AN ACT

Establishing the office of elder fraud and assistance; and relating to fraud involving older Alaskans.

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

THE ACT FOLLOWS ON PAGE 1
AN ACT

Establishing the office of elder fraud and assistance; and relating to fraud involving older
Alaskans.

*Section 1.* AS 44.21.410(a) is amended to read:

(a) The office of public advocacy shall

(1) perform the duties of the public guardian under AS 13.26.360 -
13.26.410;

(2) provide visitors and experts in guardianship proceedings under
AS 13.26.131;

(3) provide guardian ad litem services to children in child protection
actions under AS 47.17.030(e) and to wards and respondents in guardianship
proceedings who will suffer financial hardship or become dependent upon a
government agency or a private person or agency if the services are not provided at
state expense under AS 13.26.025;
(4) provide legal representation in cases involving judicial bypass procedures for minors seeking abortions under AS 18.16.030, in guardianship proceedings to respondents who are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency, to indigent parents or guardians of a minor respondent in a commitment proceeding concerning the minor under AS 47.30.775;

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor; and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

(6) develop and coordinate a program to recruit, select, train, assign, and supervise volunteer guardians ad litem from local communities to aid in delivering services in cases in which the office of public advocacy is appointed as guardian ad litem;

(7) provide guardian ad litem services in proceedings under AS 12.45.046 or AS 18.15.355 - 18.15.395;

(8) establish a fee schedule and collect fees for services provided by the office, except as provided in AS 18.85.120 or when imposition or collection of a fee is not in the public interest as defined under regulations adopted by the commissioner of administration;

(9) provide visitors and guardians ad litem in proceedings under AS 47.30.839;

(10) provide legal representation to an indigent parent of a child with a disability; in this paragraph, "child with a disability" has the meaning given in
AS 14.30.350;

(11) investigate complaints and bring civil actions under AS 44.21.415 involving fraud committed against residents of the state who are 60 years of age or older; in this paragraph, "fraud" has the meaning given in AS 44.21.415.

* Sec. 2. AS 44.21 is amended by adding a new section to read:

Sec. 44.21.415. Office of elder fraud and assistance. (a) The office of elder fraud and assistance is established in the office of public advocacy to investigate complaints involving fraud committed against older Alaskans who are not otherwise able to bring a complaint without assistance, as defined in regulation, and to provide assistance to older Alaskans who are victims of fraud. The office shall work with local, state, and national law enforcement and social service agencies through cooperative agreements and may bring civil enforcement actions for injunctive and other relief for fraud committed against older Alaskans.

(b) In conducting an investigation under this section, the office of elder fraud and assistance may issue subpoenas, conduct interviews, and examine the business records, advances, transactions, and relevant records associated with the alleged fraud committed against an older Alaskan. The office may enter into contracts with attorneys and seek a court order to enforce a subpoena.

(c) In addition to the functions described under (a) and (b) of this section, the office of elder fraud and assistance shall provide information, referrals, and other assistance to older Alaskans who are victims of fraud and make recommendations to the commissioner for regulations on eligibility for assistance needed to implement this section.

(d) A cooperative agreement under (a) of this section must include a description of office operations and investigation protocols.

(e) Subject to the discretion of the court and standards established in regulation adopted by the commissioner of administration and taking into consideration the financial condition of the parties to a civil suit brought under this section, the office of public advocacy may seek recovery of all or part of litigation costs and fees from any party, including costs incurred during the investigation of the
case, when the office of public advocacy is found to be a prevailing party after trial or
settlement negotiation. The office of public advocacy shall enter into a fee agreement
with a client that is consistent with this section, the Alaska Rules of Court, and the
Alaska Rules of Professional Conduct.

(f) Nothing in this section prohibits the Department of Law from investigating
or prosecuting a person for unfair methods of competition and unfair or deceptive acts
or practices in the conduct of trade or commerce under AS 45.50.471 and 45.50.495.

(g) In this section,

(1) "fraud" means

(A) robbery, extortion, and coercion under AS 11.41.500 -
11.41.530;

(B) theft and related offenses under AS 11.46.100 - 11.46.740;

or

(C) exploitation of another person or another person's resources

for personal profit or advantage with no significant benefit accruing to the

person who is exploited;

(2) "older Alaskan" means a person residing in the state who is 60

years of age or older.

* Sec. 3. AS 47.24.015(c) is amended to read:

(c) The department, or its designee, shall immediately terminate an

investigation under this section upon the request of the vulnerable adult who is the

subject of the report made under AS 47.24.010. However, the department or its

designee may not terminate the investigation if the investigation to that point has

resulted in probable cause to believe that the vulnerable adult is in need of protective

services and the request is made personally by the vulnerable adult and the vulnerable

adult is not competent to make the request on the adult's own behalf, or the request is

made by the vulnerable adult's guardian, attorney-in-fact, or surrogate decision maker

and that person is the alleged perpetrator of the abandonment, exploitation, abuse, or

neglect of the vulnerable adult and is being investigated under this chapter. If the

department has probable cause to believe that the vulnerable adult is in need of

protective services,
(1) the department may petition the court as set out in AS 47.24.019;

[OR]

(2) the department or its designee may refer the report made to the department under AS 47.24.010 to a police officer for criminal investigation; or

(3) in cases involving fraud, the department or its designee may refer the report made to the department under AS 47.24.010 to the office of public advocacy for investigation; in this paragraph, "fraud" has the meaning given in AS 44.21.415.