

HB

734

POSITION PAPER

HB 734

"An Act relating to treatment services for developmentally disabled persons, guardianship procedures and rights of developmentally disabled persons; and providing for an effective date."

Effect of the Bill: This bill would establish a separate Division within the Department of Health and Social Services for the administration and coordination of services for the developmentally disabled person.

Discussion: Programming of services for the developmentally disabled person is currently administered by a central office position within the Division of Mental Health. HB 734 does clear up some areas of need for the Division of Mental Health and provides strengths to the authority of the operating agency. The following sections need additional attention:

Sec. 47.70.010: This seems to elaborate a philosophy of program for which the State must assume specific responsibility. This vague terminology will need legal clarification. We would suggest this section not be a matter of statute law.

Sec. 47.70.020: This section seems to reiterate the purposes of 47.30.520 (Community Mental Health Services Act). However, by use of the mandate form "shall" the goals of 47.30.520 are made objectives of 47.70.020. We suggest continued use of a permissive form making 47.70.020 a statement of purpose.

Sec. 47.70.030(6): The word cost should be omitted regarding the accounting system. There should exist only a good accounting system.

(8)(A): The word all should be omitted as it is too broad a term to circumscribe available resources; some of which may not be cost-effective.

(10): Should be elective as Federal funds are not always in the best overall interest.

Sec. 47.70.050: Seems to make anyone eligible for intake workup without regard for reasons or limiting circumstance. There should be some restrictive or limiting words added.

Sec. 47.70.070(2): This section should not require all specified services to each person but should specify an array of services which shall be available. Some plans may not effectively include all elements.

Sec. 47.70.080(2) & (4): Should be combined to read "determine unmet needs in community care and services. . .as used by the regional center. Report as required to the Department on services provided and needs in the region".

(5): Omit. . .as required by the commission and the division head.

(6): Insert "confidential", i.e., maintain confidential individual case records.

Sec. 47.70.130(2): Age should be included only if known.

(3)(b): This should be omitted as it is covered by item (a) supra.



Alaska State Legislature

House

JUNEAU ALASKA

HOUSE HESS COMMITTEE MEETING

MARCH 22, 1976

Present: Sullivan Beirne. Ostrosky Kelley

HB 734 - Rights and Guardianship for disabled - HESS

Dr. Hotchkiss, Pres. of St. Association for Retarded Citizens, very opposed to HB 734

Robert Mothershed, citizens, wishes to stress rehabilitation rather than treatment. 47.70.100 too limiting, shouldn't be limited only to danger to ourselves or others. Call it "habilitation, rather than treatment plan. Under federal law, council has more than advising powers, membership should reflect consumers as provided for in federal law. REcommends putting council in Gov's office.

47.70.170

Should consider possibility of private non-profit corp. for advocacy function. Should be separate advocacy office for mentally ill and dd. Office of advocacy for the mentally disabled in 1 office and "DD" definition in 734 contrary to federal law. Replace Sec 9 with lang. from HB 645. More comprehensive bill necessary to provide more services for DD.

HB 733 - Commitment procedures, mentally ill -HESS

Payment by parents - incorporate the \$50 maximum. If only 733 passes, add 47.70.100 from HB 734

Helen Mothershed, DD council recommends substitute for bill for 734. Council should be more than advisory board reflecting federal law.

Robert Mothershead = composition and duties of council should reflect changing federal requirements

EVENING - same agenda

Oseruk, Supports office for DD , services not available in rural areas though Oseruk, A.F.N. Inc.

Dr. William Moore, St. of Ak. Div. of mental health, worked with task force, problems with diagnostic services only available in Anchorage. 733 would be more agreeable if it provided services for communities.

Bob Swain, President of Local Association for retarded citizens.

Jennie Selides opposed to 733

Page 2 March 22, 1976 Anchorage

William Mueller for patient of A.F.I.

Fred Selkregg, HB 733 Ak. Mental Health Ass., is in favor of it.

Helen Beirne, should advocacy office be under Gov's office or public defenders office?

Dr. Aaron Wolfe - Pres. of Ak. branch of American Psy. Ass.

Dr. Joe Bloom, secion chief for psyc. at Providence Hosp. HB 733 would prevent treatment of people who need it. No abuse under present statute.

Dr. F. Whelan, A.S.M.A. Mental Health Committee, chairman, the Committee is opposed, present statute adequate and unabused. Representated testimony of psych. who wouldn't attend. all opposed, he is personally opposed.

Judge Moody, representating himself, opposed, no abuse in present system.

Marjorie Bell- usually conducts hearings on commitment anyway

Dr. Rader, Psy. in Anch. Need to protect rights of minors, but 733 goes to far.

Dr. Langdon,= Total bill bad, unnecessaru. Present bill was adopted in 1956 federal model act, reworked by the city attorney, Jim Fitzgerald. Problem with administration not with present statute.

Dr. J. Wregget, Child Psy. Problems of criminal provision for doctors, problems with massive paperwork.

Dr. Barry Mendolsohn, child psy. opposed

Dr. Aaron Wolf - opposed

Carol Craig, Psy. intern at U. of Washington. Feels 733 is much like Washingtons law which they have found from experience is unworkable.

Joan Katz, private psychairtrists were asked to join task force and refused..

Gues list-Testimony on HB 733 & 734 in Anchorage, March 22, 1976

Charles Oxereok	A.F.N. Inc.
Dr. William Moore	Ak., Div. of Mental Health
Helen Mothershead	A.R.C.A.
Bob Mothershead	Alaska St. Retarded Childrens Assoc.
Joan M. Katz	Mental Health Task Force Group
Bob Swain	A.R.C.A.
Francis Whelen	Private psychiatrist, Fairbanks
Aaron Wolfe	Pres. Ak. Psy. Assoc.
Joe Bloom	Priv. Psychiatrist, Anchor.
Pat Mills	A.P. I.
Dr. Langdon	Langdon Clinic
Barry ,emde;spjm	Provate Psy. in Anchorage
William Rader	Psychiatrist
Ralph Moody	Superior court judge
Carol Craig	Langdon clinic, psy.
Dr. Wreggit	private psychiatrist.



Alaska State Legislature

House

JUNEAU ALASKA

HOUSES HESS COMMITTEE MEETING

MARCH 18, 1976

Present: Hackney Sullivan Swanson Osterback
Beirne

Testifying: Louise Ma - Research Analyst
Dr. Gregovitch, Dept. H&SS
Ray Kent - Hope Cottage

HB 734 - Rights & Guardianship for Disabled - HESS

Louise Ma explanation of the different areas of this bill is relationship to the DD

Dr. Gregovitch, Dept. recommends against passage of 734 as presented, unless there are changes made, specified in position paper. Feels this would create an entire new area in health & ss., would be a duplication of administrative duties. Would like to see the bill passed that the dept of law introduced, HB 645.

Mr. Kent, Chairman of Governors Advisory Board on D.D., position paper in form of a folder including all the aspects which the DD Board as looked into. Recommendations of changes and even a proposed substitute bill. Proposes that HB 734 be eliminated.

Mrs. Homme & Ann Sinons - Mother of two DD children and want to know if this bill is adopted what about the statute now in effect that makes payment for DD children a maximum of \$50 per month. Would this be excluded?? The bill does not speak to the issue of cost at all.

Louise Ma was asked to research this issue concerning parents financial liability.

TELEGRAM

SCA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6140

JUNEAU, ALASKA 99801

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PMS REP SUSAN SULLIVAN

JUN

1974

CONCERNING HB 733 AND 734 THE ALASKA PSYCHIATRIC ASSOCIATION

FEELS VERY STRONGLY THAT INPUT FROM THE PSYCHIATRIST IN

ALASKA IS ESSENTIAL IN YOUR CONSIDERATION OF THIS BILL.

WE FEEL THAT THIS IS IMPORTANT ENOUGH FOR YOU TO HOLD

HEARINGS ON THIS MATTER IN ANCHORAGE AND FAIRBANKS.

AARON S WOLF MD PRESIDENT ALASKA PSYCHIATRIC ASSN

MEMORANDUM


State of Alaska

TO: Frances Ulmer
Legislative Assistant
Governor's Office

DATE: March 5, 1976

FILE NO:

TELEPHONE NO:

FROM: Arthur H. Peterson 
Assistant Attorney General
Department of Law

SUBJECT: HB 645 (plenary and partial
guardians) and HB 734
(developmentally disabled
persons, guardians, etc.)

In response to your request for a comparison between these two bills, I am attaching a comparison sheet prepared by Assistant Attorney General Richard Peter. Essentially, his conclusion is that a final bill should combine various aspects of both bills, and he notes that Department of Health and Social Services staff are analyzing these bills in detail and will be presenting that department's position to the appropriate legislative committee. We will no doubt be working with them.

You will recall that, before preparation of the final version of the governor's bill (HB 645), we exchanged correspondence with Professor Richard Wellman who is the person primarily responsible for the development and drafting of the Uniform Probate Code as promulgated by the National Conference of Commissioners on Uniform State Laws. The final bill^{HB 645} and the governor's transmittal letter reflect our attempt to deal with Professor Wellman's suggestions appropriately. The same approach should be taken when preparing the final bill which combines both HB 645 and HB 734. I believe that you have a copy of that correspondence, but, if you don't, it is readily retrievable from my file.

AHP:md

cc: Ronald Lorensen
Assistant Attorney General

Richard L. Peter
Assistant Attorney General

COMPARISON OF HB 734 WITH HB 645

(Guardianships)

HB 734

HB 645

(Mental Health Task Force)

(Governor's bill)

Sec. 4 defines "full" and "partial" guardians.

Sec. 1 treats of "plenary" and "partial" guardians.

Requires enumeration of partial guardians duties by court order.

Sec. 2 Requires court order enumerating duties of partial guardian.

Sec. 5 Brings testamentary guardians into "partial" concept.

Sec. 6 Sets up separate procedure for appointment of "partial" guardian.

Sec. 7 Strengthens rights of respondent in full guardianship procedure.

Sec. 3 Court to examine (with physician and visitor) proposed and alternative living arrangements for ward.

Sec. 8 Specifies "full" guardian.

Requires guardian to notify court if he places ward in mental institution without court order so specifying.

Sec. 9 Defines scope of capacity of ward of partial guardian. THIS IS ONE OF PROF. WELLMAN'S OBJECTIONS.

Sec. 4 Ties term of guardian to court order.

Sec. 10 Recognizes modification as well as termination of court order. Removes minimum period in which petition to terminate finding of incapacity may be filed without special leave.

Sec. 5. Recognizes modification.

Sec. 11 In proceeding for appointment or removal of full or partial guardian requires notice to additional persons.

Sec. 6 Recognizes modification.

Sec. 12 Requires powers of temporary guardian to be specified in court order.

Sec. 13.

Court may not customarily appoint custodial agency as guardian.

Sec. 7 Adds agencies to possible guardians. Court may not customarily appoint custodial agency as guardian.

Sec. 14. Permits consolidation of guardian and conservator actions.

Sec. 8 Details minimum requirements of report of condition of ward by guardian.

Sec.9 Requires court to advise ward of right to request later dismissal or modification of guardianship order.

S U M M A R Y

The task force bill contains only one of the things Professor Wellman objected to: the scope of rights remaining in ward of a partial guardian. (Sec. 9)

With this exception, provisions of task force bill are not objectionable, but may be inadequate.

It adds some good features but I think the governor's bill has some other good points which should be in any legislation adopted, such as sections 3 and 9 of HB 645.

I would favor consolidation of the two measures in the form that is politically more viable -- probably the task force bill because it has had wider input.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. HB 734
 Title: Developmental Disabilities Act
 Requested by: _____ Date: _____
 Return Date Requested: _____
 Agency: Health & Social Services Program: Mental Health & Developmental Disabilities

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Harborview, Contracts, Admin. & Support

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100 PERSONAL SERVICES		3452.4	3935.7	4486.7	5114.8	5830.9
200 TRAVEL		82.1	89.5		106.4	116.0
300 CONTRACTUAL		4596.1	5009.7	5460.6	5952.1	6487.8
400 COMMODITIES		401.2	437.3	476.7	519.6	566.4
500 EQUIPMENT		33.9	37.0	40.3	43.9	47.9
600 LAND & STRUCTURES		27.0	29.4	32.0	34.9	38.0
700 GRANTS, CLAIMS, ETC.		201.0	219.1	238.8	260.3	283.7
TOTAL		8,793.7	9,757.7	10,832.7	12,032.0	13,370.7

B. FUNDING: (Thousands of dollars)

GENERAL FUND	43	4803.9	5341.4	5941.0	6610.4
FEDERAL FUNDS	44	4953.8	5491.3	6091.0	6760.3
OTHER					

C. POSITIONS:

PERMANENT/TEMPORARY	/	174 /	174 /	174 /	174 /	174 /
MAN MONTHS (P./T.)	/	2205 /	2205 /	2205 /	2205 /	2205 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

(SEE ATTACHED)

IV. ATTACHMENTS

V. DATE: _____ PREPARED BY: _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE

HB 734

III ANALYSIS

(B)

1.

<u>No. of Position</u>	<u>Position</u>	<u>Salary & Benefits</u>
1	Director	52.5
1	Clinician IV	40.1
3	Clinician III	119.5
1	Attorney II	32.7
1	Admin. Officer II	29.9
1	Research Analyst II	26.2
1	Secretary	17.4
5	Clerk Typist III	78.9
2.	Rental Office	55.0
	Supporting Services, Phones, Etc.	44.0
	Equipment	19.0

3. This program should be all Medicaid 50/50 Fed./State.

(C) The fiscal computations are strictly maintenance level, adding community programs. Personal services computed @ 14% C.O.L.A. Other @ 9% C.O.L.A.

Susan Sullivan

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March 15, 1976

I so wish the hearings for the two bills HB 733/734 were being held in Anchorage. I want to be there for this, but to get to Juneau is another thing. I'm still trying, but can't make it for March 17 for sure and if I get there it will be for March 18.

Maybe an immediate solution would be to Amend HB 733 to include the Mentally Retarded for a year ONLY until HB 734 can be improved upon. But then, as Doug (your assistant who called me this morning) put it, if HB 734 does not pass, the State cannot provide services to the Developmentally Disabled. My reaction to this is, So what, these people have rights like everyone else and they have to be provided services like for everyone and anyone else even if they should become MENTALLY ILL, which you know they are not, but could become ill that way like anyone else.

I write this in haste and it looks like it, but I did want you to know how I feel if I can't make it to Juneau. Thanks alot for your concern and I do appreciate your having Doug call me. He is a very pleasant fellow.

Respectfully,



Mrs. Donald Thurston