

1 IN THE HOUSE

BY MR. PARSONS

2

HOUSE BILL NO. 245

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SECOND LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to community mental health
7 services."

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

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Section 1. SHORT TITLE AND DECLARATION OF PURPOSE. a.

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This Act shall be known and may be cited as the Community Mental
11 Health Services Act.

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b. Increasing numbers of persons afflicted with psychiatric
13 disorders require care and treatment in mental institutions. The
14 human suffering and social and economic loss caused by these
15 costly infirmities are a matter of grave concern to the people of
16 the state. This Act is designed to encourage the development of
17 preventive, rehabilitative and treatment services through new
18 community mental health programs and the improvement and expan-
19 sion of existing community services in the field of mental ill-
20 ness, mental deficiency, epilepsy and behavior or emotional dis-
21 orders.

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Sec. 2. DEFINITIONS. As used in this Act:

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(1) "Governing body" shall mean

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(a) in the case of a borough, the borough
25 assembly;

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(b) in the case of a city, the local legis-
27 lative governing body thereof.

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(2) "Psychiatric disorders" shall include mental ill-
29 ness, or mental deficiency, epilepsy, or behavior or emotional

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1 disorders.

2 (3) "Psychiatric clinics" or "mental health clinics"
3 or "psychiatric services" or "psychiatric facilities" shall in-
4 clude clinics or services for persons suffering from or who have
5 suffered from a psychiatric disorder.

6 (4) "Board" shall mean the community mental health
7 board of a city, borough or part-borough.

8 (5) "Director" shall mean the director of community
9 mental health services.

10 (6) "Chairman of the governing body" of the borough
11 shall mean the chairman of such body, except that where a borough
12 has a borough executive or borough manager, such term shall mean
13 such executive or manager.

14 (7) "Chief executive officer" of a city shall mean
15 the mayor of such city, except that where a city has a city
16 manager, such term shall mean such manager.

17 Sec. 3. COMMUNITY MENTAL HEALTH SERVICES. Cities and or-
18 ganized boroughs having populations of greater than 5,000 persons
19 are authorized to provide for community mental health services.
20 When an organized borough contains one or more cities having a
21 population of greater than 5,000 persons, no such city shall be
22 included under the jurisdiction of the borough mental health
23 board unless a majority of the borough representatives represent-
24 ing that part of the borough outside the city consent thereto.
25 The governing body of any organized borough may by agreement with
26 the governing body of any other such borough or boroughs establish
27 a joint borough mental health board, subject to the other pro-
28 visions of this Act.

29 Sec. 4. COMMUNITY MENTAL HEALTH BOARDS: ESTABLISHMENT.

1 a. The community mental health board shall consist of five
2 members, three of whom shall be appointed by the chief executive
3 officer of the city, or the chief executive officer of the
4 borough. Of the appointive members, at least two shall be
5 physicians actively engaged in private practice. The board shall
6 be representative of interested groups in the community, and at
7 the discretion of the appointing officer, may include a member
8 of the governing body of the city or borough; an officer or em-
9 ployee of a school district within the city or borough; persons
10 familiar with practice in courts of criminal jurisdiction or
11 children's courts, and members or employees of voluntary health,
12 welfare or mental health agencies.

13 b. The term of each member of the board shall be for four
14 years provided, however, that of the members first appointed,
15 two shall be appointed for a term of two years, two for a term
16 of three years and one for a term of four years. All terms shall
17 be measured from the first day of the year of appointment.
18 Vacancies shall be filled for the unexpired term in the same
19 manner as original appointments.

20 c. The commissioners of public welfare and health of the
21 city or borough, as the case may be, shall be members ex officio.
22 If there be no borough health commissioner, the chairman of the
23 governing body may appoint in his stead the health officer of a
24 town or village within the borough, the city health officer or
25 commissioner of a city which is included within the borough or
26 part-borough board, or a medical member of the borough public
27 health committee. If there be no city welfare commissioner, the
28 chief executive officer shall appoint in his stead a city welfare
29 service officer or other city welfare officer.

1 d. Any appointive board member may be removed by the
2 appointing officer for neglect of duty, misconduct or malfeasance
3 in office, after being given a written statement of the charges
4 and an opportunity to be heard thereon.

5 e. The members of a board may receive such per diem com-
6 pensation as may be provided by local appropriations therefor;
7 and in addition shall be allowed actual and necessary expenses
8 to be audited and paid in the same manner as other expenses of
9 such board.

10 f. The board shall be an agency of the government of the
11 city or borough and shall be subject to the laws and requirements
12 relating to such agencies.

13 g. The expenses incurred by any board in the performance of
14 duties imposed upon it or its members shall be a charge on the
15 city or borough, as the case may be, and shall be audited, levied,
16 collected and paid in the same manner as other city or borough
17 charges, except that where the jurisdiction of a borough board
18 covers part of a borough, taxes to pay such charges shall be
19 levied only on such part of the borough.

20 Sec. 5. COMMUNITY MENTAL HEALTH BOARDS: POWERS AND DUTIES.
21 Subject to the provisions of this chapter, and the regulations
22 of the state mental health authority, every board shall have the
23 power to:

24 (1) review and evaluate community mental health ser-
25 vices and facilities;

26 (2) submit to the appointing officer and governing
27 body a program of community mental health services and facilities;

28 (3) within amounts appropriated therefor, execute such
29 program and maintain such services and facilities as may be

1 authorized under such appropriations;

2 (4) enter into contracts for rendition or operation of
3 services and facilities on a per capita basis or otherwise;

4 (5) arrange for the rendition of services and opera-
5 tion of facilities by other agencies of the city or borough with
6 the approval of the governing body;

7 (6) make rules and regulations concerning the rendi-
8 tion or operation of services and facilities under its direction
9 or supervision;

10 (7) appoint a psychiatrist, whose qualifications meet
11 standards fixed by the state mental health authority, to serve
12 as director of the community mental health service. If a
13 psychiatrist is not available, the board may appoint another pro-
14 fessional person, trained in at least one of the specialties of
15 mental health as an acting director, who shall meet the standards
16 established for the specialty by the state mental health author-
17 ity. Such director need not be a resident of the city or borough
18 and may be employed on a full or part-time basis;

19 (8) prescribe the duties of such director and review
20 the performance of his duties; and

21 (9) perform such other acts as may be necessary or
22 proper to carry out the purposes of this Act, consistent with the
23 regulations of the state mental health authority.

24 Sec. 6. DIRECTORS OF COMMUNITY MENTAL HEALTH SERVICES:
25 POWERS AND DUTIES. a. In addition to such other duties as may
26 be lawfully imposed on him and subject to the provisions of this
27 Act and the regulations of the state mental health authority,
28 every director shall:

29 (1) serve as chief executive officer of the board;

1 (2) exercise general supervision over mental health
2 services and facilities rendered, operated or supported by the
3 board;

4 (3) exercise general supervision over the treatment of
5 patients in services and facilities which are rendered or main-
6 tained by or under the direction of the board;

7 (4) recommend to the board the provision of services
8 and establishment of facilities, including contracts therefor,
9 and other matters necessary or desirable to accomplish the pur-
10 poses of this Act;

11 (5) encourage the development and expansion of preven-
12 tive, rehabilitation and treatment programs in the field of
13 mental illness, mental deficiency, epilepsy and behavior or
14 emotional disorders;

15 (6) make an annual report to the board of the programs
16 under his direction, including a fiscal accounting;

17 (7) carry on such studies as may be appropriate for
18 the discharge of his duties or the promotion of mental health or
19 prevention of psychiatric disorders.

20 b. The director may employ and remove such officers, em-
21 ployees and consultants as may be necessary for the work of the
22 board, and fix their compensation within the amounts made avail-
23 able by appropriation therefor and approved by the board.

24 Sec. 7. DIRECTORS OF COMMUNITY MENTAL HEALTH SERVICES:
25 COMPENSATION: REMOVAL. a. The compensation of the director
26 shall be fixed by the board within the amounts made available by
27 appropriation therefor. In addition to such compensation, the
28 director shall be allowed his actual and necessary expenses in
29 the performance of his official duties.

1 b. The board may remove the director for cause, upon writ-
2 ten charges, and after such director, upon due notice, has been
3 given an opportunity to be heard.

4 Sec. 8. LIABILITY OF A CITY OR BOROUGH. Any city or
5 borough which has established a community mental health service
6 shall save harmless and protect the members of the board, its
7 officers and employees from financial loss arising out of any
8 claim, demand, suit or judgment by reason of alleged negligence
9 or other act resulting in accidental bodily harm or injury to any
10 person, provided such board, officer or employee at the time of
11 the accident or injury was acting in the discharge of his duties
12 within the scope of his employment under this Act. No action
13 shall be maintained under this section against such a city,
14 borough, board member, officer or employee unless a notice of
15 claim shall have been made and served in compliance with the
16 general municipal law.

17 Sec. 9. JOINT MENTAL HEALTH SERVICES. a. Any agreement
18 for joint mental health services pursuant to Sec. 3 shall provide
19 for the proportionate cost of such joint services to be borne by
20 each participating borough, and shall provide that the treasurer
21 of one participating borough shall be the custodian of moneys to
22 be made available for expenditures for the purposes of such
23 joint services, and that such treasurer may make payments from
24 such moneys for such purposes upon audit of the appropriate
25 auditing officer or body of such borough. It may provide:

26 (1) for joint rendition or operation of services and
27 facilities or for rendition or operation of services and facili-
28 ties by one participating borough under contract for other parti-
29 cipating boroughs;

1 (2) for the allocation of appointments of members of
2 the board between or among participating boroughs. Such joint
3 board shall have within each participating borough the powers and
4 duties of a community mental health board;

5 (3) that for specified purposes, officers and employ-
6 ees of a joint board shall be considered to be officers and em-
7 ployees of one participating borough only;

8 (4) for such other matters as are necessary or proper
9 to effectuate the purposes of this Act.

10 b. Unless otherwise expressly provided or otherwise requir-
11 ed by context, the provisions of this chapter relating to com-
12 munity mental health services generally, including but not limit-
13 ed to those relating to the powers and duties of the commissioner,
14 governing bodies and community mental health boards and directors,
15 and the appointment of community mental health boards and
16 directors, shall apply to joint mental health boards.

17 Sec. 10. ELIGIBILITY FOR APPOINTMENT: CONTRACTS. Notwith-
18 standing any inconsistent provisions of law, general, special or
19 local:

20 (1) No person shall be ineligible for board member-
21 ship or appointment as director under or pursuant to this Act
22 because he holds any other public office, employment, or trust,
23 nor shall any person be made ineligible to or forfeit his right
24 to any public office, employment or trust by reason of such an
25 appointment under this Act.

26 (2) Contracts for services and facilities under this
27 Act may be made with a hospital, clinic, laboratory or other
28 similar institution, notwithstanding that the director is an
29 officer or employec of such institution or is a member of the

1 medical or consultant staff thereof.

2 Sec. 11. ELIGIBILITY OF CITIES AND BOROUGHES FOR STATE RE-
3 IMBURSEMENT. a. Community mental health board expenditures by
4 cities and boroughs made in conformance with the regulations of
5 the state mental health authority shall be subject to reimburse-
6 ment by the state pursuant to the provisions of this Act. Such
7 reimbursement shall be made to cities and boroughs which have
8 established such boards and provide any or all of the following
9 facilities and services after submission of a plan to the state
10 mental health authority for proposed expenditures therefor and
11 his approval of such plan:

12 (1) outpatient psychiatric or mental health clinics;

13 (2) inpatient psychiatric services in general hospi-
14 tals;

15 (3) psychiatric rehabilitation services for persons
16 suffering from psychiatric disorders; or

17 (4) consultant and educational services furnished by
18 qualified mental health personnel under the jurisdiction and
19 supervision of the board to schools, courts, health and welfare
20 agencies, and other appropriate agencies or groups authorized by
21 the commissioner.

22 b. In accordance with the regulations of the state mental
23 health authority, such expenditures shall be subject to reimburse-
24 ment whether incurred by direct or joint operation of such
25 facilities and services, by provision thereof, contract or
26 other arrangement pursuant to the provisions of this Act.

27 c. Reimbursement shall be made from funds appropriated to
28 the Department of Health and Welfare.

29 Sec. 12. DETERMINATION OF STATE REIMBURSEMENT. a. There

1 shall be paid to each city or borough on account of expenditures
2 subject to reimbursement by the state pursuant to Sec. 11 fifty
3 per centum of the amount so expended during the city or borough
4 fiscal year, provided that the total state reimbursement shall
5 not exceed an amount equal to one dollar per capita for the popu-
6 lation of the city, borough, or part-borough, as the case may be.

7 b. With respect to a borough which has established a joint
8 borough mental health service, expenditures subject to reimburse-
9 ment shall mean the prorated expenditures of such borough as
10 provided by the agreement establishing such joint service.

11 (1) Expenditures subject to reimbursement shall include
12 salaries of qualified and necessary personnel; approved facili-
13 ties and services provided through contract; operation, mainten-
14 ance and service costs; and such other expenditures as may be
15 approved by the state mental health authority pursuant to Sec. 11.
16 They shall not include expenditures for capital additions or
17 improvements; compensation to members of a board (except actual
18 and necessary expenses incurred in the performance of official
19 duties); or expenditures for a purpose as to which state reim-
20 bursement is claimed under any other provision of law.

21 (2) Reimbursement shall not be made upon expenditures
22 for services furnished to patients who are financially able to
23 pay for private care and for purposes of reimbursement, there
24 shall be deducted from the cost of services any fees received
25 from patients and any revenues received by a borough from another
26 borough pursuant to an agreement for joint mental health services.

27 (3) Reimbursement shall not be made upon expenditures
28 for mental health clinics or other services operated exclusively
29 in conjunction with schools or limited to court referrals unless

1 such services are under the jurisdiction of and subject to the
2 direction and supervision of the board.

3 (4) Mental health clinics or other services made avail-
4 able to or provided for children attending public schools, for
5 which reimbursement is sought under the provisions of this Act,
6 shall be made available to or provided for children who attend
7 schools other than public, upon request therefor by the authori-
8 ties of such schools.

9 (5) Claims for state reimbursement shall be made in
10 such form and manner and at such times and for such periods as
11 the state mental health authority shall determine.

12 (6) When certified by the state mental health authority,
13 state reimbursement shall be paid from the state treasury upon the
14 audit and warrant of the commissioner of administration out of
15 funds made available therefor.

16 c. For purposes of this section and Sec. 11, community
17 mental health expenditures made by boroughs shall include such
18 expenditures made by boroughs on behalf of part-borough programs.

19 d. The determination as to the population of a city,
20 borough or part-borough for the purposes of this Act shall be
21 made by the secretary of state, except that such borough or part-
22 borough population shall not include the population of any city
23 therein which, as provided in Paragraph b, (1) or (5) of Sec. 12,
24 is not included in the community mental health service of such
25 borough or part-borough.

26 Sec. 13. FEES: CLINICS OPERATED BY LOCAL HEALTH DEPART-
27 MENTS: SAVING CLAUSE. a. In accordance with the regulations of
28 the state mental health authority, fees may be charged for mental
29 health services rendered pursuant to the local plan approved by

1 the authority, provided, that services shall not be refused to
2 any person because of his inability to pay therefor.

3 b. Mental health clinics heretofore operated by local
4 health departments may be placed under the direction of the
5 board, or continued under the direction of the local health de-
6 partment, as may be determined by the governing body of the
7 affected city or borough.

8 c. Nothing herein contained shall be construed to prevent
9 the continuation of existing mental health services or facilities
10 or the establishment of new services and facilities with respect
11 to which state reimbursement is not claimed.

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