

ACJC Workgroup on Barriers to Reentry
Employment Sub-Group
Staff Notes and Member Assignments, June 30
AG's Office, First floor Conference Room, 1031 Fourth Avenue, Anchorage, Alaska

Commissioners attending: Brenda Stanfill
Staff present: Mary Geddes (note-taker), Susie Dosik
Participating: Deb Periman, Doreen Schenkenberger, Gail Sorenson, Kaci Shroeder (DOL, Criminal Division), Stacie Kraly (AG's Office)

Future meetings:

Department of Health and Social Services Barrier Crimes

Stacie Kraly participated at the group's invitation to give the group background information on why the Title 47 statutes on barrier crimes and criminal background checks was enacted, how the Department of Health and Social Services regulation on barrier crimes and background check process developed, and to provide information about federal law that guides the barrier crimes.

The statute was enacted primarily to streamline and consolidate licensing and background check processes within the department. Prior to enactment, the department operated with a framework of nineteen different entities, each having its own process. At the same time, there was a federal initiative that provided grants to states to develop a criminal background check process for long term personal care givers for the elderly. The statute was drafted initially to manage the grant. The statute passed in 2005 and was codified at AS 47.05.400 - .300. It affects service providers and licensing in many areas including foster care, child care, and Medicaid reimbursement. A companion statute provides for a civil registry of actions taken against professional licenses, Medicaid fraud, and complaints of child abuse or neglect through OCS or complaints of adult abuse or neglect.

After passage, the department began work crafting regulations to operationalize the licensing and background check processes envisioned by the statute. Groups of department stakeholders from affected divisions met, along with a representative from the Department of Law (Annie Carpeneti) to identify offenses that were inconsistent with licensure or reimbursement by the department, and to set barrier lengths. After many day-long meetings, they arrived at [current Barrier Crimes Matrix for the Barrier Crimes Listed in 7 AAC 10.905](#) . The regulations were promulgated and went into effect in 2007. They are found at [7AAC 10.900 - .990](#).

The system was designed for efficiency and did not provide for much discretion in their application. After initial adoption, the need for more discretion became apparent and the department amended the regulations to allow for variances. The variance process was described,¹ is efficient and Ms. Kraly reports it works well. The background check system was so efficient and functional that it began to be used in applications for which it was not necessarily intended. The department has interpreted it not to apply for service providers who are otherwise professionally licensed (e.g. physicians, nurses).

Ms. Kraly provided a list of hyperlinks to federal law that affects the barrier crimes, including laws regarding foster care, the Adam Walsh Act, and Medicaid long-term care provisions. These are all incorporated

¹ The subgroup has copious materials on the variance process that can be made available to those who are interested.

into the matrix. The OCS manual also contains many of the federal regulations and policies. Provisions in the Affordable Care Act have not yet been incorporated into the regulations but the department has begun that process; draft regulations are currently out for public comment.

Susie Dosik asked how open the department would be to reviewing the barriers. Ms. Kraly replied that the current commissioner and deputy commissioner would be open to discussion and are very interested in some areas including effects of the SIS statute or expungement mechanisms.

Next steps: Discuss the scope of a possible review with Deputy Commissioner John Sherwood.