manager, accountable care organization, prepaid ambulatory health plan, or
27 provider-led entity to implement a demonstration project under this section. A
28 contract shall provide for a fee based on a per capita expense that is fair and
29 economical. The fee structure may include global payments, bundled payments,
30 shared savings and risk, or other payment structures.

31 (d) A proposal for a demonstration project under this section must include, in

1 addition to the elements required under (a) of this section, information demonstrating
2 how the project will implement additional cost-saving measures including innovations
3 to reduce the cost of care for medical assistance recipients through the expanded use
4 of telemedicine for primary care, urgent care, and behavioral health services. The
5 department shall identify legal or cost barriers preventing the expanded use of
6 telemedicine and shall recommend remedies for identified barriers.

7 (e) The department shall contract with a third-party actuary to review
8 demonstration projects established under this section. The actuary shall review each
9 demonstration project after one year of implementation and make recommendations
10 for the implementation of a similar project on a statewide basis. The actuary shall
11 evaluate each project based on cost savings for the medical assistance program, health
12 outcomes for participants in the project, and the ability to achieve similar results on a
13 statewide basis. On or before December 31 of each year starting in 2018, the actuary
14 shall submit a final report to the department regarding any demonstration project that
15 has been in operation for at least one year.

16 (f) The department shall prepare a plan regarding regional or statewide
17 implementation of a coordinated care project based on the results of the demonstration
18 projects under this section. On or before June 30, 2019, the department shall submit
19 the plan to the senate secretary and the chief clerk of the house of representatives and
20 notify the legislature that the plan is available. On or before June 30 of each year
21 thereafter, the department shall submit a report regarding any changes or
22 recommendations regarding the plan developed under this subsection to the senate
23 secretary and the chief clerk of the house of representatives and notify the legislature
24 that the report is available.

25 (g) In this section, "telemedicine" has the meaning given in AS 47.05.270(e).

26 * **Sec. 21.** AS 47.07 is amended by adding a new section to read:

27 **Sec. 47.07.076. Report to legislature.** (a) The department and the attorney
28 general shall annually prepare a report relating to the medical assistance program
29 under AS 47.07. The report must identify

30 (1) the amount and source of funds used to prevent or prosecute fraud,
31 abuse, payment errors, and errors in eligibility determinations for the previous fiscal

1 year;

2 (2) actions taken to address fraud, abuse, payment errors, and errors in
3 eligibility determinations during the previous fiscal year;

4 (3) specific examples of fraud or abuse that were prevented or
5 prosecuted;

6 (4) identification of vulnerabilities in the medical assistance program,
7 including any vulnerabilities identified by independent auditors with whom the
8 department contracts under AS 47.05.200;

9 (5) initiatives the department has taken to prevent fraud or abuse;

10 (6) recommendations to increase effectiveness in preventing and
11 prosecuting fraud and abuse;

12 (7) the return to the state for every dollar expended by the department
13 and the attorney general to prevent and prosecute fraud and abuse;

14 (8) estimated payment error rate measurement for the medical
15 assistance program;

16 (9) results from the Medicaid Eligibility Quality Control program.

17 (b) On or before October 15 of each year, the department shall submit the
18 report required under this section to the senate secretary and the chief clerk of the
19 house of representatives and notify the legislature that the report is available.

20 * **Sec. 22.** AS 47.07.900(4) is amended to read:

21 (4) "clinic services" means services provided by state-approved
22 outpatient [COMMUNITY] mental health clinics [THAT RECEIVE GRANTS
23 UNDER AS 47.30.520 - 47.30.620], state-operated community mental health clinics,
24 outpatient surgical care centers, and physician clinics;

25 * **Sec. 23.** AS 47.07.900(17) is amended to read:

26 (17) "rehabilitative services" means services for substance abusers and
27 emotionally disturbed or chronically mentally ill adults provided by

28 (A) a drug or alcohol treatment center [THAT IS FUNDED
29 WITH A GRANT UNDER AS 47.30.475]; or

30 (B) an outpatient [COMMUNITY] mental health clinic [THAT
31 HAS A CONTRACT TO PROVIDE COMMUNITY MENTAL HEALTH

1 SERVICES UNDER AS 47.30.520 - 47.30.620];

2 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 INDIRECT COURT RULE AMENDMENTS. (a) AS 09.58.020, added by sec. 3 of
5 this Act, has the effect of amending the following court rules in the manner specified:

6 (1) Rules 4, 5, 7, and 12, Alaska Rules of Civil Procedure, by requiring that a
7 complaint under AS 09.58 be filed in camera and under seal and may not be served on the
8 defendant until unsealed and that a copy of the complaint be served on the attorney general;

9 (2) Rules 41 and 77, Alaska Rules of Civil Procedure, by authorizing the
10 attorney general to move for dismissal of a complaint filed by another person under
11 AS 09.58.020, added by sec. 3 of this Act, and requiring court approval for dismissal of the
12 action.

13 (b) AS 09.58.025, added by sec. 3 of this Act, has the effect of amending Rule 27,
14 Alaska Rules of Civil Procedure, by authorizing the attorney general to issue subpoenas as
15 part of an investigation under AS 09.58.025.

16 (c) AS 09.58.030, added by sec. 3 of this Act, has the effect of amending the
17 following court rules in the manner specified:

18 (1) Rule 24, Alaska Rules of Civil Procedure, by authorizing the attorney
19 general to intervene in a civil action filed by another person under AS 09.58.020 and limiting
20 the participation of a party to the litigation;

21 (2) Rules 26 and 27, Alaska Rules of Civil Procedure, by authorizing the
22 attorney general to request that the court issue a stay of discovery for a 90-day period, or
23 longer upon a showing by the attorney general.

24 (d) AS 09.58.040, added by sec. 3 of this Act, has the effect of amending Rules 79
25 and 82, Alaska Rules of Civil Procedure, by giving a person who brings an action under
26 AS 09.58.020 the right to reasonable attorney fees and costs in an action prosecuted by the
27 attorney general.

28 (e) AS 47.05.260, added by sec. 17 of this Act, has the effect of amending Rule 89,
29 Alaska Rules of Civil Procedure, and Rule 37, Alaska Rules of Criminal Procedure, by
30 authorizing the attorney general to apply to the court for authorization to seize property in
31 conjunction with an action filed under AS 47.05.210.

1 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 **IMPLEMENT FEDERAL POLICY ON TRIBAL MEDICAID REIMBURSEMENT.**

4 (a) The Department of Health and Social Services shall collaborate with Alaska tribal health
5 organizations and the United States Department of Health and Human Services to fully
6 implement changes in federal policy that authorize 100 percent federal funding for services
7 provided to American Indian and Alaska Native individuals eligible for Medicaid.

8 (b) Within 30 days after the date the Centers for Medicare and Medicaid Services
9 adopts a final rule updating its policy regarding the circumstances in which 100 percent
10 federal funding is available for medical assistance services received through the United States
11 Indian Health Service or tribal health facilities, the Department of Health and Social Services
12 shall notify the co-chairs of the senate finance committee of the Alaska State Legislature and
13 submit a report to the co-chairs of the senate finance committee that includes an estimate of
14 the savings to the state resulting from the rule change. Within six months after the date the
15 Centers for Medicare and Medicaid Services adopts the final rule, the Department of Health
16 and Social Services shall fully implement the rule in the state.

17 (c) In this section, "Alaska tribal health organization" means an organization
18 recognized by the United States Indian Health Service to provide health-related services.

19 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 **HEALTH INFORMATION INFRASTRUCTURE PLAN.** (a) The Department of
22 Health and Social Services shall develop a health information infrastructure plan to strengthen
23 the health information infrastructure, including health data analytics capability. The purpose
24 of the health information infrastructure plan is to transform the health care system in the state
25 by providing

26 (1) data required by health care providers for care coordination and quality
27 improvement; and

28 (2) the information support required by the Department of Health and Social
29 Services and health care providers to enable development and implementation of the other
30 provisions of this Act.

31 (b) To the greatest extent practicable, the health information infrastructure plan will

1 leverage existing resources, including the health information exchange, and will identify
2 opportunities for integrating and streamlining health data systems administered by the state.

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

5 DEPARTMENT OF HEALTH AND SOCIAL SERVICES FEASIBILITY STUDY.

6 (a) The Department of Health and Social Services shall procure a study analyzing the
7 feasibility of privatizing services delivered at Alaska Pioneers' Homes and select facilities of
8 the division of juvenile justice. The Department of Health and Social Services shall deliver a
9 report summarizing the conclusions of the Department of Health and Social Services to the
10 senate secretary and the chief clerk of the house of representatives and notify the legislature
11 that the report is available within 10 days after the convening of the First Regular Session of
12 the Thirtieth Alaska State Legislature.

13 (b) The Alaska Mental Health Trust Authority shall procure a study analyzing the
14 feasibility of privatizing services delivered at the Alaska Psychiatric Institute. The Alaska
15 Mental Health Trust Authority shall deliver a report summarizing the conclusions of the
16 Alaska Mental Health Trust Authority to the senate secretary and the chief clerk of the house
17 of representatives and notify the legislature that the report is available within 10 days after the
18 convening of the First Regular Session of the Thirtieth Alaska State Legislature.

19 (c) The Legislative Budget and Audit Committee shall procure a study to be
20 completed on or before June 30, 2017, on the feasibility of creating a health care authority
21 that manages a single community-related risk pool for all state employees, retired state
22 employees, retired teachers, medical assistance recipients, and school district employees.

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

24 * **Sec. 28.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 MEDICAID STATE PLAN; WAIVERS; INSTRUCTIONS; NOTICE TO REVISOR
27 OF STATUTES. The Department of Health and Social Services shall amend and submit for
28 federal approval a state plan for medical assistance coverage consistent with this Act. The
29 Department of Health and Social Services shall apply to the United States Department of
30 Health and Human Services for any waivers necessary to implement this Act. The
31 commissioner of health and social services shall certify to the revisor of statutes if the

1 provisions of AS 47.05.270(a)(5), (8), and (10), added by sec. 17 of this Act, and the
2 provisions of AS 47.07.038, added by sec. 20 of this Act, are approved by the United States
3 Department of Health and Human Services.

4 * **Sec. 29.** 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 adopt regulations necessary to implement the changes made by this Act. The regulations
8 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
9 of the relevant provision of this Act implemented by the regulation.

10 (b) The Board of Pharmacy may adopt regulations necessary to implement the
11 changes made by secs. 4 - 9 of this Act. The regulations take effect under AS 44.62
12 (Administrative Procedure Act), but not before the effective date of the relevant provision of
13 secs. 4 - 9 of this Act implemented by the regulation.

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

16 **CONDITIONAL EFFECT.** (a) AS 47.05.270(a)(5), enacted by sec. 17 of this Act,
17 takes effect only if the commissioner of health and social services certifies to the revisor of
18 statutes under sec. 28 of this Act, on or before October 1, 2017, that all of the provisions
19 added by AS 47.05.270(a)(5) have been approved by the United States Department of Health
20 and Human Services.

21 (b) AS 47.05.270(a)(8), enacted by sec. 17 of this Act, takes effect only if the
22 commissioner of health and social services certifies to the revisor of statutes under sec. 28 of
23 this Act, on or before October 1, 2017, that all of the provisions added by AS 47.05.270(a)(8)
24 have been approved by the United States Department of Health and Human Services.

25 (c) AS 47.05.270(a)(10), enacted by sec. 17 of this Act, takes effect only if the
26 commissioner of health and social services certifies to the revisor of statutes under sec. 28 of
27 this Act, on or before October 1, 2017, that all of the provisions added by
28 AS 47.05.270(a)(10) have been approved by the United States Department of Health and
29 Human Services.

30 (d) AS 47.07.038, enacted by sec. 20 of this Act, takes effect only if the commissioner
31 of health and social services certifies to the revisor of statutes under sec. 32 of this Act, on or

1 before October 1, 2017, that all of the provisions added by AS 47.07.038 have been approved
2 by the United States Department of Health and Human Services.

3 (e) AS 09.58, added by sec. 3 of this Act, takes effect only if sec. 24 of this Act
4 receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution
5 of the State of Alaska.

6 * **Sec. 31.** If AS 47.05.270(a)(5), enacted by sec. 17 of this Act, takes effect, it takes effect
7 on the day after the date the commissioner of health and social services makes a certification
8 to the revisor of statutes under secs. 28 and 30(a) of this Act.

9 * **Sec. 32.** If AS 47.05.270(a)(8), enacted by sec. 17 of this Act, takes effect, it takes effect
10 on the day after the date the commissioner of health and social services makes a certification
11 to the revisor of statutes under secs. 28 and 30(b) of this Act.

12 * **Sec. 33.** If AS 47.05.270(a)(10), enacted by sec. 17 of this Act, takes effect, it takes effect
13 on the day after the date the commissioner of health and social services makes a certification
14 to the revisor of statutes under secs. 28 and 30(c) of this Act.

15 * **Sec. 34.** If AS 47.07.038, enacted by sec. 20 of this Act, takes effect, it takes effect on the
16 day after the date the commissioner of health and social services makes a certification to the
17 revisor of statutes under secs. 28 and 30(d) of this Act.

18 * **Sec. 35.** Sections 27, 28, 29(a), and 30 of this Act take effect immediately under
19 AS 01.10.070(c).

20 * **Sec. 36.** Sections 4 - 9 of this Act take effect January 1, 2017.

21 * **Sec. 37.** Section 29(b) of this Act takes effect July 1, 2016.