

Introduced: 2/20/63
Referred: Health, Welfare
Education and Finance

1 IN THE HOUSE

RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 86

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a program for aid to
7 the permanently and totally disabled
8 and providing for an effective date."

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

10 * Section 1. AS 47.25 is amended by adding Article 6 to
11 read:

12 ARTICLE 6

13 AID TO THE PERMANENTLY AND TOTALLY DISABLED

14 Sec. 47.25.790 Eligibility for Aid to the Permanently and
15 totally disabled .

16 Sec. 47.25.800 Application for assistance

17 Sec. 47.25.810 Amount of assistance

18 Sec. 47.25.820 Residence in institutions

19 Sec. 47.25.830 Investigation of applicant

20 Sec. 47.25.840 Granting of assistance

21 Sec. 47.25.850 Appeal

22 Sec. 47.25.860 Payment when recipient incapacitated

23 Sec. 47.25.870 Review of eligibility

24 Sec. 47.25.880 Alienation and attachment

25 Sec. 47.25.890 State's claim for assistance

26 Sec. 47.25.900 Security and lien

27 Sec. 47.25.910 Action against person liable for care of
28 recipient

29 Sec. 47.25.920 Recovery of allowances improperly granted

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1 Sec. 47.25.930 Agreements with federal government

2 Sec. 47.25.940 Purpose

3 Sec. 47.25.950 Obtaining assistance by fraud

4 Sec. 47.25.960 Definitions

5 Sec. 47.25.970 Short title

6 Sec. 47.25.790. ELIGIBILITY FOR ASSISTANCE. Finan-
7 cial assistance may be given under secs. 790 - 970 of this
8 chapter, so far as practicable under the conditions in
9 this state, to a permanently and totally disabled person
10 who is eligible under the regulations of the department.
11 All regulations of the department shall be made available
12 to all interested persons.

13 Sec. 47.25.800. APPLICATION FOR ASSISTANCE. A person
14 requesting assistance shall apply for it either for himself
15 or by another in his behalf, upon forms furnished under the
16 regulations prescribed by the department.

17 Sec. 47.25.810. AMOUNT OF ASSISTANCE. The amount of
18 assistance for a permanently and totally disabled person
19 shall be determined by the department with regard to the
20 resources and needs of the person and the conditions exist-
21 ing in each case. Where possible assistance shall be
22 sufficient to provide reasonable subsistence compatible
23 with decency and health and according to the standards of
24 assistance established by the department. However, the
25 amount of assistance shall not exceed \$110 a calendar
26 month. Direct payments for medical services and remedial
27 care shall not be considered in determining the maximum
28 amount payable.

29 Sec. 47.25.820. RESIDENCE IN INSTITUTIONS. No pay-

1 ment under secs. 790 - 970 of this chapter may be made to
2 or in behalf of an individual who is (1) a patient of a
3 public institution--except as a patient in a public medical
4 institution--or an individual who is a patient in a public
5 or private institution for tuberculosis or mental diseases;
6 or (2) has been diagnosed as having tuberculosis or psycho-
7 sis and is a patient in a medical institution as a result
8 of the diagnosis. A patient or guest of an institution may,
9 at any time he wishes to leave the institution, apply for
10 assistance under secs 790 - 970 of this chapter instead of
11 the support and maintenance provided in the institution.

12 Sec. 47.25.830. INVESTIGATION OF APPLICANT. The
13 department shall promptly investigate each applicant to
14 determine the applicant's eligibility.

15 Sec. 47.25.840. GRANTING OF ASSISTANCE. Upon the
16 completion of its investigation, the department shall de-
17 cide promptly whether the applicant is eligible for and
18 should receive assistance under secs. 790 - 970 of this
19 chapter, the amount of assistance, the manner of paying or
20 providing it, and the date on which the assistance shall
21 begin. The department shall notify the applicant of its
22 decision.

23 Sec. 47.25.850. APPEAL. An applicant whose applica-
24 tion is not acted upon, or is denied, discontinued, or
25 modified by the department shall be granted an opportunity
26 for fair hearing before a representative of the department
27 appointed for that purpose. The hearing shall be held
28 within a reasonable time after demand for it is made. If
29 a representative is designated to conduct the hearing, the

1 representative shall be governed by the regulations pre-
2 scribed for that purpose by the department.

3 Sec. 47.25.860. PAYMENT WHEN RECIPIENT INCAPACI-
4 TATED. If a person receiving assistance is incapable of
5 taking care of himself or the funds granted under secs.
6 790 - 970 of this chapter, the department may direct the
7 payment of the funds to his legally appointed guardian or
8 to another person as designated by the department for his
9 benefit.

10 Sec. 47.25.870. REVIEW OF ELIGIBILITY. Assistance
11 grants under secs. 790 - 970 of this chapter shall be re-
12 viewed by the department as frequently as it considers
13 necessary, and the amount of assistance may be changed or
14 entirely withdrawn if the review of the circumstances war-
15 rants this action.

16 Sec. 47.25.880. ALIENATION AND ATTACHMENT. Assis-
17 tance granted under secs. 790 - 970 of this chapter is
18 inalienable by assignment or transfer and is exempt from
19 garnishment, levy or execution under the laws of this state.

20 Sec. 47.25.890 STATE'S CLAIM FOR ASSISTANCE. The
21 total amount of assistance paid to a recipient constitutes
22 a claim against the recipient and his estate. On the
23 death of a person receiving assistance, the total amount
24 paid as assistance shall be allowed by the court having
25 jurisdiction over the estate.

26 Sec. 47.25.900. SECURITY AND LIEN. (a) The depart-
27 ment may require as a condition of granting financial
28 assistance that the property of a recipient, except personal
29 property to the amount of \$500 be pledged as a guarantee

1 for the reimbursement of the funds granted and an instru-
2 ment executed by the recipient, pledging the property,
3 shall be made to the department and held by it for the
4 state.

5 (b) The state has a lien against all the property
6 of the recipient, except personal property to the amount
7 of \$500 and in an amount equal to that expended for his
8 benefit, from and after the filing of a claim of lien in
9 the office of the recorder for the district in which the
10 property is located or possessed, particularly describing
11 the property. Suit to foreclose a lien shall be instituted
12 within six months after the cessation of assistance or as
13 soon afterward as possible.

14 (c) From and after the lien attaches, the property
15 shall not be sold without the consent of the state, except
16 that consent may be given by the attorney general on behalf
17 of the state agency filing the lien if a prior permanent
18 or superior lien is filed against the property. The lien,
19 if not satisfied by the purchaser, is not lost, nor does
20 the augmentation of the amount of the lien in proportion
21 to expenditures made on behalf of the recipient cease.

22 (d) Claim of lien shall be filed only in those cases
23 which the department, in its discretion, considers proper.
24 If the United States requires, it shall be reimbursed out
25 of the money realized upon the security on a pro rata
26 basis in proportion to the amount it expended on behalf of
27 the recipient and the remaining amount shall be paid to
28 the Department of Revenue for the assistance granted under
29 secs. 790 - 970 of this chapter.

1 Sec. 47.25.910. ACTION AGAINST PERSON LIABLE FOR
2 CARE OF THE RECIPIENT. If, during the continuance of an
3 allowance, the department finds that a person liable for
4 the support of the recipient of assistance is able to
5 provide the necessary care and support of the recipient
6 and the person liable for the care and support of the
7 recipient fails or refuses to support and care for the
8 recipient, the state has a cause of action for the assis-
9 tance against the person liable. The action shall be
10 brought in the name of the state by the attorney general
11 against the person liable for the recovery of the amount of
12 money, with interest, paid to the recipient together with
13 the costs and disbursements of the action.

14 Sec. 47.25.920. RECOVERY OF ALLOWANCES IMPROPERLY
15 GRANTED. If the department finds that aid to a permanently
16 and totally disabled person has been improperly granted,
17 it shall investigate and if it appears that the assistance
18 was improperly granted the department may cancel the
19 allowance and notify the recipient. The state then has a
20 cause of action against the person who received the im-
21 proper allowance. The action may be instituted in the
22 name of the state by the attorney general to recover the
23 amount paid to the person, with interest, together with
24 the necessary cost of the action.

25 Sec. 47.25.930. AGREEMENTS WITH FEDERAL GOVERNMENT.
26 The department may enter into agreements, arrangements or
27 contracts with any federal agency, department or official
28 under which funds made available to the federal agency,
29 department or official may be transferred to the department

1 and spent in accordance with secs. 790 - 970 of this
2 chapter for aid to the permanently and totally disabled.

3 Sec. 47.25.940. PURPOSE. The purpose of secs. 790 -
4 970 of this chapter is to furnish financial assistance so
5 far as practicable to needy permanently and totally dis-
6 abled persons, and to help them obtain self-support or
7 self-care.

8 Sec. 47.25.950. OBTAINING ASSISTANCE BY FRAUD. A
9 person is guilty of a misdemeanor and upon conviction is
10 punishable by a fine of not more than \$500, or by imprison-
11 ment in a jail for not more than six months, or by both,
12 if he:

13 (1) by statement, representation or impersona-
14 tion which he knows is false, or by another fraudulent
15 device, obtains or attempts to obtain or aids or abets a
16 person to obtain;

17 (a) assistance to which he is not entitled;

18 (b) greater assistance than he is entitled
19 to; or

20 (c) payment of a forfeited grant or allow-
21 ance; or

22 (2) aids or abets in buying or otherwise dis-
23 posing of the property of the recipient of assistance for
24 the purpose of voiding liability for the assistance
25 granted.

26 Sec. 47.25.960. DEFINITIONS. In secs. 790 - 970 of
27 this chapter:

28 (1) "Assistance" means money payments to, or
29 medical care in behalf of, or any type of remedial care

1 recognized by the department in behalf of needy individuals
2 18 years of age or older who are totally and permanently
3 disabled;

4 (2) "Department" means the Department of Health
5 and Welfare;

6 (3) "Permanently and Totally Disabled Person"
7 means a needy resident of the state who has resided in the
8 state for five years during the nine years immediately pre-
9 ceding the date of application for aid to the permanently
10 and totally disabled while a resident of the state and who
11 is not eligible from another public agency or department
12 providing similar services in the state;

13 (4) "Public Medical Institution" means a public
14 hospital or medical institution, except an institution for
15 the treatment of tuberculosis or mental disease.

16 Sec. 47.25.970. SHORT TITLE. Secs. 790 - 970 of this
17 chapter may be cited as the "Aid to the Permanently and
18 Totally Disabled Act."

19 * Sec. 2. This Act takes effect on July 1, 1963.
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