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192

STAFF REPORT

HB 192, PROTECTION OF THE ELDERLY

MARCH 10, 1983

Purpose: To protect the elderly from abuse by requiring those working with elderly to report to the Department of Health and Social Services, evidence of abuse when it is observed.

The bill specifies numerous health professionals, and others, who are required to report evidence of abuse. "Abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

The Department of Health and Social Services suggests a change to add the word "willful" before the word "deprivation". The drafter of the bill suggests that since the bill is directed at the reporting of abuse, not the prosecution of those inflicting the abuse, the determination of intent should not be left up to the reporter. Thus, the addition is not necessary.

Failure by those obligated by the bill to report abuse is classed as a "violation" (AS 11.81.900). A violation is a non-criminal offense punishable by fine, but not imprisonment or other penalty. No jury trial or public defender is authorized. In the event that immediate harm seems imminent, the report of abuse must be made to a police officer who must act to protect the subject.

A person making a report of abuse in good faith is immune from civil or criminal liability.

The DHSS must investigate and report on each case of abuse brought to it. The DHSS must provide protective services as are available to the elderly. The Department is authorized to implement regulations to carry out the act. The regulations must be approved by the Older Alaskans Commission.

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to

support the need for additional staff and service dollars in the FY 85 budget. If additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

The Department recommends an amendment to Section 47.24.100(2), the definition of abuse. The Department recommends that the definition be amended as follows:

"abuse" means the infliction of physical pain, injury, or mental anguish, or the willful deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

RECOMMENDED:

Michael L. Price
Michael L. Price, Director
Division of Family and
Youth Services

DATE:

3/2/83

APPROVED BY:

Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE:

3/4/83



ASSOCIATION OF
OLDER
ALASKANS
PROGRAMS

APR 7 1983

Office of the Senior Citizen Ombudsman

April 1, 1983

Representative Mae Tischer
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Ms. Tischer,

Thank you for the time you spent last week listening to my concerns regarding HB-192. Not only was I interested to learn of your views regarding this piece of legislation but as a constituent of yours from Turnagain, I was very interested in hearing your philosophies regarding state government.

As we discussed, I am forwarding some statistics from the Anchorage study which indicates the real need for favorable passage of HB-192 by the Alaska State Legislature.

In 1981 the Anchorage Community Mental Health completed an informal survey of 75 documented cases of Elder Abuse in Anchorage. Conclusions of their study find the abused elder usually is a woman over 70 who lives with an adult child or family member. An abused person in Anchorage is usually more physically independent than on the national level, (40% in Anchorage and 25% nationally.)

Alcohol is more often the cause of abuse in Anchorage than nationally, (49 % in Anchorage and 28% nationally.) Stress caused by medical, psychological and economic factors are statistically comparable.

Two major differences surfaced regarding repeated abuse and the attempt to report abuse. In Anchorage, 90% of abusers repeat abuse whereas, nationally, 58% repeat the abuse. In Anchorage, 53% attempted to seek help versus 95% nationally sought to notify an agency or authority.

Furthermore, the study documented 43.3% of physical abuse compared to other kinds of abuse.

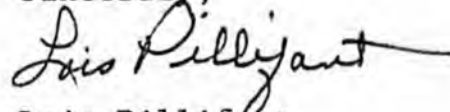
The Anchorage Task Force on Elder Abuse feels that this law will discourage repeated abuse (which we have shown is much more frequent in Anchorage than nationally.) Additionally

the Task Force believes that reporting will occur because of the protection of the reporter. (The study also shows that fewer reports are made in Anchorage than are made nationally).

As you know, Alaska has laws which protect children and spouses from abuse but until recently it has not specifically addressed the hidden problem - the problem of elder abuse.

I urge you to vote favorably on the passage of this bill when the opportunity arises. If I can offer further assistance please contact me.

Sincerely,



Lois Pillifant
Senior Citizen Ombudsman

Chair, Elder Abuse Task Force

LP:tp

cc: Ted Graham, President Association of Older Alaskans Programs
Jon Wolfe, Executive Director, Older Alaskans Commission
Senator Vic Fischer
Senator Joe Josephson
Representative Milo Fritz

HB 192

Teleconference

Margo Dick - German Elder Abuse Task Force

Charles Munday - Director Unit

75 cases -

Psychological abuse

⊗ Not clear on investigation

Elizabeth Sutarain - HSS

1.

* Tom Scott - Ex Dir - EMS

Include \longrightarrow in Bill

Theodore Graham

Deanna Smith

1. Kelite line 10-13 Page 5
2. write recording of abuse - more than one person in institution - suggest deleting that last person generate a report

Charles McPherson - Staff Elder Abuse Commission

1. Speaks for Passage
2. Recommends: D "willfall" insert Pg 5
Pg 3 ~~line~~ Sec 47.24.020 as in Senate substitute
3. delete as Dehitt suggests.

(over)

Request Statistics

HESS - How many abuses reported in 1982

A. Mental

B. Physical



I want to hear specific cases demonstrated
+ the conclusion of the investigations.

Findings?

Reason for the abuse

Who does the abusing

JUNEAU ELDER ABUSE TASK FORCE
419 6th. St., C.C.S. Wing
Juneau, AK. 99801

Position Paper
House Bill 192
3/14/83

The Juneau Elder Abuse Task Force is an organization formed in response to the recognition of elder abuse as a serious problem nationwide and in the Juneau area. We organized in September of 1982 after a comprehensive training on Elder Abuse sponsored by the Older Alaskans Commission. The Task Force is comprised of representatives from 19 agencies in the Juneau area which provide a wide range of services including: social services, substance abuse prevention, health care, nursing home care, law enforcement, domestic violence and sexual assault programs, legal services, senior services and homemaker services.

Agencies represented on the Task Force have had comprehensive experience working with elders in the Juneau area and in outlying communities. Many agencies have specific experience in cases of elder abuse and neglect. Most agencies' staff provide direct service, in one form or another, to elders. All agencies have knowledge and expertise as well as sensitivity regarding the needs of elders.

Based on our experience and expertise in the field of elder abuse, the Juneau Elder Abuse Task Force offers the following comments and recommendations regarding HB 192.

1. In Chapter 24, Sec. 47.24.010 (a)(6), page 2, line 5, we recommend that Village Public Safety Officers (VPSOs) be specifically included with police officers and that the definition of "police officers" be broadened by referencing to AS 01.10.060(6) rather than the narrow definition in AS 18.65.290(2). The reason for this is that in rural areas, law enforcement officers are usually not formal police officers and are instead VPSOs or other officers of lesser authority. This change will encourage maximum reporting of elder harm.
2. In Chapter 24, Sec. 47.24.010(7), page 2, line 6 we recommend that home health aides and homemakers be included with village health aides. Again, our purpose here is to cover all professionals working with elders and to encourage maximum reporting.
3. In Chapter 24, Sec. 47.24.010(e) on page 3 at line 1 we recommend that VPSO be inserted after police officer and that the definition of police officer be referenced to AS 01.10.060(6). (See our #1 recommendation for rationale). Further, we recommend that there be only one sentence rather than two and that the word "and" be inserted between the statute and "The police" so that it is clear that the police must take immediate action to protect the elder from imminent physical harm.
4. In Chapter 24, Sec. 47.24.020(a) on page 3, at lines 13 and 14 we recommend that the words "make a reasonable effort to..." be deleted and that on line 15 the words "unless the elderly person refuses to participate in the interview" be added. We feel that unless the elderly person does not wish to participate in the interview, the department should personally interview the elderly person during an investigation of abuse. This is recommended because an investigation would be ineffectual and superficial if the victim was not interviewed.

5. In Chapter 24, Sec. 47.24.030(b), on page 4 at lines 7 through 11 we recommend that language be inserted to the effect that the Department of Law will assist the elder in securing an injunction against a caretaker who is interfering with the provision of protective services. This is recommended because otherwise, the section is vague and it is unclear as to how the Department could assist the elder in legal proceedings. An alternative to inserting this language would be to address this issue in the regulations that will be drafted under Sec. 47.24.070 of this bill. Whether through the regulations or in this bill, the Task Force felt that the Department should have instructions as to how elders will be assisted.
6. In Chapter 24, Sec. 47.24.040 on page 4 at line 13 we recommend that 45 days be inserted and 90 days be deleted unless this will create undue fiscal burden. We make this recommendation because 90 days is an awfully long time to wait before reviewing a case and may allow for inadequate monitoring of protection provided to an elder.
7. In Chapter 24, Sec. 47.24.070 on page 5 at lines 7 through 9 we strongly support the requirement that the Older Alaskans Commission approve regulations to implement Chapter 24.
8. In Chapter 24, Sec. 47.24.100(2) on page 5 at lines 22 through 25 we recommend that the words "...by a caretaker" on line 23 be deleted. We make this recommendation based on the direct experience of many Task Force members that persons other than caretakers often deprive elders of money, food, possessions, etc. It has come to our attention that the Department of Health and Social Services and the Older Alaskans Commission may recommend that the word "willful" be inserted in line 23 between "the" and "deprivation". We are opposed to this addition because adding "willful" will create significant proof problems in any case of illegal elder abuse. Rather, to address the issues of unintentional abuse or harm caused to an elder due to poverty of caretakers, we recommend that language addressing the problem of poverty and consequent harm to elders be inserted as an exception to "abuse".
9. In Chapter 24, Sec. 47.24.100(7) on page 6, line 10 we recommend that the words "...an elderly person or ..." be deleted so that neglect is only actionable when it is caused by an elderly person's caretaker. We recommend this to protect the freedom of choice regarding lifestyle and the right to privacy of elderly persons.

In general, the Task Force supports the purpose, intent and principle of HB192. We only offer the few preceding comments to make the proposed legislation as good and as effective as it can possibly be. Thank you for considering our comments.

OLDER ALASKANS COMMISSION
POSITION PAPER

Senate Bill 122 / House Bill 192
"An Act relating to protection of the elderly"

The Older Alaskans Commission urges passage of this legislation in order to provide protection and assistance to older persons who are unable to care for themselves.

Twenty other states currently have mandatory reporting laws for elderly abuse. During the past year both Delaware and New Mexico have passed this type of legislation. The Commission feels that mandatory reporting is essential in order to reach vulnerable persons who may be physically, psychologically or financially unable to help themselves.

Historically elder abuse has been a hidden social problem but it is one that is encountered statewide by Commission funded senior projects. The Commission's senior ombudsman program received sixteen reports of abuse during FY 1982.

In 1981 the Administration on Aging funded a study of elder abuse in Anchorage through the Commission. Twenty agencies surveyed by the Anchorage Community Health Center for this study reported contacts with elder abuse cases. Seventy-five cases of elder abuse were reported in all. In 75% of these cases, the abuse had been going on for some time. In 53% of the cases the victims did seek help. The remaining victims who did not seek help are significant to the passage of this legislation.

The Commission recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 25. The purpose of this insertion is to ensure that poverty and other circumstances beyond a caretaker's control will not be considered as abuse. Staff also questions the intent of line 13 in Section 47.24.020 which states "The Department shall make every reasonable effort to personally interview the elderly person during the investigation". This could be construed to imply that the Department could make decisions about an abused person without contacting him.

The Commission is aware that a major criticism of elderly abuse mandatory reporting laws is that the necessary services may not be in place to meet the demand for them. The Commission does not concur. Elder abuse is not a problem that can be denied or ignored. We hope to work closely with DFYS to assist in putting those necessary services in place.

We ask your support of this bill and in making the health and dignity of our elderly a major state priority.

3/14/83



*Elder Abuse in
Anchorage, Alaska
A Survey of Service Providers*

Teri B. Spires B.S.

Charles R. Mundorff M.S.

October, 1981

*Project of Anchorage
Community Mental
Health Center
Geriatric Unit*

ANNEX

ELDER ABUSE IN ANCHORAGE, ALASKA

ELDER ABUSE IN ANCHORAGE, ALASKA

Teri Spires, B.S. and Charles Mundorff, M.S.

Anchorage Community Mental Health Center, Anchorage, Alaska

This study was done in response to the phenomenon of elder abuse in the State of Alaska. This particular study, focused in the Anchorage area, was designed to assist in establishing parameters to the problem. Thirty agencies, 16 physicians, and four medical clinics were contacted. Seventy-five cases of elder abuse were documented. There were 34 cases of physical abuse, 53 cases of psychological abuse, 43 cases of material abuse and 18 cases of violation of rights.

Introduction

Abuse of the elderly by their spouse, family or caretaker is a problem often observed by service providers in the Anchorage area. Elder abuse in the past has not been addressed as a specific issue in Anchorage until the last year. Previous to this study, no research had been done in Alaska, but nationally a few studies have been conducted. These studies provide a good data base that exposes the incidence of elder abuse and the need for concern in our society. Unfortunately, elder abuse has not been addressed in Alaskan domestic violence programs. Consequently, the Region X Office on Aging targeted Anchorage as a pilot city for study and community planning in elder abuse.

In November 1980 a meeting of representatives from Alaska, Idaho, Washington and Oregon was called by Chisato Kawabori (Ph.D.), Director of Region X Aging Network, and Willard Mollerstrom (Ph.D.), Region X Director of N.I.M.H. Charles Mundorff of Anchorage Community Mental Health Center (A.C.M.H.C.) attended this meeting in Seattle. At this meeting, A.C.M.H.C. was considered a focal point for the problem of elder abuse in the State of Alaska.

At this time, A.C.M.H.C. was given the opportunity to receive a VISTA (Volunteer in Service to America) to research the problem and make recommendations for mental health programming for abused elders. The following study is a result of the VISTA's effort. These findings are compared to national results in order to lend a clear picture to service providers. This procedure will help determine any differences between Alaska and other states.

National Findings

Three major elder abuse studies have been done since 1979. They are from Boston, The University of Maryland and the University of Michigan. The latter were partially funded by the federal government. In June of 1979 there was a briefing by the House of Representatives Select Committee on Aging entitled Elder Abuse: The Hidden Problem. This briefing was held in Boston, Massachusetts. On April 28, 1980, a briefing on the same subject, domestic abuse of the elderly, was held in Union, New Jersey. The early research findings of these efforts are remarkably consistent, despite great differences in research approaches and settings.

The major studies of elder abuse point out the tentativeness of their results. Yet, the completed studies provide an excellent approach to the problem, and a profile of the victim and the abuser emerges.

The Massachusetts study, Block's Battered Elder Syndrome, and the Lau-Kosberg study points out the victim tends to be an older elderly person. The Massachusetts survey finds 55% of the citations are persons older than 75 years. All three studies agree that abuse is observed to be of elderly women (87% in Lau-Kosberg, 80% in Massachusetts, and 81% in The Battered Elder Syndrome). The majority of victims live with an adult child or other family members who become the abuser.

Usually the victims suffer from one or more disabilities which place them in a vulnerable position. Of the Massachusetts study respondents, 75% said the victim had physical or mental disabilities which kept him or her from meeting basic daily needs. Marilyn Block finds 62% of the victims could not prepare food, 54% could not self-medicate, and 62% needed help with personal hygiene. Besides physical impairment Lau and Kosberg report 41% are either partially or totally confused or senile. It is easy to imagine from the research that a victim of abuse is usually a person who may need constant attention and skilled care. These two factors can and do cause stress for the caretaker, who is at risk of becoming an abuser.

The Massachusetts survey finds in 75% of the abuse cases, the abuser lives with the victim; 86% of the abusers are relatives of the victim. The Battered Elder Syndrome finds close correlation: 81% of the abusers are related to the victim. Block also finds women, more often than men, are abusers. The figure cited is 58% of abusers are female. The Massachusetts study finds sons (24%), husbands (20%), and daughters (15%), make up the largest categories of abusive relatives. Lau and Kosberg find 30% of abusers are daughters, 14% are sons, 14% are grand-daughters, 12% are spouses, and 12% are siblings (usually a sister).

The Massachusetts study finds the abuser is usually experiencing stress when the abuse occurs. The study finds 28% suffer from alcoholism or drug addiction, 18% complain of long-term medical problems, 16% struggle with long-term financial stress and 9% suffered from lack of needed services. The Battered Elder Syndrome points to psychological (58%) and economic (31%) factors leading to abuse. The Massachusetts survey finds 63% of respondents feel that the vulnerable elder,

requiring a high level of emotional and financial support, is a source of stress. In 58% of cases studied, abusers tend to repeat the abuse, according to Block.

One of the most remarkable statistics to come out of these studies has to do with the attempt to make cases of abuse known. Block finds in 95% of the cases studied, some attempt was made to communicate the existence of neglect or abuse to some authority. This fact points to the poor communication skills of the abuser and to the low self-esteem he or she may feel. After a failed attempt to get needed services, the abuser may give up. After a failed attempt to get help, the victim may, out of fear of reprisal, or removal from the home, resolve to live with the situation. This fact also points out the failure of social services systems to recognize cries for help from both the victim and the abuser.

Methods and Designs

From March 1, 1980 to June 30, 1981, A.C.M.H.C. conducted a survey of service providers concerning elder abuse. Thirty agencies, four clinics and 16 physicians were contacted.

Those who said they had seen cases were further contacted. They were asked to relate cases they had seen from January 1, 1980 to June 30, 1981. They were asked to give the first name and last initial of each person in every case. This was done to prevent duplication of information from agency to agency.

The cases were recorded on the form used by Marilyn Block and Janice Davidson in their study, The Battered Edler Syndrome. All questions were asked for each case (see Appendix A). One additional question was asked of each respondent concerning every case: is alcohol a problem in the situation?

The definition of elder abuse used in this study is the one used by Marilyn Block and Janice Davidson in their study.

Abuse refers to one or more of the following acts:

physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;

psychological abuse, including verbal assault, threat, fear, and isolation;

material abuse, including theft or misuse of money or property and;

violation of rights, including forced removal from home, or forced entry into a nursing home.

We are concerned with people who are 60 years or older. These are people who are in some way dependent on a son, daughter, other relatives or caretaker.

There is a high degree of interviewer reliability since only one person conducts the interviews. Agency contacts, mailings and interviews were all done by the same person.

The data obtained from the survey is summed and the percentages calculated. Thus the data is descriptive in nature and not intended to be baseline data. It must be stressed that the figures obtained from the agency contacts are estimates of what the professional feels are abusive situations. Estimated are based on second-hand knowledge so these results cannot be generalized beyond the agencies cooperating.

Results

Two major groups were contacted for this study. First, 30 agencies who showed an interest in senior citizens or are service providers were initially interviewed in order to assess which agencies had seen cases

they were willing to relate. The following is the contact list and some preliminary information about each (see below).

Agency Contacted	a.	b.	c.
1. Salvation Army	11	yes	yes
2. Nakoyia	2	yes	yes
3. Adult and Aging Services	5	yes	yes
4. Mable T. Caverly	3	yes	yes
5. Studio Club	2	no	yes
6. Municipality Senior Programs	1	yes	yes
7. Providence Hospital	6	yes	yes
8. Older Persons Action Group	5	yes	yes
9. Legal Services	2	yes	no
10. Home Health Agency	5	yes	yes
11. Chugiak Senior Citizens Center	2	yes	yes
12. Senior Companion/Foster Grandparent	1	yea	yes
13. Alaska Hospital	2	yes	yes
14. S.T.A.R. Standing Together Against Rape	2	yes	yes
15. R.S.V.P. Retired Senior Volunteer Program	1	yes	yes
16. C.I.N.A.. Cook Inlet Native Association	2	yes	yes
17. Anchorage Police Department	1	yes	1*
18. Catholic Social Services	1	yes	yes
19. A.W.A.I.C. Abused Women's Aid in Crisis	3	yes	yes
20. Women's Resource Center	1	yes	no
21. Public Health Nurses	11	yes	yes
22. State Senior Citizen Ombudsman	1	yes	yes
23. Easter Seals Homemakers	2	yes	yes
24. Alaska Native Hospital	7	yes	yes
25. A.C.M.H.C.	6	yes	yes
26. Equal Rights Commission	1	yes	no
27. Palmer Pioneer Home	1	yes	yes
28. Palmer Senior Nutrition Site	2	yes	yes
29. University Justice Center	1	yes	no
30. AK. Public Interest Research Group	2	yes	no

Key to Headings:

- a. Number of persons contacted.
- b. Does agency feel that elder abuse is a problem in Anchorage at this time?
- c. Has agency seen any abuse cases since January, 1980?

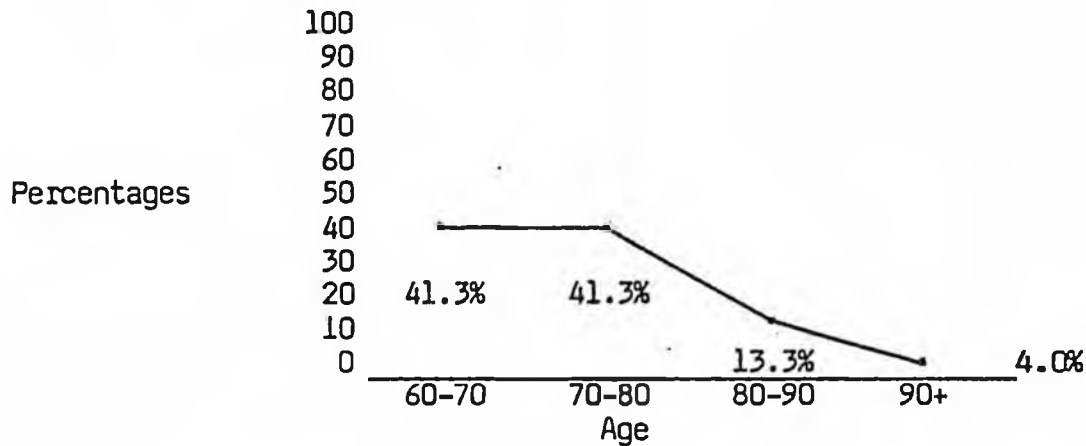
*1. No record-keeping methods.

The second group contacted were physicians and clinics. A letter (see Appendix B) was sent to 16 physicians and four medical clinics. The names of 12 of the physicians were given to A.C.M.H.C. by the Municipal Senior Citizens Division. These physicians treat many older people or have expressed an interest in aging patients. The letter asked the physician or clinic to relate any cases of elder abuse they may have seen. Of the twenty contacted, none responded.

Twenty agencies related elder abuse cases. Seventy-five in all were related to the interviewer. This breaks down to an average of 3.75 cases per agency. The most cases in one agency was eight, the least was one. Of the 75 cases reported, 34 or 43.3% had some element of physical abuse. The most common physical abuse is not violent in nature. Lack of personal care constitutes 17.3%, bruises and welts 13.3% and lack of food 10.7%. The remaining percentage in all categories are found in Appendix C. Psychological abuse is found in 53 cases or 70%. Material abuse occurs in 43 cases or 57.3%. There is violation of rights in 18 cases or 24%.

The age of the abused elder in the Anchorage area is younger than in the Lower 48. Unlike the national studies, the exact ages of the victims can not be determined. Most professionals know only the general range of their client's age. Of the 75 cases, 82.6% were under 80 years. This statistic is not surprising considering the general youth of the Anchorage population. The abuser in our area is also younger than in other urban areas. The abuser is under 50 years old in 65.4% of the cases related to the interviewer.

Figure I. Percentage of Abused by Age



The abused elder is most likely to be female. In 76% of the cases the victim is a woman. This percentage is comparable to the national statistics. Also similar to the national statistic is the sex of the abuser. In Anchorage 53.4% of the abusers are women. In Marilyn Block's study 58% of the abusers are women. Daughters are first on the list at 22.7%, sons second at 21.3%, husbands are third at 10.7% and daughters-in-law are fourth at 9.3%.

The abused elder is most often observed to be White (69.3%). The statistic for the Native population is 18.7%; the Black population figure is 9.3%; and the Hispanic figure is 1.3%. Because the elder in most cases lives with a spouse or family member (55%), the statistic concerning the ethnic group of the abuser is almost exactly the same as the victim.

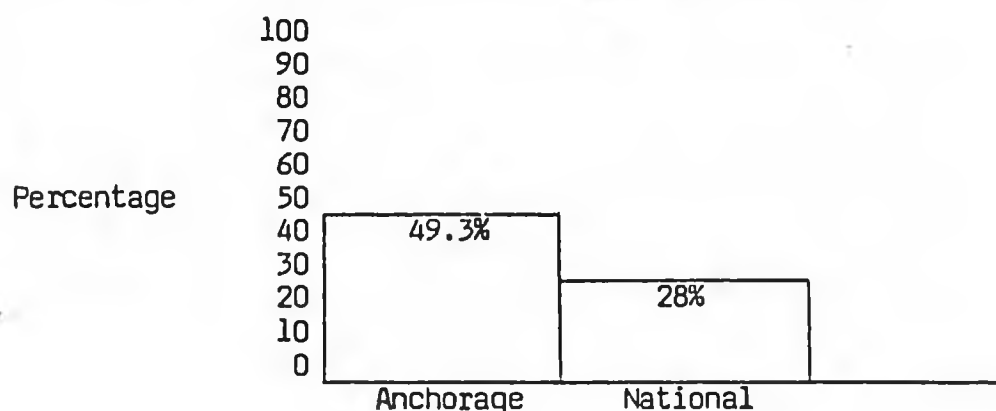
In most cases given to us, both the victim and abuser are low-income. Of the 75 cases, 54% of the victims and 44% of the abusers fit this category.

A question concerning the impairment of the victim was asked of all respondents. In 38.7% of the cases the abused elder is physically or mentally disabled to a great degree. In 21.3% of the cases the person

needed assistance with the Activities of Daily Living. In 40% of the cases the victim is physically self-sufficient.

Alcohol as a contributing factor in elder abuse seems to be a much greater problem in Anchorage than other areas. The national statistic is 28%, and in Anchorage it is 49.3%.

Figure II. Percentage of Alcohol as a Contributing Factor



In most of the cases observed (74.7%) the abuse had been going on for a long time. In some cases the abuse continued for years. In 53% of the cases the victim did seek help. But, just as significantly, 41.3% of the cases had not asked for assistance. The agencies responding found out about the abuse in any number of ways. The most common way was from the client (49.3%). Other reporting sources were hospitals or clinics (27.2%), private physicians (5.3%) and public or private social service agencies (12%). The agencies, when contacted by a reporting source, in most cases, responded to the victim with the services that the agency provides. In some cases the agency referred the clients to other agencies that could respond to other areas of need. Case studies are an excellent way to better understand how cases were being handled at the time of the survey.

Abuse Report Form

M. _____ W. _____
First Name Last

I. Information on Victim

A. Age at time of incident 82
Sex M
Race or ethnic group caucasian
Religion unknown
Economic status high
Who resides at the same address girlfriend

B. Physical Abuse Sustained

<input checked="" type="checkbox"/> none	<input type="checkbox"/> bone fracture
<input type="checkbox"/> bruises, welts	<input type="checkbox"/> direct beating
<input type="checkbox"/> sprains dislocations	<input type="checkbox"/> lack of personal care
<input type="checkbox"/> malnutrition	<input type="checkbox"/> lack of food
<input type="checkbox"/> freezing	<input type="checkbox"/> medicine withheld
<input type="checkbox"/> burns, scalding	<input type="checkbox"/> no medicine purchased when prescribed
<input type="checkbox"/> abrasions, lacerations	<input type="checkbox"/> no false teeth when needed
<input type="checkbox"/> wounds, cuts, punctures	<input type="checkbox"/> no hearing aid when needed
<input type="checkbox"/> internal injuries	<input type="checkbox"/> no glasses when needed
<input type="checkbox"/> dismemberment	

Comments _____

C. Psychological Abuse Sustained

verbal assault
 threat
 fear

D. Material Abuse Sustained

theft of money or property
 misuse of money or property
 other trying to get him to sell his property

E. Violation of Rights

- forced from home
- forced into nursing home
- forced social isolation
- other _____

F. Rating of Environment

- dirt in house
- vermin in house
- inadequate heat
- smell of urine
- no food in house
- other _____
- none

G. Degree of Physical Impairment

- bedridden
- cannot perform basic personal hygiene without help, bathing, toilet
- cannot prepare own food
- cannot take own medicine
- none

II. Information on Abuser

A. Relationship to victim girlfriend

Age at time of incident 62

Sex _____

Religion unknown

Race or ethnic group caucasian

Economic status low

Occupation on disability

Does the abuser live with the victim? Yes No

B. What led to this mistreatment as far as you know?

She wants his money

1. Is alcohol a problem in this situation? no

C. Has this mistreatment happened before?

no

4 or more times

once

2 or 3 times

III. Reporting of Incident

A. How did you know about the case?

self report

private medical M.D.

hospital or clinic

police

public social service agency

private social service agency (nursing home)

public health

other by ongoing therapy

B. Did the victim ever attempt to seek help? no

What help? _____

C. Action taken (what did you do for this case?)

Provide mental health services

D. Additional comments:

E. Violation of Rights

forced from home

forced into nursing home

forced social isolation

other _____

F. Rating of Environment

dirt in house

vermin in house

inadequate heat

smell of urine

no food in house

other _____

G. Degree of Physical Impairment

bedridden

cannot perform basic personal hygiene without help, bathing, toilet

cannot prepare own food

cannot take own medicine

none

II. Information on Abuser

A. Relationship to victim husband

Age at time of incident 62

Sex _____

Religion unknown

Race or ethnic group native

Economic status middle

Occupation laborer

Does the abuser live with the victim? Yes No

B. What led to this mistreatment as far as you know?

Gets angry when drinking, fighting.

1. Is alcohol a problem in this situation? yes

C. Has this mistreatment happened before?

- no 4 or more times
 once
 2 or 3 times

III. Reporting of Incident

A. How did you know about the case?

- self report
 private medical M.D.
 hospital or clinic
 police
 public social service agency
 private social service agency (nursing home)
 public health
 other _____

B. Did the victim ever attempt to seek help? yes
What help? Admission to Pioneer Home.

C. Action taken (what did you do for this case?)
Helping her to get a divorce and assist with Pioneer Home admission.

D. Additional comments:

Conclusions and Recommendations

From the study done by A.C.M.H.C. several conclusions and recommendations can be made. Most results are similar to the national statistics, but there are some differences.

The abused elder in the Anchorage area is most likely to be a White, low-income woman over 70. She lives with an adult child or family member. A person in Anchorage is more likely to be physically independent than the national counterpart. The abuser is apt to be a middle aged White, low-income woman. In a sense, she is a victim of her situation. In many cases she is experiencing stress due to crowded living conditions, inadequate income, health problems, ignorance about services and feeling as if she is parenting a parent.

These stresses can result in many kinds of abuse. Physical mistreatment is clearly acknowledged as abuse. The results of physical abuse are more obvious and often deemed more serious than the results of other types of abuse. Psychological abuse may be less obvious but it is no less damaging to the elderly person. Cases of psychological abuse were sited far more frequently than other types. All 20 agencies reported cases involving some form of psychological abuse. Of the 75 cases of elder abuse, 70% involved this abuse.

The dependence of elderly people on others leaves their financial affairs open to misuse and theft. Because some elderly feel as if they are a burden or they may be left alone, they do not always move to remedy a case of economic abuse. In Alaska, the existence of the longevity bonus, native claims settlement payments and a high incidence of alcohol abuse make elders prime candidates for financial exploitation by caretakers.

Alcohol as a contributing factor to elder abuse is much greater than in other areas of the United States. Alcohol abuse is not limited to the

abuser. In some cases the elder abuse victim misuses alcohol and in other situations it is family-wide. A.C.M.H.C. as well as other service providers feel that this possibility should be considered when providing services to abused elders and caretakers.

Agencies surveyed believe that there are some things that can be done that would help them deal more effectively with the problem of elder abuse. A list of these actions follows:

1. An elder abuse mandatory reporting law.
2. Improving low-income housing opportunities for the elderly.
3. Beginning an adult day care center in the Anchorage area.
4. Some provisions for in-home respite care.
5. More staff for protective services.

There was one major problem in doing a study of this nature in Alaska. The group studies is age 60 and older. The older native population has a gap in that age group because many of that generation died during the tuberculosis epidemic. There is a lack of information concerning elder native Alaskans because of this factor.

Though some conclusions about abusers and victims can be made, these people come from any race, social or income group. The elder abuse cases given to the A.C.M.H.C. are only a few of the cases that enter the social service system. The real numbers are still to be discovered. Through a pilot project, A.C.M.H.C. is launching a concentrated program of public education. We hope to encourage a public awareness that will foster voluntary reporting by service providers and the general public. We are far from solving the problems of elder abuse, but by using some of the same methods used by child abuse researchers in the 1960's we hope to gain a better understanding of and form a methodology for dealing with the serious social problem of elder abuse.

REFERENCES

Block, Marilyn R., and Sinnott, Jan D., eds. The Battered Elderly Syndrome; and Exploratory Study. College Park, Md.: The University of Maryland, 1979.

Douglas, Richard L., Hickey, Tom, and Noel, Catherine. "A Study of the Maltreatment of the Elderly and Other Vulnerable Adults." Ann Arbor, Mi.: University of Michigan, 1979.

Holden, David F., and Carey, Peggy L., eds. "Tennessee Conference on Abuse of Older Persons." Knoxville, Tennessee: University of Tennessee, 1980.

APPENDIX A
ELDER ABUSE REPORTING FORM

Abuse Report Form

First Name

Last

I. Information on Victim

A. Age at time of incident _____

Sex _____

Race or ethnic group _____

Religion _____

Economic status _____

Who resides at the same address _____

B. Physical Abuse Sustained

_____ none

_____ bone fracture

_____ bruises, welts

_____ direct beating

_____ sprains dislocations

_____ lack of personal care

_____ malnutrition

_____ lack of food

_____ freezing

_____ medicine withheld

_____ burns, scalding

_____ no medicine purchased when
presented

_____ abrasions, lacerations

_____ no false teeth when needed

_____ wounds, cuts, punctures

_____ no hearing aid when needed

_____ internal injuries

_____ no glasses when needed

_____ dismemberment

Comments _____

C. Psychological Abuse Sustained

_____ verbal assault

_____ threat

_____ fear

D. Material Abuse Sustained

_____ theft of money or property

_____ misuse of money or property

_____ other _____

E. Violation of Rights

- forced from home
- forced into nursing home
- forced social isolation
- other _____

F. Rating of Environment

- dirt in house
- vermin in house
- inadequate heat
- smell of urine
- no food in house
- other _____

G. Degree of Physical Impairment

- bedridden
- cannot perform basic personal hygiene without help, bathing, toilet
- cannot prepare own food
- cannot take own medicine
- none

II. Information on Abuser

- A. Relationship to victim _____
Age at time of incident _____
Sex _____
Religion _____
Race or ethnic group _____
Economic status _____
Occupation _____
Does the abuser live with the victim? Yes _____ No _____

- B. What led to this mistreatment as far as you know?

1. Is alcohol a problem in this situation? _____

C. Has this mistreatment happened before?

- no 4 or more times
 once
 2 or 3 times

III. Reporting of Incident

A. How did you know about the case?

- self report
 private medical M.D.
 hospital or clinic
 police
 public social service agency
 private social service agency (nursing home)
 public health
 other _____

B. Did the victim ever attempt to seek help? _____
What help? _____

C. Action taken (what did you do for this case?)

D. Additional comments:

APPENDIX B

LETTER TO PHYSICIANS AND CLINICS



Dear Doctor:

During the last few months Anchorage Community Mental Health Center has been researching the problem of elder abuse in the Anchorage area. We are very interested in any experience you may have had with your patients or their families. The information is purely for research purposes. Names are not necessary and all reports are confidential.

We are using the definition used by Marilyn R. Block and Janice L. Davidson in their study The Battered Elder Syndrome.

Abuse refers to one or more of the following acts:

physical abuse, including direct beatings, lack of food, lack of medical care, and lack of supervision;

psychological abuse, including verbal assault, threat, fear and isolation;

material abuse, including theft or misuse of money or property and

violation of rights, including forced removal from home, or forced entry into a nursing home.

When you are searching your mind for cases that you believe may qualify as elder abuse, keep in mind that the age we are referring to is 60 or older. These are people who are in some way dependent on a son, daughter, or other relative or caretaker.

Any response or comment by you is considered essential to this study. Please call me by August 21, 1981 at A.C.M.H.C. 276-5400.

Teri Spires
Research Specialist

MAE - (Monday)

CSHB 192 - PROTECTION of

Elderly IS READY - WE

could squeeze it in next

FRIDAY MARCH 25^B if you

WANT to schedule it

ANNOUNCE today & I'll

hand out copies

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
March 21, 1983
1:11 p.m.

Members Present: Rep. Tischer, Co-Chair
Rep. Fritz, Co-Chair
Rep. M. Miller, Vice-Chair
Rep. Koponen
Rep. Davis

Members Absent: Rep. Cato
Rep. Goll

COMMITTEE CALENDAR

CSSB 96: "An Act reducing a FY 83 appropriation and making a special appropriation to the Department of Health and Social Services for hepatitis-B inoculations; and providing for an effective date."

HB 192: "An Act relating to protection of the elderly.
WORKSESSION

WITNESS REGISTER

Dr. E.S. Rabeau
Director
Division of Health & Social Services
Pouch H-06
Juneau, Alaska 99811
465-3090

Position Statement: Stated the Department's support for CSSB 96; urged quick passage of the bill.

Rep. Clocksin
District 12-B
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3704

Position Statement: Testified in favor of HB 192; proposed numerous amendments to HB 192.

PREVIOUS ACTION

CSSB 96: First Reading - 3/9/83

Committee Referrals - HESS and Finance
Committees.

No previous action in HESS.

HB 192:

First Reading - 2/11/83

Committee Referrals - HESS and Finance
Committees.

See HESS minutes of March 14, 1983.

ACTION NARRATIVE

TAPE#20
Recording
Number 0001

Co-Chair Tischer called the meeting to order at 1:11 p.m. Representatives Fritz, M. Miller and Koponen were present. Representative Davis arrived at 1:22 p.m. Representatives Cato and Goll were excused due to illness. Co-Chair Tischer announced the committee calendar and then called for testimony on CSSB 96.

Number 0038

Dr. E.S. Rabeau, Department of Health & Social Services, said the the Department supports CSSB 96, which causes a delete-add appropriation from the surplus funds. Dr. Rabeau urged quick passage of the bill in order to prevent pulling money from other funds to cover testing and vaccinating activities which have already begun.

Number 0070

Dr. Rabeau explained that the money involved in implementing CSSB 96 would come from surplus funds not the permanent fund.

Number 0121

Rep. Fritz moved to pass CSSB 96 out of committee with a do pass recommendation. There being no objection, the motion passed.

Number 0137

General discussion regarding Hepatitis-B vaccinations and testing.

Number 0155

Co-Chair Tischer read the names of individuals available for questioning during the work session on HB 192 and invited Rep. Clocksin, sponsor of HB 192, to address the committee.

Number 0180

Rep. Clocksin testified in favor of HB 192; spoke to proposed HB 192 amendments. Rep.

Clocks in supported deleting the word "employees" on Page 2, Line 2 and adding subsections (11) Village Public Safety Officers, (12) Emergency Medical Technicians and Mobile Intensive Care Paramedics, (13) persons under Homemaker and Home Health Aide Programs to Page 2 after Line 9.

Number 0227

Rep. Tischer questioned the inclusion of "conservators" on Page 2, Line 4. Rep. Clocksin explained that conservators are appointed and thereby responsible by law for the protection and care of one unable to care for him or herself.

Number 0254

Rep. Clocksin reported that physicians assistants are also required to report elder abuse under HB 192.

Number 0263

Rep. Clocksin pointed out the necessity of carrying over previous amendments to Page 3, Section (e) to include "Village Public Safety Officers". Rep. Clocksin also favored eliminating the requirement of a "reasonable effort" on Page 3, Line 13 and substituting the following language change: The department shall personally interview the elderly person during the investigation unless the person is unconscious or otherwise physically or mentally impaired to such an extent as to be unable to respond to questions.

Number 0290

Rep. Clocksin recommended deleting the phrase "that is certified by the state" on Page 5, Line 1.

Number 0332

After discussion regarding the question of privilege, Rep. Clocksin responded that privilege is designed for doctor-patient confidentiality and informed the committee that the Senate deleted the entire privilege section (47.24.075). Rep. Clocksin suggested adding the following language instead: The physician-patient privilege and psychotherapist-patient privilege are waived to the extent that AS 47.24.010 and 020 require reporting of abuse, neglect or abandonment. Dr. Fritz agreed with the intention to waive the privilege for the purpose of reporting the abuse only.

Number 0362

Discussion regarding child abuse laws and reporting mandates. Rep. Tischer suggested

comparing child abuse laws with HB 192 in order to promote uniformity.

- Number 0370 Rep. Clocksin spoke in favor of changing the definition of abuse by inserting "requiring medical treatment" after "anguish" and deleting the phrase "by a caretaker" on Page 5, Line 23.
- Number 0436 Rep. Clocksin's amendment was submitted with the intent that "requiring medical treatment" apply only to "mental anguish".
- Number 0454 Rep. Clocksin supported deleting "by an elderly person or" on Page 6, Line 10.
- Number 0470 Rep. Clocksin testified in opposition to a proposed amendment which would add "willful" before the word "deprivation" on Page 5, Line 23. Rep. Clocksin explained that the purpose of that definition relates to reporting abuse not determining its criminal nature.
- Number 0509 According to Rep. Clocksin, there are 3 possible courses of action under HB 192; criminal prosecution, investigation by the department and subsequent provision of protection services, and the decision that the claim is unfounded.
- Number 0553 In response to Rep. Tischer's stated concerns with unnecessary program expansion and false reports of abuse, Rep. Clocksin explained the bill's minimal fiscal impact and stated that new services will be provided only when justified by statistics. As such, he asserted that HB 192 requires and provides for documentation.
- Number 0580 Discussion regarding the need for HB 192. Rep. Clocksin cited an Anchorage study on elder abuse and the many unreported cases.
- Number 0600 Rep. Clocksin mentioned a Senate proposal which mandates reporting all elder abuse to the prosecutor in the Department of Law. Rep. Clocksin said he had no position on the proposal; however, he expressed concern with unnecessarily burdening the prosecutor with too many reports.
- Number 0650 General discussion about regulation changes.

number 0672 Rep. Davis moved to amend HB 192 as proposed by Rep. Clocksin. Co-Chair Tischer asked Rep. Davis to withdraw his motion and suggested letting staff members draw up a Committee Substitute for the committee's review. Rep. Davis withdrew the motion.

Number 0696 Rep. M. Miller moved to insert "willful" before "deprivation" on Page 5, Line 23, and then withdrew his motion. Rep. M. Miller then moved to insert "intentional" before "deprivation" on Page 5, Line 23. Rep. Davis objected.

Number 0708 Rep. Tischer called for a roll call vote on the motion. The motion to insert "intentional" passed by a vote of 3 to 2. HESS Committee staff was then instructed to draft a Committee Substitute for HB 192 to address amendments proposed by Rep. Clocksin.

Number 0725 Discussion regarding Section 47.24.075.

Number 0750 General discussion about the definition of an elderly person on Page 6, Line 3.

Number 0790 Rep. M. Miller moved to amend the 60-year age requirement to 65 years of age. Discussion followed.

Number 0851 Co-Chair Tischer moved the previous question. The motion to change "60" to "65" on Page 6, Line 3 passed by a 3 to 2 vote.

Number 0874 Rep. Tischer commented on definitions of mental health and read the definition of neglect under child abuse laws.

Number 0891 Rep. M. Miller expressed concern over the definition of mental anguish.

Number 0944 Rep. Fritz requested information on elder abuse laws in other states.

Number 0980 The committee discussed the fiscal note for HB 192.

Number 1013 Rep. Tischer commented on reasonable cause. Discussion led to the conclusion that reasonable cause is already identified by law, consequently it is not necessary to include it in HB 192.

Number 1023

The meeting adjourned at 2:45 p.m.

HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
STANDING COMMITTEE
March 14, 1983
1:00 p.m.

Members Present: Rep. Fritz, Co-Chair
Rep. Tischer, Co-Chair
Rep. M.W. Miller, Vice-Chair
Rep. Cato
Rep. Goll
Rep. Davis

Members Absent: Rep. Koponen

COMMITTEE CALENDAR

HB 117: "An Act relating to sexual abuse of a
minor."
HB 107: "An Act relating to the right to a natural
death."
HB 192: "An Act relating to protection of the
elderly."

WITNESS REGISTER

Rep. Clocksin
State Capitol Building
Pouch V
Juneau, Alaska 99811
465-3704
Position Statement: Sponsor of HB 107 and HB 192.

Dr. Rodmar Wilson
Department of Health & Environmental Protection
Box 6-650
Anchorage, Alaska 99502
264-4621
Position Statement: Agreed with the concept of not prolonging
death; said that HB 107 would be meddlesome;
disapproved of HB 107 because of the
possibility of a patient changing his/her
mind.

Prent Gazaway
1521 W. 14th
Anchorage, Alaska 99501
277-2073
Position Statement: Urged quick passage of HB 107; stated
support for HB 192.

Delcey Kinny
Alaskans for Life
9118 Nagoon
Juneau, Alaska 99801
789-0683

Position Statement: Testified against HB 107; explained her opposition to the living will concept.

Florence Orr
3000 E. 15th Avenue
Anchorage, Alaska 99501
279-3001

Position Statement: Said the living will has been a legislative priority of the Older Persons Action Group for 2 years.

Irene Hedstrom
1521 N. Street
Anchorage, Alaska 99501

Position Statement: Supported HB 107; disagreed with prolonging life when no hope for recovery exists.

Lola Reed
831 W. 19th
Anchorage, Alaska 99503
279-3006

Position Statement: Testified in favor HB 107; asserted that HB 107 grants people the right to choose a natural death.

Theodore Grahm
Chugiak Senior Center
Chugiak, Alaska
688-2677

Position Statement: Stated that Chugiak senior citizens support HB 107; endorsed the passage of HB 192.

Pasquale M. Benigno
9715 Trapper's Lane
Juneau, Alaska 99801

Position Statement: Spoke against HB 107; argued that people already have the right to a natural death.

Virginia Blanchard
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3075

Position Statement: Supported HB 107; reminded previous witnesses that participation in the program is voluntary.

Dr. E.S. Rabeau
Division of Public Health
Department of Health & Social Services

Pouch H-06
Juneau, Alaska 99811
465-3090

Position Statement: Testified that the Department supports the intent of HB 107; agreed that the bill addresses patients' rights.

Dove M. Kull
Older Alaskans Commission
326 4th Street
Juneau, Alaska 99801
586-2670

Position Statement: Supported passage of HB 107; testified to the immediate need for HB 192.

Mary Horton
2516 Scott Drive
Juneau, Alaska 99801
789-9222

Position Statement: Contested the need for HB 107.

Lou Osmond
Pioneers Home
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3414

Position Statement: Spoke in favor of HB 107.

Leona Pfisterer
Pioneers Home
923 W. 11th Avenue
Anchorage, Alaska 99501
276-3414

Position Statement: Approved HB 107; testified to the emotional and practical costs of keeping people alive with extraordinary means.

Margot Dick
Juneau Elder Abuse Task Force
419 6th Street
C.C.S. Wing
Juneau, Alaska 99801
586-6233

Position Statement: Supported HB 192; presented an overview of Task Force recommendations.

Charles Mundorf
Alaska Community Mental Health Center
120 E. 4th Street
Anchorage, Alaska 99501
276-5400

Position Statement: Testified to the need for HB 192.

Elizabeth Muktarian

Department of Health & Social Services
Pouch H05
Juneau, Alaska 99811
465-3208

Position Statement: Spoke for the Department in favor of passing HB 192; recommended amending the definition of abuse on Page 5, Lines 22-25 of Sec. 47.24.100.

Tom Scott
1135 W. 8th, #7
Anchorage, Alaska 99501
274-3651

Position Statement: Recommended amending the list of health care providers in HB 192.

Dennis Murray
Senior Citizens of Kodiak
Box 315
Kodiak, Alaska 99615
486-6181

Position Statement: Supported HB 192; said it heightens awareness of elder abuse and provides a mechanism for dealing with the problem.

Dennis DeWitt
Alaska State Hospital Association
319 Seward
Juneau, Alaska 99801

Position Statement: Presented recommendations for possible amendments to HB 192; called attention to possible problems with multiple reporting and the privilege clause.

Barbara McPherson
Older Alaskans Commission
Pouch C
Juneau, Alaska 99803
465-3250

Position Statement: Stated the commission's support for passage of HB 192; recommended adding the word "willful" to the definition of abuse; supported previous comments on multiple reporting and the privilege clause.

Beth Bishop
Southeast Senior Services
4181 6th Street
C.C.S. Wing
Juneau, Alaska 99801
586-6233

Position Statement: Supported HB 192 and language changes addressing the possibility of multiple reporting; disapproved of adding "willful"

to the definition of abuse.

Rosemary Haffner
615 H Street
Anchorage, Alaska 99501
272-9431

Position Statement: Conveyed support of the Ombudsman for HB 192; opposed adding "willful" to the definition of abuse; stated that multiple reporting could be addressed through regulations.

PREVIOUS ACTION

HB 117: 1/26/83 - First Reading.

Committee referrals - HESS, Judiciary, Finance and Rules Committees.

See HESS minutes of February 9 and 28, and March 11, 1983.

HB 107: 1/21/83 - First Reading.

Committee referrals - HESS, Judiciary and Rules Committees.

No previous action in HESS Committee.

HB 192: 2/11/83 - First Reading.

Committee referrals - HESS, Finance and Rules Committees.

No previous action in HESS Committee.

ACTION NARRATIVE

TAPE#18
Recording
Number 0001

Co-Chair Fritz called the meeting to order at 1:00 p.m. Representatives Tischer, M.W. Miller, Cato and Goll were present. Representative Davis arrived at 1:25 p.m. Co-Chair Fritz announced the committee calendar and cited HB 117 as the first order of business.

Number 0030

Rep.M.W. Miller moved to postpone action on HB 117 until further notice. There being no objection, the motion passed.

Number 0035

Co-Chair Fritz opened the floor to testimony on HB 107. Rep. Clocksin, sponsor of HB 107, explained that HB 107 gives legal recognition to the rights of the terminally ill and establishes a procedure for the declaration of will form. Rep. Clocksin dispelled possible arguments about the religious significance of the bill; stated that all surveyed religions support the right to a natural death.

Number 0100

Rep. Clocksin then testified as the sponsor of HB 192. Rep. Clocksin explained that the bill applies only to physical abuse of the elderly and requires the victim's consent before beginning an investigation. Rep. Clocksin informed the committee about elder abuse in Alaska and referred to the limited fiscal implications of HB 192.

Number 0162

Dr. Rodmar Wilson, Department of Health and Environmental Protection, spoke against HB 107; stated that the bill was meddlesome. Dr. Wilson expressed sympathy with the concept of not prolonging death, but disagreed with HB 107 because doctors can not accurately predict when death will occur and patients may change their minds after signing living wills.

Number 0291

Rep. Goll pointed out that patients can revoke their statements.

Number 0377

Prent Gazaway, Anchorage citizen, stated his belief that HB 107 meets the wishes of senior citizens associations and gives people freedom. Mr. Gazaway urged a quick passage of HB 107 and also stated his approval of HB 192.

Number 0426

Delcey Kinny, Alaskans for Life, stated AFL's opposition to HB 107 and the living will concept. Ms. Kinny argued that the right to a natural death already exists, and that living wills cause havoc in the doctor - patient relation and underwrite the rights of those who do not sign. In addition, Ms. Kinny spoke against State involvement with a person's decision regarding death.

Number 0546

Florence Orr, Older Persons Action Group, stated that the living will has been a APAG legislative priority for 2 years; asserted that the previous witness was confused about

peoples' rights.

- Number 0582 Irene Hedstrom, Pioneers Home, supported HB 107; said that most people at the Pioneers Home are not afraid of death, but are afraid of prolonging death through the use of machines especially when no hope for recovery exists; cited the burden to the individual, family and Medicare.
- Number 0632 Lola Reed testified in favor of HB 107; stated that the right to a natural death is an issue of personal choice. Ms. Reed asserted that HB 107 grants people that choice.
- Number 0662 Theodore Gram, Chugiak Senior Center, stated that Chugiak senior citizens support HB 107.
- Number 0678 Pasquale Benigno spoke against HB 107; argued that people already have the right to die without the use of extraordinary means.
- Number 0701 Rep. Coll asserted that currently doctors who "pull the plug" in response to a patient's request can be charged with a criminal offense.
- Number 0736 Virginia Blanchard supported the right to a natural death; stated that people do not have to participate in the program; asserted her intention to sign a living will if the bill passes.
- Number 0755 Dr. Rabeau, Department of Health & Social Services, stated that the Department supports the intent of HB 107; said that the bill addresses the rights and wishes of patients.
- Number 0779 Dove M. Kull, Elder Alaskans Commission, said she believes in the right to die with dignity and wants for the world to let her go when she is ready; supported passage of HB 107.
- Number 0797 Mary Horton contested the need for HB 107; said the right to a natural death is already an inalienable right under the constitution.
- Number 0851 Lou Osmond supported HB 107; said she does not wish to use a life support system nor to wait around for relatives to decide whether

- or not she will be allowed to die.
- Number 0893 Leona Pfisterer spoke in favor of approving HB 107; testified that keeping people alive with extraordinary means is too costly in terms of emotions as well as money.
- Number 0917 There being no further witnesses to testify on HB 107; Co-Chair Fritz opened the floor to testimony on HB 192.
- Margot Dick, Juneau Elder Abuse Task Force, supported HB 192 for the Task Force; presented an overview of their recommendations for amending HB 192.
- Number 1020 Charles Mundorf, Alaska Community Mental Health Center, testified to the need for HB 192. Mr. Mundorf informed those present of the recent documentation of 75 cases of physical abuse of elders in Anchorage and the widespread problem of psychological abuse of the elderly. He also stated that currently reporting of abuse is poor.
- Number 1068 Discussion regarding the verification of psychological abuse.
- Number 1084 Elizabeth Muktarian, Department of Health & Social Services, conveyed the Department's recommendation to pass HB 192. Ms. Muktarian acknowledged the growing awareness of elder abuse and asserted that the procedures outlined in HB 192 are in accordance with departmental policies. Ms. Muktarian said the Department recommends amending the definition of abuse on Page 5, Lines 22-25 of Section 47.24.100 to read the "willful deprivation".
- Number 1130 Tom Scott, Emergency Medical Services in Anchorage, recommended amending the HB 192 list of health care providers to include EMS paramedics and Emergency Medical Technicians.
- Number 1145 Theodore Graham, Chugiak Senior Center, endorsed the passage of HB 192.
- Number 1150 Dove Kull, Older Alaskans Commission, stated her awareness of the psychological and economic abuse of elders; said she knows of people who are in need of the bill's protection now.

- Number 1173 Dennis Murray, Senior Citizens of Kodiak; supported HB 192 as an individual; said the bill heightens awareness of the problem and gives a mechanism to deal with the problem. Mr. Murray stated he sees more psychological and economic abuse as a professional than physical abuse, but agreed that HB 192 is at least a beginning.
- Number 1187 Dennis DeWitt, Alaska State Hospital Association, recommended requiring only those who are trained to report abuse under the law, further defining "verifying", and preventing the possibility of multiple reporting. Mr. DeWitt also suggested that the patient-physician privilege clause is open to misinterpretation and should therefore be reviewed.
- Number 1266 Barbara McPherson, Older Alaskans Commission, said the commission urges passage of HB 192 to provide protection for the elderly; recommended inserting the word "willful", and mandating that the victim be contacted before beginning an investigation. Ms. McPherson also stated support for the previous remarks on the privilege clause and multiple reporting.
- Number 1297 Rep. Tischer requested statistics on abuse of the elderly. Ms. McPherson said accurate statistics are not available because of the lack of mandatory reporting in Alaska.
- Number 1314 Beth Bishop, Southeast Senior Services, supported HB 192 and language changes to address the possibility of multiple reporting; informed the committee that 90% of abusers repeat and that reporting abuse is very difficult especially in small towns. Ms. Bishop supported the Juneau Task Force recommendations; however, she disagreed with adding "willful" before "deprivation", suggesting it would be too difficult to prove.
- Number 1347 Rosemary Haffner, Alaska Legal Services - Attorney for Seniors, conveyed the support of the Ombudsman for HB 192; stated opposition to adding "willful"; suggested addressing the issue of poverty in some manner. Ms. Haffner asserted that multiple reporting could be addressed through regulations.

Number 1377

Co-Chair Fritz thanked the witnesses and observers for their participation and patience.

The meeting adjourned at 3:03 p.m.

SENATE JUDICIARY COMMITTEE

Meeting Minutes
May 9, 1983

The meeting was called to order by Chairman Ray at 1:35 p.m. All members were present.

The first order of business was the Committee Substitute (HESS) for Senate Bill 122--Protection of the elderly, as to which Senator Ray announced that the bill was in the Senate Rules Committee when a problem arose with the term "mental anguish" in the definitions section, at page 5, line 27. Senator Josephson, one of the bill's prime sponsors, explained that he is fully aware of the problem and has no objections to deleting that term. Senator Ray concurred and then suggested that the term "economic exploitation" be added to cover the type of exertion of undue influence and economic coercion that was involved in the Groucho Marx case in California. Senator Pettyjohn, however, questioned the inclusion of this new term and concept and stated that it may create an unduly heavy burden in trying to enforce the legislation. Senator Pettyjohn also raised some questions about the procedures set forth in the bill and a discussion was had on these points with Senators Ray and Josephson joining therein.

Dove M. Kull, a member of the Older Alaskans Commission, testified in favor of the bill, emphasizing that the lack of statutory authority is the biggest hindrance to states being able to assist abused elderly persons and that many other states have enacted or are considering enacting similar legislation.

Beth Bishop, with Southeast Senior Services, testified in favor of the bill, focusing on the types of problems encountered and the other types of programs that are also needed to adequately protect the abused elderly.

John Wolfe, Executive Director of the Older Alaskans Commission, testified in favor of the bill and offered to answer any questions the members of the Committee may have. Senator Eliason asked a question about the language at page 3, line 29, of the bill and Mr. Wolfe responded by explaining the basic purpose and intent of the language.

By concurrence of a majority of the members of the Committee, it was agreed that the bill will be amended (and the amendments will be incorporated into a new committee substitute) so that the term "economic harm" will be inserted wherever appropriate and will be defined as "intentional economic exploitation by theft, fraud and coercion." Also, as previously agreed, the term "mental anguish" will be deleted from the definitions section, at page 5, line 27.

Senator Eliason asked a question about the language at page 3, line 8, regarding immunity for reporting instances of harm to the elderly and why these provisions are necessary. A discussion was had on this point

with Senator Josephson joining therein and pointing out that the provisions in question merely parallel what has been done in the child abuse area and only provide a qualified immunity because a good faith requirement is built into the bill.

Senator Pettyjohn asked why mentally and physically handicapped persons aren't included in the bill and a discussion was had on this point with Senators Ray, Josephson and Ziegler joining therein, whereupon Senator Josephson moved that the bill, as amended (with the amendments incorporated into a new committee substitute) pass out with individual recommendations. Senators Ray, Josephson, Ziegler and Eliason voted Do Pass. Senator Pettyjohn voted No Recommendation.

The second order of business was the proposed committee substitute (Berrier draft dated 5/7/83) for Senate Bill 257--Legislative ethics, as to which Senator Ziegler stated that it is the worst piece of legislation he has ever seen and that he has the following specific objections to it regarding which discussion was had wherein all Committee members participated:

The provisions starting on page 3, line 21 relating to fundraisers;

The provisions of section 24.60.080 on page 6 relating to gifts;

The provisions of section 24.60.100 on page 7 relating to representation;

The provisions of section 24.60.110 on page 7 relating to having to resign a conflicting position as it applies to an attorney legislator who is under an ethical duty not to withdraw from a case unless his client consents.

Senator Josephson concurred with Senator Ziegler's concerns about the fundraisers provisions and pointed out that they shouldn't apply to a legislator who is trying to raise funds for anything other than legislative campaigns; i.e., the prohibition shouldn't apply to a legislator who wants to run for statewide or congressional office. Therefore, Senator Josephson suggested that the word "legislative" be added in front of the phrase "campaign purposes" on page 3, line 24, of the proposed committee substitute.

Senator Pettyjohn stated that forcing legislators to hold fundraisers in their own district during session is too restrictive; therefore, he moved that the proposed committee substitute be amended to only prohibit fund raisers in Juneau during session. In his motion Senator Pettyjohn also incorporated Senator Josephson's prior suggested language addition. The motion passed after a vote was taken wherein Senators Josephson, Ziegler and Pettyjohn voted in favor and Senators Ray and Eliason voted against.

Senator Fahrenkamp testified and raised several concerns about the bill in its present form, including:

Subsection (g) on page 3, relating to fundraisers; and

Section 24.60.080 on page 6, relating to gifts, as to which a lengthy discussion was had wherein all Committee members participated and Senator Josephson suggested that the language of that section be changed to alleviate Senator Fahrenkamp's concerns.

Senator Mulcahy then testified and also expressed concerns similar to Senator Fahrenkamp's regarding the gifts section, explaining that travel to remote areas to attend conferences and meetings regarding matters of legislative concern is very important to bush legislators, whereupon Senator Pettyjohn moved--and the motion passed without objection--that the following sentence be added at the end of section 24.60.080:

"A gift of travel and hospitality received by a member of the legislature in obtaining information on matters of legislative concern is not prohibited by this section."

Senator Ferguson then testified and proposed that the following language be page 3, line 17, of the proposed committee substitute:

"Food or foodstuffs indigenous to the state that are generally shared as a cultural or social norm."

A motion was made to adopt Senator Ferguson's suggested amendment and the motion passed without objection.

Senator Ray moved that in subsection (f) of section 20.60.030, dealing with conflicts of interest, the words "with approval of the legislature" be added immediately before the word "establish" on page 3, line 18 of the proposed committee substitute. The motion passed without objection.

Senator Josephson moved that CSSB 257, as amended (with the amendments incorporated into a new committee substitute) pass out with individual recommendations. Senators Ray, Josephson and Pettyjohn voted Do Pass. Senators Ziegler and Eliason voted No Recommendation.

The third and final order of business was the following new subcommittee assignments:

SB 26	Civil immunity for rendering services in response to hazardous materials emergencies	Eliason
SB 290	Transfer of forfeited aircraft to Alaska Wing, Civil Air Patrol	Ray
CSHE 290	Harming a police dog	Ziegler

There being no further business the meeting adjourned at 2:50 p.m.

COMMITTEE REPORT

SENATE

FURTHER:

4/28/83

Date: 5/9/83

Mr. President:

The Committee on JUDICIARY has had SB 122

Relating to the protection of the elderly.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass do not pass

do pass with attached amendments(s)

replace with CS for SB 122 same title new title

and recommends _____

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

3 copies

Joseph

McKesson

no rec
[Signature]

Bill Kay
CHAIRMAN
DO PASS

1-1855

MAR 7 1983

ANALYSIS OF SB 122 - RELATING TO PROTECTION OF THE ELDERLY

SECTION 1 PURPOSE

SECTION 2 a) LISTS PROFESSIONAL PEOPLE REQUIRED TO REPORT CASES OF SUSPECTED ABUSE, NEGLECT OR ABANDONMENT OF AN ELDERLY PERSON

b) LISTS INFORMATION TO BE PROVIDED TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES WHEN REPORTING.

c) "VIOLATION" IS A NONCRIMINAL OFFENSE PUNISHABLE BY A FINE, BUT NOT BY IMPRISONMENT OR OTHER PENALTY; CONVICTION OF A VIOLATION DOES NOT GIVE RISE TO ANY DISABILITY OR LEGAL DISADVANTAGE BASED ON CONVICTION OF A CRIME; A PERSON CHARGED WITH A VIOLATION IS NOT ENTITLED:

- (A) TO A TRIAL BY JURY; OR
- (B) TO HAVE A PUBLIC DEFENDER OR OTHER COUNSEL APPOINTED AT PUBLIC EXPENSE TO REPRESENT HIM;

d) THE BILL DOES NOT PRECLUDE A PERSON NOT LISTED, OR A PERSON LISTED WHEN IN A NON-PROFESSIONAL CAPACITY, FROM REPORTING.

e) REPORTS CAN BE MADE TO A PEACE OFFICER IF IMMEDIATE ACTION IS NECESSARY.

f) IMMUNITY FROM LIABILITY TO THE REPORTING PERSON IS GRANTED.

SEC. 47.24.020

a) REQUIRES PROMPT INVESTIGATION BY THE DEPARTMENT TO ASSESS THE NEED FOR ACTION AND SERVICES.

b) REQUIRES TO DEPARTMENT TO PREPARE A WRITTEN REPORT ON FINDINGS, RECOMMENDATIONS AND DETERMINATION OF ACTION. REPORTER MAY RECEIVE A COPY ON REQUEST.

c) INVESTIGATION WILL TERMINATE UPON REQUEST OF THE ELDER PERSON UNLESS THEY ARE INCAPACITATED, WHEREBY THE DEPARTMENT MAY PETITION THE COURT TO HAVE A GUARDIAN APPOINTED.

SEC. 47.24.030

a) THE DEPARTMENT SHALL PROVIDE PROTECTIVE SERVICES AT THE CONSENT OF THE ELDER PERSON, OR IF THAT PERSON IS INCAPACITATED, THE DEPARTMENT MAY PETITION THE COURT TO APPOINT A GUARDIAN.

b) THE DEPARTMENT MAY DISCLOSE THE REPORT AT THE REQUEST OF THE ELDER PERSON, AND , ON REQUEST, DISCLOSE REPORTS OF HARM AT AN INSTITUTION CERTIFIED BY THE STATE.

SEC. 47.24.060 - LISTS ACTIONS AVAILABLE TO THE DEPARTMENT TO SAFEGUARD AN ELDERLY PERSON.

Handwritten note:
This is a
non-criminal
violation

ANALYSIS OF SB 122 - RELATING TO PROTECTION OF THE ELDERLY

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Protective Services Legislation for the Elderly

C. Edwin Vaughan
Department of Sociology
and Center on Aging Studies
University of Missouri-Columbia

- ✓ An 89-year-old woman lives alone in a trailer court outside a southern Missouri town. She is blind and has become too weak to lift a jug of water.
- ✓ A man in his sixties, who was once left bound hand and foot in a car by his caretakers, signs over his pension check to them each month because he is afraid they otherwise would turn him out.
- ✓ A 77-year-old man is chronically depressed and disoriented from the interaction of excessive dosages of medication being given to him by another person charged with his care.

These are only three of the estimated 19,000 elderly Missourians who need protection from abuse, neglect, or exploitation. This guide will describe forms of abuse and situations in which it is likely to occur, and summarize the provisions of Missouri law to deal with abuse.

The law

In response to public concern, the Protective Services Law for the Elderly was passed by the Missouri General Assembly and signed by the Governor in 1980. This law is designed to assist and protect persons age 60 or older who are unable to perform or obtain essential services or to protect their own interests. The protective services provided by this law consist of visits by social workers supplemented by such community functions as visiting nurses services, home-



maker services, hot meal delivery, and telephone checks. Legal intervention may also enter the picture in the form of guardianship, commitment, emergency service delivery, and protective placement.

Missouri is one of only thirteen states that has a law specifically designated to help prevent abuse and neglect of the elderly. This law establishes a system for reporting instances of abuse and neglect and provides for assistance to be given to the victims.

How to report abuse or neglect

If you have reasonable cause to suspect that an elderly person is suffering serious physical harm and is in need of protective services, use the Elderly Abuse and Neglect Hotline maintained by the Department of Social Services Division of Aging. The hotline number is 1-800-392-0210.

Or, if you prefer, write the Department at:

Central Registry Unit
Division of Aging
P.O. Box 1337
Jefferson City, MO 65102

When making your report include the following information:

1. Name, age, and address of the older person in need.
2. Names and addresses of any individuals responsible for the older person.
3. The nature and extent of the older person's condition.

You are not required to give your name when making a report. If you are uncertain of how to proceed or have any questions, call the toll-free hotline number mentioned above.

Types of abuse

To assist you in identifying cases of abuse, the law describes four basic situations in which serious harm is likely to come to an individual:

1. **Self-neglect.** This situation is indicated by the elderly person's failure or inability to provide for his or her own essential needs, resulting in substantial risk that physical harm will ensue.
2. **Self-abuse.** In this situation there is reason to believe that an elderly person will inflict physical harm upon himself, as evidenced by his own actions or threats to do so.
3. **Abuse to others by an elderly person.** This situation is one in which there is a substantial risk that an elderly person will inflict physical harm upon another, as evidenced by his own actions or behavior.
4. **Abuse to elderly by others.** In this situation there is a substantial risk that further physical harm will occur to an older person who has already suffered physical injury, neglect, sexual or emotional abuse, other forms of maltreatment, or the wasting of his financial resources by another person.

The following discussion will focus on abuse to the elderly by others.

Abuse by others

A study by the Office on Aging in Bergen County, New Jersey has shown that there are four main categories of abuse to the elderly by other persons:

1. **Physical abuse.** This may take various forms, including shaking or shoving, tying the elderly person to a chair so "he won't hurt himself" while others are gone, and encouragement by the family or a physician for the elderly person to be given drugs to make him or her "manageable."
2. **Deprivation.** This is withholding life's necessities, such as food, clothing, shelter, and medical care.
3. **Financial abuse.** This involves the removal of money or real estate from the older person's control when it is not necessary for the good of the individual to do so.
4. **Emotional abuse.** This includes such things as verbal abuse (excessive criticism or unrealistic demands), forcing the elderly person to change his or her residence, and infantilization (denying the older person the right to be treated as an adult, to be informed about his or her own health condition, to participate in family and social situations, and so forth). Emotional abuse is covered by the Protective Services Law only when there is evidence of physical harm resulting from the emotional abuse. Such problems as ulcers and high blood pressure are evidence of such physical harm.

What happens after you report

If you make a report of abuse or neglect, a local social service worker will visit the older person's residence to evaluate the situation. In emergency cases this visit will be made within twenty-four hours; in less severe cases a maximum of thirty days is permitted.

By reporting abuse or neglect you will not be forcing an older person to accept services he or she does not want. The Protective Services Law states that if an elderly person does not consent to receive protective services, those services will not be given; and if the elderly person withdraws consent previously given, the services will be discontinued. The only exceptions are those cases in which there is reason to believe that the older person lacks the capacity to consent. In such instances the director of the Department of Social Services may seek a court order.

Abusers cannot interfere

In some abuse cases, an abuser may refuse to allow anyone to visit the person being abused. In such instances the Department of Social Services may petition the court for a warrant. The Department may also petition the court to forbid anyone from interfering with the delivery of services to the elderly person.

If an older person is unable to give consent

If a case is one of self-neglect or self-abuse and the older person is unable to give consent for assistance, the Department of Social Services may initiate proceedings to provide the necessary protective services.

When the police are involved

In some instances it is necessary for the police to become involved in protective cases. If a police officer believes that an older person is in immediate danger, he or she may arrange for that person to be taken to a medical facility for emergency treatment. If the police officer is barred from entering by someone in the home, the officer may apply for a court warrant to enter and remove the elderly person to the medical facility.

When medical treatment is necessary

Sometimes when an elderly person has been admitted to the hospital as a result of abuse, the relative or guardian refuses to give consent for medical treatment and the elderly person himself is unable to give consent. In these cases the head of the medical facility may file a court petition for authorization of treatment, and the court may appoint a temporary guardian to oversee the treatment. In life-threatening situations in which immediate medical treatment is needed, such treatment may be given by the facility before a court hearing is held.

Once again, it should be emphasized that the rights of the competent elderly person shall be maintained—and these rights include the right to refuse medical care on the basis of religious faith or conviction.

Characteristics of abusers and abused

To prevent incidents of abuse it is necessary to understand the common characteristics of abusers, the abused, and situations in which abuse is most likely to occur.

The abused and their situations

The older the individual the more likely he or she is to be abused; reported cases of abuse are most common among people over 75 years of age. Persons become not only physically weaker with age but also more psychologically dependent due to such aging-related changes as loss of usefulness, loss of social standing, and loss of contact with friends. Since some older persons are not only weak but also physically or mentally impaired, they are sometimes treated as children or, even worse, as less than human. It is in such situations that abuse is most likely to occur.

Abused elderly usually are living with relatives and the most frequent abusers are the offspring. A situation in which the elderly person lives with his or her child can bring out deep-seated emotional responses in the offspring who may find it difficult to accept the parent's dependency. The parent may in turn sense this stress on the offspring's part and try to demonstrate his strength and independence by taking on tasks beyond his ability. The result is often failure, tension, and frustration. Additionally, if grandchildren are in the family, the elder may attempt to parent them, causing conflicts over discipline, household procedures, and lifestyles.

In our society, for complex and diverse reasons, abuse of the elderly is most common in white families, and females tend to be abused more than males.

While abused older persons are found among all income levels, middle-class elderly experience more abuse than upper or lower-class elderly. This can be attributed to the emphasis which the middle-class puts on the work ethic and the resultant tendency of retired persons to view themselves as useless and unproductive—a view which may be subconsciously or consciously shared by other family members. Moreover, middle-class family members are more likely to separate and live long distances from each other as the children marry and move away, often to other cities.

If elderly parents eventually come to live with their children it is often a shock for the children to observe the changes that have occurred since they last visited. To observe these changes all at once and to have to cope with them daily puts stress on both parents and children. By contrast, if a parent is living with or near the child as old age approaches, as is not uncommon in lower-class families, there can be gradual adjustments made as changes occur in the parent.

The abusers

Abusers tend to be middle-aged offspring who are looking forward to freedom and relax-

ation in the form of retirement and the departure of their own children from the home. An elderly parent moving into the household represents an intrusion into their plan, and the economic drain can be extremely stressful if there are still dependent children living at home.

Abusers tend to be female, since the responsibility of caring for an elderly parent typically falls upon a daughter. Because middle-aged women are likely to be working, many find it difficult to fit caregiving into their schedules, thus adding to the personal as well as financial pressures.

Many abusers were abused as children. On the other hand, abused elderly tend to deny that they are abused because they are ashamed to admit that their own children are abusers. They also may fear that they will be compelled to move to another setting if they report abuse, or that any complaint will lead to further abuse.

Guidelines for action

Being alert to potential abuse situations, and being willing to report abuse incidents, are two good ways to help curtail abuse in Missouri. However, further preventive measures can be taken on a community basis which would go far in this regard. The following measures are both possible and essential for the well-being of many older persons and their families.

1. Education projects should be established for the families of elderly persons, particularly middle-aged offspring who either now take care of their parents or are likely to in the future. Middle-aged children must be edu-

cated on the physical and psychological changes that come about with the aging process and the best ways of dealing with them.

2. Training projects for social service personnel should be initiated to increase their effectiveness in dealing with abuse and neglect. The training should instruct them in recognizing the signs of a potential abuse situation, and train them in early intervention and in helping both the elderly and families. Such sensitivity and alertness is especially needed in cases of frail elderly persons living alone. Service personnel in a position to observe the condition of such frail elderly include visiting nurses, county health nurses, homemaker aides, physicians, clergymen, meals-on-wheels drivers, friendly visitors, outreach workers from community agencies and county councils on aging, and so forth.
3. Networks of supportive services should be established for families and elderly who live in situations where abuse or neglect has already occurred. Such services would strive to prevent further abuse by alleviating the problems which led to the abuse.

A detailed copy of the legislation itself may be obtained by writing to the Division of Aging, P.O. Box 1337, Jefferson City, MO 65102.

Through adult education and the strengthening of community voluntary support systems, we may minimize the occasions when the law must be used. Always, but particularly in this area, an ounce of prevention is worth a pound of legal care.

Anchorage
Alaska

In the study conducted by A.C.M.H.C. of 75 cases documented, 34 cases (43.3%) of physical abuse were found. A breakdown of the abuse sustained follows:

lack of personal care	17.3% *
bruises and welts	13.3%
lack of food	10.7%
medicines withheld	8.0%
freezing	6.7%
malnutrition	6.7%
direct beatings	5.3%
abrasions and lacerations	2.6%
bone fractures	2.6%
sexual assault	1.3%
imprisonment	1.3%

Psychological abuse was sustained by 53 elders (70%)

fear	46.7% *
verbal assault	28.7%
threat	18.7%

Material abuse occurred in 43 cases (57.3%)

misuse of money or property	45.3% *
theft of money or property	26.7%

* categories are not mutually exclusive

There was violation of rights in 18 cases (24%)

forced social isolation	16.0% *
forced from home	6.7%
forced into nursing home	5.3%

STATISTICS ON VICTIM

Age of abused elder at the time of the abuse

60 - 70	41.3%
70 - 80	41.3%
80 - 90	13.3%
90 +	4.0%

Sex of Victim

Female	76.0%
Male	22.7%
Couple	1.3%

Race or Ethnic Group

White	69.3%
Native	18.7%
Black	9.3%
Hispanic	1.3%
Unknown	1.3%

STATISTICS ON ABUSER (continued)

Ethnic Group of Abuser

White	65.3%
Native	20.0%
Black	8.0%
Hispanic	1.3%
Unknown	5.3%

Economic Status of Abuser

Low	44.0%
Middle	22.7%
High	16.0%
Unknown	17.3%

Does the Abuser Live With the Victim?

Yes	69.0%
No	22.7%
Unknown	1.3%

OTHER INFORMATION

Is alcohol a factor in this situation?

Yes	49.3%
No	41.3%
Unknown	9.3%

Has this mistreatment happened before?

No	2.7%
Once	9.3%
2 - 3 times	8.0%
4 or more	74.7%
Unknown	5.3%

How did you know about it?

Self report	49.3%
Private M.D.	5.3%
Hospital	22.7%
Police	0
Public Social Service Agency	5.3%
Private Social Service Agency	6.7%
Public Health	2.7%
Neighbor	1.3%
Professionals Observation	6.7%

Did the victim seek help?

Yes	53.3%
No	43.7%
Unknown	4.0%

STATISTICS ON VICTIM (continued)

Economic Status of Victim

Low	54.7%
Middle	29.3%
High	12.0%
Unknown	4.0%

Degree of Physical or Mental Impairment

Physically or mentally disabled to a great degree	38.7%
Need some assistance with Activities of Daily Living (ADL's)	21.3%
Physically self-sufficient	40.0%

Resides at the same address as victim

Alone	17.3%
Family member(s)	41.3%
Husband/wife	14.7%
Girl/boyfriend	8.0%
Boarding home	4.0%
Nursing home	4.0%
Housekeeper	5.3%
Friend(s)	4.0%
Unknown	1.3%

STATISTICS ON ABUSER

Relationship to victim

Daughter	22.7%
Son	21.3%
Husband	10.7%
Granddaughter	1.3%
Grandson	1.3%
Girlfriend	4.0%
Boyfriend	1.3%
Son-in-law	1.3%
Daughter-in-law	9.3%
Hired caretaker/housekeeper	6.7%
Entire family	5.3%
Boarding home	4.0%
Friend	10.7%

Age of abuser

20's	6.7%
30's	22.7%
40's	36.0%
50's	12.0%
60's	14.7%
70's	2.7%
80's	1.3%
Unknown	4.0%

AN ANALYSIS OF LAWS CONCERNING ELDER ABUSE: LRSE SUMMARY
(Alaskan statutory provisions substituted)

The following is a summary of the above referenced publication which was prepared by Legal Research and Services for the Elderly of Boston. Alaskan statutory provisions have been substituted to assist the reader to understand what legal remedies are available in Alaska.

The problem of elder abuse requires social service and legal remedies. In LRSE's view, the response models of child and spouse abuse are limited because they "have not necessarily been effective and because the elderly raise distinct issues."

The abuse elderly person is typically in a vulnerable and dependent position. The primary caretaker is often also the abuser.

I. TWO CLIENT GROUPS

- a. Those who are willing and eager to pursue on their own initiative, service provisions or a legal (criminal or civil) remedy;
- b. those who cannot or do not seek assistance and who enter the system through intervention procedures
 1. some form of State intervention may be an alternative
 2. the primary consideration is the individual's capacity to make the needed decisions.

II. RESPONSES

- a. "Responses must make available and provide accessible, effective social services, alternative housing, health care, emotional support, etc. The parameters of these options must be expanded beyond what is currently available."
- b. "Legislation, drafted to include a means for providing social and health services to the abused, must set forth the framework for procedures which can establish surrogate authority in cases where the abused elderly person lacks the capacity to consent to services or manage his/her own life and property. Concurrent with these procedures there must be protection of the due process rights of the elderly individual."

III. CRIMINAL REMEDY

- a. Filing of criminal complaint, e.g., assault; blackmail.
- b. If pursued, it should be in conjunction with a civil remedy or inclusion of protective orders during the criminal proceeding.
- c. Linkage with service provision is necessary.

IV: CIVIL REMEDY

- a. Under AS 9.55.600, "a person subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent." (Domestic violence means a crime under AS 11.41.100 - 11.41.530 committed against a spouse, former spouse, or a member of the social unit comprised of those living together in the same dwelling as the respondent.) The order may include provisions which:
1. restrain the respondent from subjecting the petitioner to domestic violence;
 2. direct the respondent to vacate the home of the petitioner;
 3. restrain the respondent from communicating directly or indirectly with the petitioner;
 4. direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence.

The court must send a copy of the order to the appropriate local law enforcement agency. Peace officers shall use every reasonable means to enforce an order.

AS 9.55.610 provides for emergency injunctive relief.

- b. According to LRSE the degree of protection provided under such statutes depends on enforcement provisions. "...if protective orders are violated, the abused individual must return to court for further remedy. This not only makes the process more cumbersome, but also fails to address the need for immediate and effective protection and enforcement by the police. Particularly (sic) cases of elderly abuse, reliance on this procedure would significantly increase the difficulty on the part of any infirm individual to rely on the remedy of the law."

V. ISSUES RE LEGAL REMEDIES

"Often the elderly person will not agree to go to seek a legal remedy. Even if the individual is willing and eager to go to court, removing the caretaker from the home will require the social service system be able and willing to compensate for the lost support and assistance. Furthermore, shelters, which have been established to provide alternative housing for abuse victims often cannot meet the needs of the infirm or more dependent elder."

VI. PROTECTIVE SERVICES

The "social service agency must seek and obtain the consent of the individual before making a referral, discussing a case inter-agency, or instituting a case plan" in order to ensure the individual's right to privacy. LRSE also points out that this right which is fundamental to our legal system cannot be rationalized by the notion of the "best interests" of the client.

a. Non-judicial alternatives for elderly persons who need assistance but who do not lack capacity:

1. managing finances or access to resources

a. joint bank accounts, restricted bank accounts, direct deposit

b. representative payee for Social Security

2. Power of Attorney

3. Trusts

b. Judicial Alternatives

There are three judicial alternatives in Alaska: conservatorship, guardianship and civil commitment

1. Conservatorship

A. AS 13.26.165 states that a conservator may be appointed in relation to the estate and affairs of a person if the court determines that:

i. the person is unable to manage his property and affairs effectively for reasons such as mental illness, mental deficiency, advanced age, chronic use of drugs, chronic intoxications, confinement, detention by a foreign power, or disappearance; and

ii. the person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by him and that protection is necessary or desirable to obtain or provide funds

B. This may be an appropriate course of action in a case of exploitation if the elderly person lacks the capacity to manage his property.

2. Guardianship

A. Under AS 13.26 a guardian may be appointed for an "incapacitated person," i.e., "a person whose ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that he lacks the ability to provide for himself the essential requirements for his physical health or safety without court-ordered assistance."

B. AS 13.26.090 states:

Guardianship for an incapacitated person shall be used only as is necessary to promote and protect the well-being of the person, shall be designed to encourage the development of

maximum self-reliance and independence of the person, and shall be ordered only to the extent necessitated by the person's actual mental and physical limitations. An incapacitated person for whom a guardian has been appointed is not presumed to be incompetent and retains all legal and civil rights except those which have been expressly limited by court order or have been specifically granted to the guardian by the court.

- C. LRSE points out that this is a "drastic remedy" and "rarely constitutes the needed and least restrictive option which is required by the large class of persons in need of protective services. Agencies often look to a guardianship as a means of getting decisions made that the elderly person refuses to make. Thus, it becomes a tool to enforce the service agencies' notions of (supposedly) the 'best interests' of the client."

3. Civil Commitment

AS 47.30.655 - 47.30.915 outlines the procedure for involuntary commitment procedures for a person alleged to be mentally ill and, as a result of that condition, alleged to be gravely disabled or to present a likelihood of serious harm to himself or others.

VII. STATE INTERVENTION AND PROTECTIVE LEGISLATION

"Elder Abuse in Massachusetts: A Survey of Professionals and Paraprofessionals" conducted by LRSE indicated "that in a majority of the reported cases of abuse the elderly client is unable or unwilling to pursue a legal remedy on his/her own behalf. The survey results indicate that in a large proportion of cases a barrier to service provisions existed. The greatest percentage reported that this barrier was the refusal of the victim to acknowledge the problem or take action about it."

"The abuse, exploitation, neglect and abandonment of persons sixty and older often affects individuals who are infirm, confused and dependent. These persons may lack the physical ability or mental capacity to seek services or to consent to assistance. In such cases, remedies which require the initiation of the client are insufficient."

The issues of how and when to intervene in elder abuse cases in such cases poses a dilemma.

"Thus, is raised the classic conflict between the right of the individual to privacy and self-determination in opposition to the power of the state to intervene where state interests of protection of vulnerable persons exist.

Basic to our legal system is the individuals' right of self-determination and right to privacy. This constitutional right is an expression of the sanctity of individual free choice and self-determination as fundamental constituents of life. The individual's civil rights are not absolute or without limit. The state can and does intervene by regulation and prohibiting certain behavior. Intervention by the state results from a balancing of the state's interests against the interests of the individual to be left alone. The

parameters of state intervention are often unclear, reflecting historical and social trends,

Theoretically, state intervention occurs pursuant to two legal concepts:

- a. the police power gives the state authority to regulate activities that involve the health and safety of society;
- b. parens patriae gives the state authority to act in a parental capacity for persons who cannot care for themselves or who are dangerous to themselves.

While the state's exercise of its police powers has theoretically always been limited by the strictest of procedural safeguards in order to protect the individual from deprivation of his/her constitutional rights, the exercise of the parens patriae power has traditionally been marked by an atmosphere of informality. These informal procedures have been justified by the impression that the court's determination was to be based solely on the individual's 'best interest,' thus, eliminating the need for an adversarial process. This reasoning, although still adhered to, conflicts with reality in that the exercise of parens patriae often includes serious limitations on individual rights in the form of involuntary placement or institutionalization. Although clearly an infringement of the individual's rights, this rationale continues to enable the state to act in the supposed 'best interests' of the individual, often with minimal due process safeguards."

"The issues raised by this legislation are controversial, as well as complicated. Any discussion involves complex questions of a legal, medical and psychological nature. To these questions one brings the need for the intricate and delicate balance between the principle that society has the duty to protect those unable to protect or provide for themselves, and the constitutionally assured right of personal choice and individual freedoms.

The critical provisions of an abuse reporting and protective services law are those which determine and define how this conflict, between individual rights and state intervention, is resolved. These provisions primarily center around the definition of persons covered by the law, the standards for reporting and investigation as they affect rights of privacy and confidentiality, the right of access into private homes to investigate and to provide services, and due process safeguards in the determination and provision of involuntary services. In addition, there is the critical issue whether such laws are linked with service provision systems capable of meeting the needs of persons under the purview of the law. Further, the payment procedures for these services causes administration and legal difficulties.

Persons Covered

The premise of the protective services legislation is that persons exist in society who are unable to care for and/or protect themselves. Society, in the form of the State, as parens patriae, assumes the responsibility of this care and protection. The criteria for State intervention should clearly be one linked to the existence of abuse, neglect, exploitation and/or abandonment and a functional, mental or physical, inability to care for or protect oneself. The scope of the law and the determination of need on the part of persons covered should be defined according to this premise to

assure that vulnerable persons who are abuse victims are protected and reached by services."

VIII. LRSE STATUTORY RECOMMENDATIONS

The following are the LRSE recommendations for a protective services and abuse reporting statute:

1. The law should apply to persons sixty and over who are abused, neglected, exploited or abandoned, and to persons 18 and older who lack the physical or mental capacity to care for their basic needs and/or protect themselves.
2. Abuse includes, but is not limited to, the willful infliction of physical pain, injury or mental anguish, or the willful deprivation by a caretaker of services which are necessary to maintain physical or mental health.

Neglect refers to an elderly or incapacitated person who is either living alone and not able to provide for him/herself the services which are necessary to maintain physical and mental health, or is not receiving the said necessary services from the responsible caretaker.

Exploitation refers to the act or process of taking advantage of an elderly or incapacitated person by another person or caretaker whether for monetary, personal, or other benefit, profit or gain.

Abandonment refers to the desertion or willful foresaking of an elderly or incapacitated person by a caretaker and obligations owed an elderly or incapacitated person by a caretaker or other person.

All other terms used should be clearly defined in the statute.

3. One State agency shall be responsible for developing an adult protective services program for all citizens. This designated agency or department shall provide services to persons covered by this statute.
4. A report should be required to be made by certain categories of persons, including physician, nurses, social workers, coroners, medical examiners, dentists, hospital staff, nursing home staff, home health agency and staff, home care corporation (staff and homemakers), clergy, adult foster care facility, police officers, pharmacists, etc.

Anyone of the above categories who has reasonable cause to believe or suspect that an elderly or incapacitated person has been abused, neglected, exploited or abandoned, or is in a condition which is the result of such treatment shall make a report to the appropriate agency within 24 hours.

5. Anyone else who has 'reasonable cause to believe or suspect' may report this information to the appropriate agency.
6. The identity of the reporting person should be confidential and be disclosed only with the consent of that person or by judicial process.

A person acting in good faith who makes a report should be immune from civil and criminal liability.

7. A person required to report, but who fails to do so, should be liable for a fine of \$500 to \$1,000.
8. One State agency should be responsible for receiving and investigating all reports. Each report received should be registered by the agency with all available information from the reporter.

The agency chosen to receive and investigate reports should have a system and personnel to:

- A. receive reports 7 days a week, 24 hours a day;
- B. keep records;
- C. have knowledge of services available;
- D. have access to services;
- E. have a statewide mandate;
- F. have the ability and staff (trained) to respond quickly.

A centralized intake system should be geared into a regional response system if possible.

The investigating agency should also either provide services or coordinate service provision by subcontracting and referral. This should be determined according to existing State service systems.

9. The initial investigation should be conducted by persons trained in human services.
10. Upon receiving a report made in accord with the law, the agency should commence an investigation. This investigation should include a home visit and consultation with service agencies, and persons with knowledge of the case, (including the reporter for further information if possible and necessary). The initial investigation for verification and assessment should be completed within 72 hours. The investigator should have access to a multi-disciplinary geriatric team for consultation.
 - A. If the report is not verified, the case is closed.
 - B. If the report is verified, an assessment of the individual's functional capacity, the situation and the resources available to the person should be made by a multi-disciplinary team with expertise in the particular field of disability.
11. In conducting the investigation, the agency may seek the assistance of law enforcement officials and the courts. If access is denied to the investigator, either by the elderly or incapacitated person or a caretaker, the agency may petition for a court order to enjoin intervention with access to investigate. Such an order shall be issued upon specific facts shown that: 1) there is a reasonable cause

to suspect that the person in question is or has been abused, neglected, exploited or abandoned; and 2) access has been denied to the representatives of the agency required to investigate such reports.

12. Regulations should be promulgated which assure continuity of case management for investigation, assessment, case plan development and service provision.
13. Voluntary services shall be provided for the least restrictive alternative, client self-determination, and continuity of care.

A fair hearing procedure should be developed and implemented so that any service plan can be appealed on denial of application for specific services or for failure to provide the least restrictive alternative.

14. The department/agency should establish by regulation a sliding fee scale to be used in determining fees for services provided on a voluntary basis.

The department should maximize all available Federal reimbursements for such services. There should be no charge to the individual in question for the cost of the investigation, assessment, etc. These costs are to be borne by the State.

15. If an adult refuses services or withdraws consent, the agency must terminate intervention proceedings. This is consistent with the right of the adult to refuse treatment. The case is closed unless the department seeks to provide services pursuant to involuntary provision procedures.

16. Standards of non-emergency involuntary intervention and services provision must include the following:

- A. Assessment of need and eligibility

adult refuses services
lacks capacity to consent
no one else can/willing to consent (See #22)

- B. Clear and convincing evidence

- C. Least restrictive alternative; non-institutional placement where possible

- D. a geriatric/clinical assessment by social worker, physician, mental health practitioner, lawyer to assure appropriate case plan and placement should be required to any court order.

- E. Placement shall not be made in a mental institution, nor will any proceeding be a determination of incompetency.

17. Any voluntary service provision or placement shall only be authorized pursuant to a court order after a hearing on the merits.

The adult in question shall be assured the right to counsel; if she/he is indigent, the court shall appoint counsel. The adult shall also

have the right to be present and to cross-examine the parties involved. If counsel is waived, the court shall appoint a guardian ad litem to act in the interest of the adult in question.

18. Adequate notice should be assured. At least 14 days prior to the hearing, the court should order served upon the person and any interested party, a copy of the petition and notice including an explanation of the proceedings, the date, time and location; the proposed service plan; and the rights of the adult in question at said hearing to counsel, to be present, etc.
19. The court order for any protective placement must be specific as to such placement, including reasons for finding it necessary and that it is the least restrictive alternative. This should be stated in the court record.
20. The initial care plan submitted to the court should specify details of services, medical treatment, and relocation. The court order issued should be specific as to services, treatment, placement approved.

Any modification can only be made pursuant to court order.

21. The court should limit the order to six months or less; upon court review, it can be extended for another period of time (up to six months).
22. The determination of 'lacks the capacity to consent' should be made according to the following:

the adult bases decisions on delusions or hallucinations, is unable to make or implement decisions, or is unable to comprehend a decision's effect. The decision itself for refusing services cannot be the sole evidence for finding the person lacks capacity to consent.

23. Involuntary services should be borne by the State unless a court, after a determination of financial ability, orders the client to pay or the client agrees to pay.
24. Standards of emergency involuntary intervention and service provision must include the following:

Emergency means that an elderly or incapacitated person is living in conditions which present a substantial risk of death or immediate and serious physical harm to him/herself or others:

a finding based on clear and convincing evidence that the adult in question is incapacitated and in need of services,

an emergency exists,

the individual lacks the capacity to consent, no one else can/is willing to consent,

the proposed order is substantially supported by the findings.

25. In issuing an emergency order, the court shall adhere to the following limitations:

- A. The court should specifically order those services necessary to remove the conditions creating the emergency.
- B. Hospitalization or change of residence shall not be included unless specifically ordered by the court upon a finding that such action is necessary.
- C. Emergency intervention should be limited to a period of 72 hours, renewable for 72 hours upon a showing to court of necessity to remove emergency conditions.
- D. Court should appoint a temporary guardian with responsibility for the person's welfare and authority to give consent for emergency services (as ordered by the court) for the duration of the order.
- E. Court should provide that the elderly person is assured all rights except those limitations provided for in the order.
- F. Access to the premises will be ordered by the court to carry out the order in cases where voluntary access has been denied.

26. Notice shall be provided (including relevant and factual information of the basis of the petition) to the person, his/her spouse, children, next of kin, or guardian at least 24 hours prior to the hearing.

This notice may be waived upon a showing that: 1) immediate and reasonable foreseeable physical harm will result from the delay; and 2) reasonable attempts have been made to give notice to the above parties.

27. Emergency placement: If it appears probable from the personal observation of a police officer that an elderly person will suffer immediate and irreparable physical injury or death if medical care is not provided, and that person is incapable of giving consent, and that it is not possible to follow the hearing procedures, that officer should be able to transport the person to an appropriate medical facility for medical treatment.

Notice of this action shall be given to persons listed in #26 within four hours. A petition for emergency medical intervention should be required to be filed within 24 hours of this action and a hearing should be held with all due process guarantees within 48 hours of the transfer.

28. In all cases, the drafting and adoption of adult protective service provisions should be linked with the developing of extensive service systems which emphasize alternatives to institutional care."

Alaska Statutes

Title 47. Welfare, Social Services and Institutions.

Chapter

- 05. Administration of Welfare, Social Services and Institutions (§§ 47.05.010 — 47.05.060)
- 07. Medical Assistance for Needy Persons (§§ 47.07.010 — 47.07.080)
- 08. Catastrophic Illness Assistance (§§ 47.08.010 — 47.08.140)
- 10. Delinquent Minors and Children in Need of Aid (§§ 47.10.010 — 47.10.290)
- 15. Uniform Interstate Compact on Juveniles (§§ 47.15.010 — 47.15.080)
- 17. Child Protection (§§ 47.17.010 — 47.17.070)
- 20. Exceptional Children (§§ 47.20.005 — 47.20.050)
- 21. Adventure-Based Education (§§ 47.21.010 — 47.21.020)
- 23. Child Support Enforcement Agency (§§ 47.23.010 — 47.23.280)
- 25. Destitute and Needy Persons (§§ 47.25.010 — 47.25.990)
- 30. Mentally Ill and Insane Persons (§§ 47.30.010 — 47.30.620)
- 35. Private Institutions (§§ 47.35.010 — 47.35.100)
- 37. Uniform Alcoholism and Intoxication Treatment Act (§§ 47.37.010 — 47.37.270)
- 40. Purchase of Services (§§ 47.40.010 — 47.40.080)
- 45. Alaska Longevity Bonus (§§ 47.45.010 — 47.45.170)
- 50. Office of Child Advocacy (§§ 47.50.010 — 47.50.050)
- 60. Multi-Purpose Senior Centers (§§ 47.60.010 — 47.60.090)
- 70. Interstate Compact on the Placement of Children (§§ 47.70.010 — 47.70.080)
- 75. Social Services Planning (§§ 47.75.010 — 47.75.060)
- 80. Persons with Handicaps (§§ 47.80.010 — 47.80.900)

Chapter 05. Administration of Welfare, Social Services and Institutions.

Section

- 10. Duties of department
- 20. Confidential character of public assistance records
- 30. Misuse of public assistance lists and records

Section

- 40. Consent to conditions of federal programs
- 50. Policy
- 60. Purpose and policy relating to children

Sec. 47.05.010. Duties of department. The Department of Health and Social Services shall

§ 47.30.915

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§ 47.30.915 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.30.915

(11) "mental health professional" means a psychiatrist or physician who is licensed to practice in this state or employed by the federal government; a clinical psychologist licensed by the state Board of Psychologists and Psychological Associate Examiners; a psychological associate with a clinical psychology or counseling specialty licensed by the Board of Psychologists and Psychological Associate Examiners; a registered nurse with a master's degree in psychiatric nursing, licensed by the State Board of Nursing; and a social worker with a master's degree in social work and experience in the field of mental illness;

(12) "mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on an individual's ability to exercise conscious control of his actions or ability to perceive reality or to reason or understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness;

(13) "peace officer" includes a state police officer, municipal or other local police officer, state, municipal, or other local health officer, public health nurse, United States marshal or deputy United States marshal, or a person authorized by the court;

(14) "provider of outpatient care" means a mental health professional or hospital, clinic, institution, center, or other health care facility designated by the department to accept for treatment patients who are ordered to undergo involuntary outpatient treatment by the court or who are released early from inpatient commitments on condition that they undergo outpatient treatment;

(15) "screening investigation" means the investigation and review of facts which have been alleged to warrant emergency examination or treatment, including interviews with the persons making the allegations, any other significant witnesses who can readily be contacted for interviews, and if, possible, the respondent, and an investigation and evaluation of the reliability and credibility of persons providing information or making allegations;

(16) "state" means a state of the United States, the District of Columbia, the territories and possessions of the United States, and the Commonwealth of Puerto Rico, and, with the approval of the United States Congress, Canada;

(17) "professional person in charge" means the senior mental health professional at a facility or his designee; in the absence of a mental health professional it means the chief of staff or a physician designated by the chief of staff. (§ 1 ch 84 SLA 1981)

(51) "sexual contact" means

(A) the intentional touching, directly or through clothing, by the defendant of the victim's genitals, anus, or female breast; or

(B) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(52) "sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(53) "solicits" includes "commands";

(54) "threat" means a menace, however communicated, to engage in conduct described in (1) — (7) of AS 11.41.520(a) but under (1) of that subsection includes all threats to inflict physical injury on anyone;

(55) "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled

(A) to a trial by jury; or

(B) to have a public defender or other counsel appointed at public expense to represent him;

(56) "voluntary act" means a bodily movement performed consciously as a result of effort and determination, and includes the possession of property if the defendant was aware of his physical possession or control for a sufficient period to have been able to terminate it. (§ 10 ch 166 SLA 1978; am §§ 29 — 32 ch 102 SLA 1980; am §§ 12 — 14 ch 45 SLA 1982; am §§ 12 — 15 ch 143 SLA 1982)

Effect of amendments. — The 1980 amendment, in subsection (b), inserted "any deadly weapon or" preceding "anything which" near the beginning of paragraph (11), and deleted "'dangerous instrument' includes 'deadly weapon'" at the end of paragraph (11); inserted "or pointing" preceding "a firearm" near the middle of paragraph (12), and added "and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument" at the end of paragraph (12); rewrote paragraph (21); and substituted "body member or" for "bodily" preceding "organ" near the end of paragraph (49).

The first 1982 amendment, effective January 1, 1983, in subsection (b), substituted "AS 11.71.900(10), (11), and (14)" for "AS 17.12.150" in paragraph (4) and rewrote paragraphs (6) and (16).

The second 1982 amendment, in subsection (a), added the language beginning

"when intentionally causing a particular result" to the end of paragraph (1), and in subsection (b), inserted "government" in paragraph (37), inserted "including data or information stored in a computer program, system, or network," "a domestic pet or livestock regardless of value," and "a" preceding "public utility" in paragraph (44), added the subparagraph (A) and (B) designations in paragraph (49), substituted "caused by an act performed under circumstances that create" for "which creates" in subparagraph (49)(A), and substituted "physical injury that" for "which" and "that unlawfully terminates" for "physical injury which unlawfully terminates" and deleted "or" preceding "protracted loss" in subparagraph (49)(B).

Editor's notes. — For declaration for legislative purpose, see § 1, ch. 45, SLA 1982 in the 1982 Temporary and Special Acts and Resolves.

(Title effective January 1, 1973)

Sec. 13.21.065. Service on foreign personal representative. (a) Service of process may be made upon the foreign personal representative by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first-class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately before death.

(b) If service is made upon a foreign personal representative as provided in (a) of this section, he shall be allowed at least 30 days within which to appear or respond. (§ 1 ch 78 SLA 1972)

Article 4. Judgments and Personal Representative.

Section 75. Effect of adjudication for or against personal representative

Sec. 13.21.075. Effect of adjudication for or against personal representative. An adjudication rendered in any jurisdiction in favor of or against any personal representative of the estate is as binding on the local personal representative as if he were a party to the adjudication. (§ 1 ch 78 SLA 1972)

Chapter 26. Protection of Persons Under Disability and Their Property.

Article

- 1. General Provisions (§§ 13.26.005—13.26.020)
- 2. Guardians of Minors (§§ 13.26.030—13.26.085)
- 3. Guardians of Incapacitated Persons (§§ 13.26.095—13.26.155)
- 4. Protection of Property of Persons Under Disability and Minors (§§ 13.26.165—13.26.315)
- 5. Powers of Attorney (§§ 13.26.325—13.26.330)

Article 1. General Provisions.

Section 05. Definitions and use of terms	Section 15. Facility of payment or delivery
10. Jurisdiction of subject matter; consolidation of proceedings	20. Delegation of powers by parent or guardian

Sec. 13.26.005. Definitions and use of terms. Unless otherwise apparent from the context, in this code:

(1) "incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient

utory period depends on the character of the property. One test is whether the adverse possessor has used and enjoyed the land as "an average owner of similar property would use and enjoy it." Alaska Nat'l

Bank v. Linck, Sup. Ct. Op. No. 1372 (File No. 2754), 559 P.2d 1049 (1977).

Applied in *Classen v. State, Dep't of Hwys.*, Sup. Ct. Op. No. 2246 (File No. 4332), 621 P.2d 15 (1980).

Sec. 09.25.060. Sale or transfer of personal property.

NOTES TO DECISIONS

This section establishes, etc.

In accord with original. See *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

And this presumption is rebuttable.

In accord with original. See *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

The presumption serves, etc.

In accord with 1st paragraph in original. See *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

In accord with 2nd paragraph in original. See *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Once the presumption is established the opposing party has the burden of proving that the non-existence of the presumed fact is more probable than its existence. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

The only effect resulting from a presumption of fraud being a statutory presumption is that the party asserting fraud does not have to introduce evidence of fraudulent intent. He still must plead and prove the conditions necessary to invoke the presumption. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Presumption of prima facie fraud construed as affirmative defense. — The presumption of prima facie fraud established by this section should be construed as an affirmative defense in the same manner as actual fraud. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

A statutory presumption of fraud, similar to fraud, falls within the definition of an adverse defense since a simple denial of the complaint would not raise such a defense. *Rollins v. Leibold*, Sup. Ct. Op.

No. 910 (File No. 1646), 512 P.2d 937 (1973).

Which must be specially pleaded. — A statutory presumption of fraud thus should be considered an affirmative defense, subjecting the party to the requirement of Civ. R. 8(c) that such a defense be specially pleaded. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Or be waived. — Civil R. 8(c) requires a party to plead affirmatively fraud as a defense, and failure to so plead results in a waiver of the defense. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Party not prejudiced by raising issue of fraud at trial. — Where a party was on notice that the defense that the sale was ineffective due to the lack of delivery and change of possession of the property would be raised at trial, since these are the factual bases for the statutory presumption of fraud, it does not appear that he was prejudiced by the raising of the issue and the resulting instruction of the court, even though the defense was not affirmatively pleaded. *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Review where issue of fraud not raised in pleadings. — Even if the issue of fraud has not been raised in the pleadings of the parties, a party is still entitled to review of the issue on appeal if the issue was tried by the express or implied consent of the parties, under Civ. R. 15(b). *Rollins v. Leibold*, Sup. Ct. Op. No. 910 (File No. 1646), 512 P.2d 937 (1973).

Quoted in *First Nat'l Bank v. Enzler*, Sup. Ct. Op. No. 1170 (File No. 2181), 537 P.2d 517 (1975).

Sec. 09.25.110. Inspection and copies of public records.

NOTES TO DECISIONS

For discussion of the history of this section, see *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op.

No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Broad policy. — This section and AS 09.25.120 articulate a broad policy of open records. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The "agencies and departments" language used in this section must be read as referring to the agencies and departments of the governments to which the statute applies, but that language itself does not define what the applicable level of government is. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in this section and AS 09.25.120 with "officer" refers both to state and local officials. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Application to municipalities. — The provisions of this section are applicable to municipalities. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op.

No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe this section and AS 09.25.120 as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular, requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Sec. 09.25.120. Inspection and copying of public records.

NOTES TO DECISIONS

For discussion of the history of this section, see *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Broad policy. — AS 09.25.110 and this section articulate a broad policy of open records. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Effect of "in the state" language. — When the legislature chose to say "in the state," and not "of the state" in the first sentence of this section, they were conscious of the fact that they were defining scope and had it been intended to limit the application of this section to state agencies and departments, it could easily and clearly have done so. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

The word "public" as used in AS 09.25.110 and this section with "officer" refers both to state and local officials. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Application to municipalities. — The provisions of AS 09.25.110 and this section are applicable to municipalities. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

In light of the common law rule, legislative history, and the court's reading of the sections, the state supreme court will construe AS 09.25.110 and this section as that court would have construed them prior to 1957, which is as a strong legislative declaration that records in the possession of municipalities shall be available for public inspection, subject to exceptions based on need. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op.

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular, requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Sec. 09.25.121. copy of a public record of the Department of Corrections. — A copy of a public record of a person to be placed in a public record shall be made available to the division of veterans' affairs. (AS 09.25.121 SLA 1981)

Cross references. veterans of the armed forces. — AS 09.25.1070. Editor's notes. —

Sec. 09.25.125. custody or control of a public record or another person in possession of a public record may be enjoined to obstruct, the provisions of AS 09.25.110 or

Sec. 09.25.160.

Cited in *Allred v. State*, 1304 (File No. 2343)

Sec. 09.25.220. the context of other provisions (1) "privilege" of officials and representatives (2) "public officer" by the Constitution or judicial, and the provision for which

No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Disclosure of applications for public posts. — Strong public interest in the disclosure of the affairs of government generally, and in an open selection process for high public officials in particular

requires public disclosure and inspection of applications for posts having substantial discretionary authority. *City of Kenai v. Kenai Peninsula Newspapers, Inc.*, Sup. Ct. Op. No. 2479 (File Nos. 4954, 5433), 642 P.2d 1316 (1982).

Sec. 09.25.121. Copies of public records for veterans. When a copy of a public record is required by the division of veterans' affairs, Department of Commerce and Economic Development or by the United States Veterans' Administration to be used in determining the eligibility of a person to participate in benefits, the official custodian of the public record shall, without charge, provide the applicant for the benefits, a person acting on his behalf, or an authorized representative of the division of veterans' affairs or the United States Veterans' Administration with a certified copy of the record. (AS 09.25.123; § 1 ch 35 SLA 1981)

Cross references. — As to records of veterans of the armed forces, see AS 26.10.070.

enacted as AS 09.25.123 but was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Editor's notes. — This section was

Sec. 09.25.125. Enforcement: Injunctive relief. A person having custody or control of a public record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a public record subject to inspection under AS 09.25.110 or 09.25.120 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of public records subject to inspection under AS 09.25.110 or 09.25.120. (§ 1 ch 74 SLA 1975)

Sec. 09.25.160. Challenge of privilege.

NOTES TO DECISIONS

Cited in *Allred v. State*, Sup. Ct. Op. No. 1304 (File No. 2343), 554 P.2d 411 (1976).

Sec. 09.25.220. Definitions. In AS 09.25.150 — 09.25.220, unless the context otherwise requires,

(1) "privilege" means the conditional privilege granted to public officials and reporters to refuse to testify as to a source of information;

(2) "public official" means a person elected to a public office created by the Constitution or laws of this state, whether executive, legislative or judicial, and who was holding that office at the time of the communication for which privilege is claimed;

18.50.380; (2) records pertaining to juveniles; (3) medical and related public health records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and on payment of the legal fees therefor a certified copy of the writing or record, and the copy shall in all cases be evidence of the original. Recorders shall permit memoranda, transcripts, and copies of the public writings and records in their offices to be made by photography or otherwise for the purpose of examining titles to real estate described in the public writings and records, making abstracts of title or guaranteeing or insuring the titles of the real estate, or building and maintaining title and abstract plants; and shall furnish proper and reasonable facilities to persons having lawful occasion for access to the public writings and records for those purposes, subject to reasonable rules and regulations, in conformity to the direction of the court, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the recorders and their employees. (§ 3.23 ch 101 SLA 1962)

Cross references.—See Civ. R. 44—preservation of public records, see AS (b)(1). As to management and preservation—40.21.

Sec. 09.25.130. Effect of private seals and scrolls. Private seals and scrolls as a substitute for seals are abolished. They are not required to an instrument, but when used their effect remains unchanged. (§ 3.10 ch 101 SLA 1962)

Sec. 09.25.150. Claiming of privilege by public official or reporter. Except as provided in §§ 150—220 of this chapter, no public official or reporter may be compelled to disclose the source of information procured or obtained by him while acting in the course of his duties as a public official or reporter. (§ 1 ch 115 SLA 1967)

Editor's note.—Section 2, ch. 115, adding to the privileges there listed, SLA 1967, provides: "This bill adds the conditional privilege for public officers and reporters as to sources of information." changes Rule 43(h) of the Supreme Court Rules [of Civil Procedure] by

Sec. 09.25.160. Challenge of privilege. (a) When a public official or reporter claims the privilege in a cause being heard before the supreme court or a superior court of this state, a person who has the right to question him in that proceeding, or the court on its own motion, may challenge the claim of privilege. The court shall make or cause to be made whatever inquiry the court thinks necessary to a determination of the issue. The inquiry may be made instantaneously by way of questions put to the witness claiming the privilege and a decision then rendered, or the court may require the presence of other witnesses or documentary showing or may

by other departments of the executive branch when the commissioner determines that the needs of the other departments will be best served by the authorization. Nothing in this section precludes the department from obtaining necessary contractual assistance for automatic data processing activities. Nothing in this section precludes the legislature or judicial system from recruiting and employing data processing personnel or from obtaining necessary contractual assistance for automatic data processing activities.

(f) The division of data processing shall coordinate with the divisions of telecommunications in providing for the effective transfer of information by telecommunications through the establishment of compatible systems and common standards. (§ 2 ch 170 SLA 1972; am Executive Order No. 50, § 8 (1981))

Effect of amendments. — The 1981 amendment added subsection (f).

Article 4. Older Alaskans Commission.

Section	Section
200. Older Alaskans Commission	230. Powers, duties, and limitations
210. Meetings	240. Definitions
220. Compensation	

Sec. 44.21.200. Older Alaskans Commission. (a) The Older Alaskans Commission is established in the Department of Administration. The members of the commission include

- (1) the commissioner of the Department of Administration or the commissioner's designee;
- (2) the commissioner of the Department of Community and Regional Affairs or the commissioner's designee;
- (3) the commissioner of the Department of Health and Social Services or the commissioner's designee;
- (4) the chairman of the Pioneers' Homes Advisory Board appointed under AS 44.21.100 — 44.21.130; and
- (5) seven Alaskans selected on the basis of their knowledge and demonstrated interest in the concerns of older Alaskans, appointed by the governor in accordance with (b) of this section.

(b) After requesting from senior citizens organizations the names of persons who are qualified for and interested in serving on the commission, the governor shall appoint the members of the commission under (a)(5) of this section. Appointments shall be made by the governor to assure representation of low-income persons and minorities, and representation from rural and urban areas of the state, and to secure statewide geographical representation on the commission. At least six of the persons appointed by the governor shall be 60 years of age or

older. At least two of these persons shall be 65 years of age or older. Each member appointed by the governor shall be a resident of the state.

(c) The persons appointed under (a)(5) of this section serve overlapping four-year terms, and serve at the pleasure of the governor. A member may be reappointed, but no member appointed under (a)(5) of this section may serve more than two consecutive terms or eight consecutive years, whichever is longer.

(d) If a person appointed under (a)(5) of this section fails to attend three consecutive meetings of the commission, a majority of the members of the commission may request the governor to terminate the membership of the member and to fill the vacancy.

(e) A vacancy in the membership of persons appointed under (a)(5) of this section shall be filled by appointment by the governor. The person appointed shall serve for the unexpired portion of the term. (§ 2 ch 79 SLA 1981)

Editor's notes. — Section 13, ch. 79, SLA 1981, provides: "INITIAL MEMBERSHIP AND MEETING OF COMMISSION (a) Of the seven public members first appointed by the governor to the Older Alaskans Commission under AS 44.21.200(a)(5),

- (1) three shall serve a term of two years;
- (2) two shall serve a term of three years;
- (3) two shall serve a term of four years.
- (b) In making appointments of the first

public members of the Older Alaskans Commission under AS 44.21.200(a)(5), the governor shall designate an expiration date of the terms of members first appointed in accordance with (a) of this section.

(c) The governor shall determine the date and place of the first meeting of the Older Alaskans Commission; however, that meeting shall be held not later than 60 days after the effective date of this Act.

Sec. 44.21.210. Meetings. (a) The commission shall meet at the call of the chairperson, at the request of a majority of the members, or at a regularly scheduled time as determined by a majority of the members. The commission shall meet at least six times each year.

(b) The members of the commission listed in AS 44.21.200(a)(1) — (4) may not vote on matters before the commission. A majority of the members of the commission listed in AS 44.21.200(a)(5) constitutes a quorum for conducting business and exercising the powers of the commission.

(c) The commission shall elect one of its members as chairperson, and may select other officers it considers necessary. (§ 2 ch 79 SLA 1981)

Sec. 44.21.220. Compensation. Members of the commission receive no compensation for their services, but are entitled to per diem and travel allowances authorized by law for other boards and commissions under AS 39.20.180. (§ 2 ch 79 SLA 1981)

Sec. 44.21.230. Powers, duties, and limitations. (a) The commission shall

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Sec. 18.65.270. Applicability of Administrative Procedure Act. AS 18.65.150 — 18.65.290 shall be administered in compliance with the Administrative Procedure Act (AS 44.62). (§ 1 ch 178 SLA 1972)

Sec. 18.65.280. Exemptions. (a) The commissioner and deputy commissioner of public safety and the chief administrative officers of local police departments are exempt from the requirements of AS 18.65.240. However, a person appointed chief of a local police department after July 1, 1981, who performs any operational duties, shall meet the requirements of AS 18.65.240(a)(1).

(b) A political subdivision with an established police training program meeting the requirements of AS 18.65.220(2) and (3) may exclude itself from the requirements of AS 18.65.240 by ordinance. The exclusion has no effect on eligibility to receive federal or state grants. (§ 1 ch 178 SLA 1972; am § 9 ch 19 SLA 1981)

Revisor's notes. — The words "a political subdivision" were substituted for "any local government" in subsection (b) by the revisor of statutes pursuant to AS 01.05.031. **Effect of amendments.** — The 1981 amendment rewrote this section.

Sec. 18.65.290. Definitions. In AS 18.65.130 — 18.65.290

(1) "council" means the Alaska Police Standards Council;

(2) "police officer" means a full-time employee of the state or a local police department with the authority to arrest and issue citations; detain a person taken into custody until that person can be arraigned before a judge or magistrate; conduct investigations of violations of and enforce criminal laws, regulations and traffic laws; search with or without a warrant persons, dwellings, and other forms of property for evidence of a crime; carry a concealed weapon; and take other action consistent with exercise of these enumerated powers when necessary to maintain the public peace;

(3) "chief administrative officer" means a chief of police or other official who is head of a police department in a political subdivision. (§ 1 ch 178 SLA 1972; am §§ 10, 11 ch 19 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote paragraph (2) and added paragraph (3).

Opinions of attorney general. — To be a police officer within the meaning of this statute, an officer must be currently working full time for a police department, that is an organized civil force whose basic purpose and function is to maintain peace and order and to prevent and investigate criminal offenses. September 18, 1977, Op. Att'y Gen.

As applied to the coverage of AS 18.65.130 — 18.65.290, the term "police officer" is more restrictively defined than the definition in AS 01.10.060(6) to include all those full-time employees of police departments administered by the state or one of its political subdivisions, who have full police duties and the authority to enforce all of the laws of the State of Alaska which carry a penalty for their violation. September 18, 1977, Op. Att'y Gen.

Comparing the classification of "peace officer" in AS 01.10.060(6) with that of "police officer," it is apparent that police officers, as defined in paragraph (2), are always peace officers since they have full police duties that are exercised on a full-time basis. However, the converse of

has
statute info
already

HB 197

83

amendment

background for amendment
15th

"protection of the
elderly"

Kathy Nieto

344-0056 arch.

pamphlets explaining
purpose of

AS47.17.070 DOCUMENT= 2 OF 2 PAGE = 1 OF 3
CHAPTER = 47.17
SECTION = 47.17.070
TITLE = 47

HEADINGS TITLE 47.
WELFARE, SOCIAL SERVICES AND INSTITUTIONS.
CHAPTER 17.
CHILD PROTECTION.

CITATION SEC. 47.17.070.

CATCH LINE

DEFINITIONS.

TEXT IN AS 47.17.010 - 47.17.070

(1) "CHILD ABUSE OR NEGLECT" MEANS THE PHYSICAL INJURY OR NEGLECT, SEXUAL ABUSE, SEXUAL EXPLOITATION, OR MALTREATMENT OF A CHILD UNDER THE AGE OF 18 BY A PERSON WHO IS RESPONSIBLE FOR THE CHILD'S WELFARE UNDER CIRCUMSTANCES WHICH INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS HARMED OR THREATENED THEREBY;

(2) "CHILD" MEANS A PERSON UNDER 18 YEARS OF AGE;

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES;

AS47.17.070 DOCUMENT= 2 OF 2 PAGE = 2 OF 3

(4) "INSTITUTION" MEANS A PRIVATE OR PUBLIC HOSPITAL OR OTHER FACILITY PROVIDING MEDICAL DIAGNOSIS, TREATMENT, OR CARE;

(5) "NEGLECT" MEANS THE FAILURE TO PROVIDE NECESSARY FOOD, CARE, CLOTHING, SHELTER, OR MEDICAL ATTENTION FOR A CHILD;

(6) "PRACTITIONER OF THE HEALING ARTS" INCLUDES CHIROPRACTORS, DENTISTS, HEALTH AIDES, NURSES, OPTOMETRISTS, OSTEOPATHS, PHYSICAL THERAPISTS, PHYSICIANS, PSYCHIATRISTS, PSYCHOLOGISTS, RELIGIOUS HEALING PRACTITIONERS, AND SURGEONS;

(7) "SEXUAL EXPLOITATION" MEANS

(A) PERMISSION OR ENCOURAGEMENT TO A CHILD FOR PROSTITUTION PROHIBITED BY AS 11.66.100 - 11.66.150 BY A PERSON RESPONSIBLE FOR THE CHILD'S WELFARE;

(B) PERMISSION, ENCOURAGEMENT, OR ACTIVITY INVOLVED IN THE UNLAWFUL EXPLOITATION OF A MINOR PROHIBITED BY AS 11.41.455 BY A PERSON RESPONSIBLE FOR THE MINOR'S WELFARE.

HISTORY (SEC. 1 CH 100 SLA 1971; AM SEC. 6 CH 104 SLA 1971; AM SEC. 3 CH 222 SLA 1976; AM SECS. 56, 57 CH 94 SLA 1980; AM SECS. 8, 9 CH

STAFF REPORT

HB 192, PROTECTION OF THE ELDERLY

MARCH 10, 1983

Purpose: To protect the elderly from abuse by requiring those working with elderly to report to the Department of Health and Social Services, evidence of abuse when it is observed.

The bill specifies numerous health professionals, and others, who are required to report evidence of abuse. "Abuse" means the infliction of physical pain, injury, or mental anguish, or the deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

The Department of Health and Social Services suggests a change to add the word "willful" before the word "deprivation". The drafter of the bill suggests that since the bill is directed at the reporting of abuse, not the prosecution of those inflicting the abuse, the determination of intent should not be left up to the reporter. Thus, the addition is not necessary.

Failure by those obligated by the bill to report abuse is classed as a "violation" (AS 11.81.900). A violation is a non-criminal offense punishable by fine, but not imprisonment or other penalty. No jury trial or public defender is authorized. In the event that immediate harm seems imminent, the report of abuse must be made to a police officer who must act to protect the subject.

A person making a report of abuse in good faith is immune from civil or criminal liability.

The DHSS must investigate and report on each case of abuse brought to it. The DHSS must provide protective services as are available to the elderly. The Department is authorized to implement regulations to carry out the act. The regulations must be approved by the Older Alaskans Commission.

(F) 1555

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 2-11-83
Title: An Act relating to protection of the elderly
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2-16-83

Approved by Commissioner: *[Signature]* Date: 2/25/83
Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 3/3/83
 Title: "An Act relating to protection of the elderly"
 Sponsor: Rep. Clocksin
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86	
Capital							
Operating							
Total			-0-	-0-	-0-		

b. Revenues:

Revenue							
---------	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Jon B. Wolfe, Executive Director *Jon B. Wolfe* Phone: 465-3250
 Division: Older Alaskans Commission Date: 3/3/83

Approved by Commissioner: _____ Date: _____
 Department: _____

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Administration	Sponsor (Principal) Rep. Clocksin	Bill Number HB 192
Department Position The Older Alaskans Commission supports the enactment of elderly protection legislation and the mandatory reporting of physical abuse of elderly persons.		
Division Director Jon B. Wolfe	Date 3/3/83	Commissioner Date

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 122 Sens. Josephson & Fischer	1. b) Other Agencies Affected by Bill Division of Family and Youth Services, DHSS
2. a) Organizational Support for Bill 1. Anchorage Elder Abuse Task Force 2. Office of Senior Citizen Ombudsman 3. Alaska White House Conference Delegates	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill

The responsibilities assigned to the Commission under this legislation are consistent with current responsibilities and functions and will not require additional staff or expenditures. Under AS 44.21.230 the Commission is authorized to make recommendations with respect to regulations for services that benefit older Alaskans and to receive reports from state agencies concerned with the conditions and needs of older Alaskans.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Commission staff recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 23.

6. Comments:

This legislation is consistent with AS 44.21 and the legislative mandates of the Older Alaskans Commission which seek to ensure health and dignity for the State's elderly. Historically elder abuse is a hidden social problem but one that is encountered by Commission funded senior programs statewide. These programs and the Commission will welcome specific procedures and services for handling these critical problems.

CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84				
				AGENCY			GOVERNOR'S BUDGET	
				CONTINUATION	ADDITION	REQUEST		
1	2	3	4	5	6	7	8	
1.	600	TOTAL LAND, BUILDING, NON-STRUCTURAL IMPROVEMENTS						
2.	600	Land, Building, Etc. (Excluding ASHA Pay)						
3.	628	ASHA Payment						
4.	960	INTER-AGENCY TRANSFERS (NON-ADD)						

5.	700	TOTAL ASSISTANCE GRANTS AND BENEFITS				10.0	10.0	
6.	720	Local Assistance, State Sources						
7.	730	Benefits To Individuals				10.0	10.0	
8.	740	Grants and Awards To Individuals						
9.	750	Grants, Other Agencies						
10.	760	Health Benefits						
11.	970	INTRA-AGENCY TRANSFERS (NON-ADD)						

12.	800	TOTAL MISCELLANEOUS						
13.	810	Debt Service						

CODE	EXPLANATION	CONT. \$	ADDITION \$
730	Special Needs Special needs required for adult clients such as fuel supply and transportation to necessary services.	10,000	10.0

18 LANDS, GRANTS,
AND MISCELLANEOUS

AGENCY Health and Social Services
PROGRAM Social and Economic Assistance for the General Population
ORU Program Services
COMPONENT Adult Services

FY 84

Page 1 of 1
Revised Date _____

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 192 Date on Bill: February 11, 1983
 Title: "An Act relating to protection of the elderly."
 Sponsor: Clocksie
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		17.5	19.3	21.2
Total		17.5	19.3	21.2

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

The funding source was not identified by the authors of the Bill.

3. Assumptions:

Passage of this Bill in its present form would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of impact.

Prepared By: Miranda Price AAT Phone: 465-3170
 Division: Family and Youth Services Date: 3/2/83

Approved by Commissioner: Robert Paulson, M.D. Date: 3/4/83
 Department: Health and Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 02 ACTUAL	CURRENT YEAR FY 03 AUTHORIZED	BUDGET YEAR - FY 84				
				AGENCY			GOVERNOR'S BUDGET	
				CONTINUATION	ADDITION	REQUEST		
1	2	3	4	5	6	7	8	
1.	300	TOTAL CONTRACTUAL				7.5	7.5	
2.	310	Communications						
3.	320	Printing and Advertising				7.5	7.5	
4.	330	Space Expense and Fees						
5.	340	Repair and Maintenance						
6.	350	Utilities Other Than Space						
7.	360	Equipment Rental - Other Than IIWCF and WP						
8.	364	Equipment Rental - Word Processing						
9.	368	Equipment Rental - Highway Working Capital Fund						
10.	370	Judicial Expense						
11.	390	Professional Fees & Services-Excluding Data Processing						
12.	382	Professional Fees & Services-Data Processing						
13.	382a	Data Processing Chargeback						
14.	390	Other Fees or Expenses						
15.	999	INTER-AGENCY TRANSFERS (NON-ADD)						

CODE	EXPLANATION		CONT. \$	ADDITION \$
320	Printing and Advertising Design and developing TV and radio public education announcements. Printing of handouts and regulations.	5,000 2,500 7,500	7.5	

15 CONTRACTUAL SERVICES

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population
BRU Program Services
COMPONENT Adult Services

FY 84

Page 1 of 1
Revised Date _____

MAE



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 192

Hess Committee:

This draft INCORPORATES THE CHANGES REQUESTED EXCEPT THE DEFINITION OF "NEGLECT" P.6, line 23 WAS NOT CHANGED AFTER CONSULTATION WITH THE DRAFTER. "CARETAKER" MEANS A PERSON WITH A LEGAL RESPONSIBILITY TO PROVIDE CARE. CHANGING THE DEFINITION, HE FELT, WOULD HARM THE BILL.

DAVE PALMER

*Call Clocksin
in reference for
work session*

1 IN THE HOUSE

BY CLOCKSIN

2

HOUSE BILL NO. 192

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to protection of the elderly."

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

8 * Section 1. PURPOSE. In order to protect elderly persons from physi-
9 cal harm resulting from abuse, neglect, and abandonment and to assist
10 elderly persons who are ^{defined in other statutes?} unable to protect or care ^{define?} for themselves, the
11 legislature requires the reporting to the state by health professionals and
12 others of cases involving elderly persons who have been or are being phys-
13 ically harmed. It is the intent of the legislature that these reports of
14 harm be investigated and that appropriate protective services be offered in
15 an effort to prevent or alleviate physical harm to the elderly persons of
16 the state. It is further the intent of the legislature to provide immunity
17 from civil or criminal liability to persons making good faith reports of
18 physical or other harm to an elderly person.

19 * Sec. 2. AS 47 is amended by adding a new chapter to read:

20 CHAPTER 24. PROTECTION OF THE ELDERLY.

21 Sec. 47.24.010. REPORTS OF HARM. (a) The following persons
22 who, in the performance of their professional duties, have reasonable
23 cause to believe that an elderly person has suffered physical harm as
24 a result of abuse, neglect, or abandonment shall, not later than 24
25 hours after first having cause for the belief, report the harm to the
26 Department of Health and Social Services:

27 (1) a physician or other licensed health care provider;

28 (2) a mental health professional as defined in AS 47.30.-

29 915(11);

- 1 (3) a pharmacist;
- 2 (4) an administrator or ^{delete} employee of a nursing home, res-
3 idential care or health care facility;
- 4 (5) a guardian or conservator;
- 5 (6) a police officer as defined in AS 18.65.290(2); ^{college public health officer}
- 6 ^{rather than Health Professional} (7) a village health aide; ^{or home health aide}
- 7 (8) a social worker;
- 8 (9) a member of the clergy;
- 9 (10) a staff employee of a project funded by the Older
10 Alaskans Commission. ^{E.M.T. or mobile intensive care paramedics}

11 (b) A report of harm made under this section may include the
12 name and address of the person reporting the harm and shall include

- 13 (1) the name and address of the elderly person;
- 14 (2) information relating to the nature and extent of the
15 abuse, neglect, or abandonment;

16 (3) other information that the person reporting the harm
17 believes might be helpful in an investigation of the case or in pro-
18 viding protection for the elderly person.

19 (c) A person who fails to comply with this section is guilty of
20 a violation as defined in AS 11.81.900(55). ^{not criminal offense}

21 (d) This section does not prohibit a person listed in (a) of
22 this section from reporting cases of physical or other harm to an
23 elderly person that have come to the person's attention in a non-
24 professional capacity, nor does it prohibit any other person from
25 reporting physical or other harm to an elderly person that the person
26 has reasonable cause to believe is a result of abuse, neglect, or
27 abandonment.

28 (e) If immediate action is necessary to protect the elderly
29 person from imminent physical harm, the person shall make the report

1 of harm to a police officer as defined in AS 18.65.290(2). The police
2 officer shall take immediate action to protect the elderly person and
3 shall, at the earliest opportunity, notify the department. *Sub. sec. E*

4 (f) A person who, in good faith, makes a report of physical or
5 other harm to an elderly person under this chapter, or who partici-
6 pates in judicial proceedings related to the submission of reports
7 under this chapter, is immune from any civil or criminal liability
8 that might otherwise be incurred or imposed.

9 Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report
10 of physical harm, the department shall promptly initiate an investiga-
11 tion to determine the physical condition of the elderly person named
12 in the report and whether action or services are needed for the pro-
13 tection of the elderly person. The department shall ^{personally} ~~make a~~ ^(delete) reasonable
14 effort ~~to~~ personally interview the elderly person during the investi-
15 gation. *(plus added words)*

16 (b) The department shall prepare a written report of the inves-
17 tigation, including findings, recommendations, and a determination of
18 whether and what kind of protective services are to be offered to the
19 elderly person. Upon request, the person who reported harm to the
20 elderly person shall be notified of the status of the investigation.

21 (c) The department shall immediately terminate an investigation
22 under this section upon the request of an elderly person who is the
23 subject of a report of harm. However, if the department has reason-
24 able cause to believe that the elderly person is incapacitated, the
25 department may petition the superior court under AS 13.26 for appoint-
26 ment of a guardian or temporary guardian for the elderly person for
27 the purpose of obtaining consent to continue the investigation.

28 Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall
29 provide available protective services to a harmed elderly person if

1 and to the extent to which the elderly person consents. If the de-
2 partment has reasonable cause to believe that the elderly person lacks
3 the capacity to consent to receiving protective services, it may
4 petition the superior court under AS 13.26 for appointment of a guard-
5 ian or temporary guardian for the elderly person for the purpose of
6 obtaining consent.

7 (b) If an elderly person who has consented to receiving protec-
8 tive services is prevented by a caretaker from receiving the services,
9 the department may assist the elderly person to petition the superior
10 court for an injunction restraining the caretaker from interfering
11 with the provision of protective services to the elderly person.

12 Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not
13 later than 90 days after initiating the provision of protective ser-
14 vices to an elderly person, initiate a review of the case to determine
15 whether continuation or modification of protective services that are
16 being provided is warranted. The department shall reevaluate the case
17 every 90 days thereafter until the case is closed.

18 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation
19 reports and reports of harm filed under this chapter are confidential
20 and are not subject to public inspection and copying under AS 09.25.-
21 110 - 09.25.125. However, in accordance with this chapter and depart-
22 ment regulations issued under this chapter, investigation reports may
23 be used by appropriate governmental agencies inside and outside the
24 state, in connection with investigations or judicial proceedings
25 involving abuse, neglect, or abandonment of an elderly person.

26 (b) The department shall disclose a report of harm if the elder-
27 ly person who is the subject of the report consents in writing. The
28 department shall, upon request, disclose the number of verified re-
29 ports of harm that occurred at an institution for care of the elderly.

1 ~~that is certified by the state.~~

2 Sec. 47.24.060. AUTHORITY OF THE DEPARTMENT. In performing its
3 duties under this chapter, the department may, subject to the person's
4 consent, initiate actions necessary to assure the health, safety and
5 welfare of an elderly person, including the transfer of the elderly
6 person from a nursing home, residential care or health care facility.

7 Sec. 47.24.070. REGULATIONS. Regulations to implement this
8 chapter shall be approved by the Older Alaskans Commission (AS 44.21.-
9 200) before adoption by the department.

10 Sec. 47.24.075. EVIDENCE NOT PRIVILEGED. Neither the physician-
11 patient ~~nor the husband-wife~~ privilege is a ground for excluding evi-
12 dence regarding an elderly person's harm, or its cause, in a judicial
13 proceeding related to a report made under this chapter.

14 Sec. 47.24.080. QUARTERLY REPORT. The department shall submit
15 to the Older Alaskans Commission each quarter a statistical report of
16 the department's activities related to the protection of elderly
17 persons in the state. The report may not disclose the identity of
18 victims or perpetrators of the abuse, neglect, or abandonment.

19 Sec. 47.24.100. DEFINITIONS. In this chapter

20 (1) "abandonment" means desertion of an elderly person by a
21 caretaker;

22 (2) "abuse" means the infliction of physical pain, injury,
23 or mental anguish, ^{requiring medical treatment,} or the deprivation by ~~a caretaker~~
24 ^(intentional) of services that
25 are necessary to maintain the physical and mental health of an elderly
26 person;

26 (3) "caretaker" means a person who is responsible for the
27 care of an elderly person as a result of family relationship, or who
28 has assumed responsibility for the care of an elderly person volun-
29 tarily, by contract, or by court order;

1 (4) "department" means the Department of Health and Social
2 Services;

3 (5) "elderly person" means a resident of Alaska who is 60
4 years of age or older;

5 (6) "incapacitated" means a person's ability to receive and
6 evaluate information or to communicate decisions is impaired for
7 reasons other than minority to the extent that the person lacks the
8 ability to obtain the essential requirements for physical health or
9 safety without court-ordered assistance;

10 (7) "neglect" means the failure by ~~an elderly person~~ or a
11 caretaker to provide services necessary to maintain the physical and
12 mental health of the elderly person;

13 (8) "protective services" means services intended to pre-
14 vent or alleviate harm resulting from abuse, neglect, exploitation, or
15 abandonment.

Helmer

1 IN THE HOUSE

BY CLOCKSIN

2

HOUSE BILL NO. 192

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to protection of the elderly."

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13 ically harmed. It is the intent of the legislature that these reports of
14 harm be investigated and that appropriate protective services be offered in
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26 Department of Health and Social Services:

27 (1) a physician or other licensed health care provider;

28 (2) a mental health professional as defined in AS 47.30.-

29 915(11);

copy →

ADD: (1) UPSO
(2) EMT or multiple intensive care paramedics
(3) HOME CARE PROGRAM or HEALTH AID

- 1 (3) a pharmacist;
- 2 (4) an administrator ~~or employee~~ ^{or DELETE} of a nursing home, res-
3 idential care or health care facility;
- 4 (5) a guardian or conservator;
- 5 (6) a police officer as defined in AS 18.65.290(2);
- 6 (7) a village health aide;
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18 viding protection for the elderly person.

19 (c) A person who fails to comply with this section is guilty of
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26 has reasonable cause to believe is a result of abuse, neglect, or
27 abandonment.

28 (e) If immediate action is necessary to protect the elderly
29 person from imminent physical harm, the person shall make the report

Refer to VASO

or VASO

of harm to a police officer as defined in AS 18.65.290(2).^A The police officer shall take immediate action to protect the elderly person and shall, at the earliest opportunity, notify the department.

(f) A person who, in good faith, makes a report of physical or other harm to an elderly person under this chapter, or who participates in judicial proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability that might otherwise be incurred or imposed.

Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report of physical harm, the department shall promptly initiate an investigation to determine the physical condition of the elderly person named in the report and whether action or services are needed for the protection of the elderly person. The department shall [make a reasonable effort to] personally interview the elderly person during the investigation. *unless person is unconscious or otherwise impaired and can not respond.*

(b) The department shall prepare a written report of the investigation, including findings, recommendations, and a determination of whether and what kind of protective services are to be offered to the elderly person. Upon request, the person who reported harm to the elderly person shall be notified of the status of the investigation.

(c) The department shall immediately terminate an investigation under this section upon the request of an elderly person who is the subject of a report of harm. However, if the department has reasonable cause to believe that the elderly person is incapacitated, the department may petition the superior court under AS 13.26 for appointment of a guardian or temporary guardian for the elderly person for the purpose of obtaining consent to continue the investigation.

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1 and to the extent to which the elderly person consents³ If the de-
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[that is ~~DELETE~~ certified by the state.]

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(2) "abuse" means the infliction of physical pain, injury, or mental anguish, ~~or the deprivation~~ ^{REQUIRING MEDICAL TREATMENT,} ~~(by a caretaker)~~ ^{"INTENTIONAL"} of services that are necessary to maintain the physical and mental health of an elderly person;
 Q. MENTAL HEALTH - HOW TO ESTABLISH??

(3) "caretaker" means a person who is responsible for the care of an elderly person as a result of family relationship, or who has assumed responsibility for the care of an elderly person voluntarily, by contract, or by court order;

Psychologist - PATIENT
Privileged
RULE 504 EVIDENCE RULE
CHANGE RULE

RESTRICT privilege to ~~REPORT~~
to this Bill AS 24-010

Care Person
determine

HB 192

DRAFT CS HB 192

P. 2 line 2 DELETE ... OR EMPLOYEE ...

P. 2 line 10 ADD:

(11) Village Public Safety Officer

(12) EMERGENCY MEDICAL TECHNICIAN

OR MOBILE INTENSIVE CARE PARAMEDIC

(13) AN EMPLOYEE OF A HOMEMAKER PROGRAM
OR HOME HEALTH AIDE PROGRAM

P. 3 line 1 ADD REFERENCE TO Village Public
Safety Officer After ... AS 18.65.290(2).

P. 3 line 13 Delete "... MAKE A REASONABLE
effort to ...

After ... INVESTIGATION, ADD COMMA

And " UNLESS THE PERSON IS UNCONSCIOUS OR
OTHERWISE PHYSICALLY OR MENTALLY IMPAIRED TO SUCH
AN EXTENT AS TO BE UNABLE TO RESPOND
TO QUESTIONS.

PAGE 4 line 29 Add period after "... Elderly."

P. 5 line 1 Delete "that is certified by
the STATE."

(STATE
VERSION)

HB 192

P. 5 line 10

Neither the physician-patient nor the
psychotherapist-patient nor the husband
with privilege, to the extent required by
AS 47.24.010 - 47.24.020 is a ground for

* CHANGES COURT RULE SOFT EVIDENCE

P. 5 line 23

After mental anguish, delete
comma and add "REQUIRING medical treatment,
OR THE ~~DETERMINATION~~ intentional deprivation of
SERVICES THAT ARE NECESSARY TO MAINTAIN..."

P. 6 line 3 change "60" to "65"

P. 6 line 10 delete "AN elderly person"

Original sponsors: Josephson and V.Fischer

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 122 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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- 6 (7) a village public safety officer;
- 7 (8) a village health aide;
- 8 (9) a social worker;
- 9 (10) a member of the clergy;
- 10 (11) a staff employee of a project funded by the Older
- 11 Alaskans Commission;
- 12 *ADD:* → (12) an employee of a homemaker program or home health aide
- 13 program.

14 (b) A report of harm made under this section may include the

15 name and address of the person reporting the harm and shall include

- 16 (1) the name and address of the elderly person;
- 17 (2) information relating to the nature and extent of the
- 18 abuse, neglect, or abandonment;

19 (3) other information that the person reporting the harm

20 believes might be helpful in an investigation of the case or in pro-

21 viding protection for the elderly person.

22 (c) A person who fails to comply with this section is guilty of

23 a violation as defined in AS 11.81.900(55).

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25 this section from reporting cases of physical or other harm to an

26 elderly person that have come to the person's attention in a non-

27 professional capacity, nor does it prohibit any other person from

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3 person from imminent physical harm, the person shall make the report
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23 whether and what kind of protective services are to be offered to the
24 elderly person. Upon request, the person who reported harm to the
25 elderly person shall be notified of the status of the investigation.
26 The department shall provide to the Department of Law a copy of each
27 report of an investigation of harm to an elderly person that resulted
28 from abuse.

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19 abandonment.
20
21
22
23
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3/21

Dept shall personally interview

47.24.075 They the phy-pat pri^{is} waived

24 010 1020 to the extent reporting

is REQUIRED

child Abuse laws REQUIRE REPORTING?

5-22 ADD REQ MEDICAL TREATMENT
DELETE

INTENT ABUSE something that has physical
evidence

"willful" NOT APPROPRIATE

THE DEPT

77 STATE

HB 192

PURPOSE: PROTECT elderly ^{from abuse} by REQUIRING those working with elderly to REPORT to DHS evidence of ABUSE when observed.

Those REQUIRED to make NOTIFICATION:

- 1) A physician or other licensed health care provider
- 2) A mental health professional
- 3) A PHARMACEUT
- 4) An Administrator or employee of a nursing home, residential care or health care facility
- 5) A guardian or conservator
- 6) A police officer as of 18.65.290(2)
- 7) A village health aide
- 8) A social worker
- 9) A member of the clergy
- 10) A staff employee of a project funded by the

Older Adult Commission

Failure to comply is a "violation" (AS 11.81.900 55)
- A violation is a NON-CRIMINAL offense punishable by fine, NOT imprisonment or other penalty.
NO jury trial or
NO public defender

COPY 18.65.290

01.10.060

11.81.900(55)

In the case that immediate harm seems eminent, report must go to police officer who must act to protect the subject

A person making a report of abuse in good faith is immune from civil or criminal liability

DHSS must prepare investigation and review each 90 days.

DHSS must provide available protective services to harmed elderly.

Regulations adopted by DHSS to implement must be approved by Alder AK Comm.

Elderly person - AK resident 60 yrs of age or older

Q for Drafter - "willful"

Bill applies to "reporter" NOT offender

MARGO DICK

JUNEAN

Elder Abuse Task Force

POLICE OFFICER, VPSO, PEACE OFFICER

Charles Mundart

AK Mental Health Ctr.

FOR BILL

Physical & psychological abuse
INVESTIGATIONS - through word of mouth

Elizabeth MUKTARIAN - DHSS X 3208

CURRENTLY w/o CONSENT DHSS CAN NOT
intervene if adult is NOT INCAPACITATED.

1984 Budget - NO EXPANSION \$ for INCREASED
SERVICES

Tom Scott

- And

EX DIR

South Region EMS

Add to list - emergency medical technicians &
licensed mobile technicians -

Theodore Graham

FOR

Dave Kull

Older AK commission

Dennis Murray

Kodiak

SR Citizens of Kodiak

Support

Financial Abuse -

Dennis Dewitt

- AK ST. HOSP. ASSN.

- 1) Delete Reference to employee of hospital
- 2) p 4 li: 28, 29 - what is verified?
- 3) p 5 li 10-13 question of privilege
- 4) consider way to prevent multiple reporting -
several individuals obligated to report -
within agency.

HB192

BARBARA McPherson OLDER AK COMMISSION
ADD "WILLFUL" IN DEFINITION

line 13, p. 3

Senate Committee Substitute!

STATISTICS of ABUSE IN AK

Beth Bishop - S.E. SR SERVICES

wanting to eliminate multiple reports

oppose "willful" addn

Rosemary Haffner ATTY for SENIORS SR SERVICES

- Support by Ombudsman -

- Oppose "willful"

- Multiple reporting can be dealt with
by Regulation

- include VPSO

include EMTs

- DR-PATIENT - physician CAN NOT
withhold testimony

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 192 Date on Bill: February 11, 1983
 Title: "An Act relating to protection of the elderly."
 Sponsor: Clocksie
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating		17.5	19.3	21.2
Total		17.5	19.3	21.2

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

The funding source was not identified by the authors of the Bill.

3. Assumptions:

Passage of this Bill in its present form would necessitate educating the public through the news media and handouts. Regulations would need to be promulgated. These functions would be performed by existing staff. Without historical data for reporting abuse, neglect, or abandonment, the assumption is made that one-half again as many situations reported would result in placement, and counseling with both the individual and the family.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It not represent the policy of the Sheffield Administration or the final estimate of impact.

Prepared By: Michael J. Price AA Phone: 465-3170
 Division: Family and Youth Services Date: 3/2/83
 Approved by Commissioner: Robert P. ... Date: 3/4/83
 Department: Health and Social Services

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/8/83

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical harm to elderly persons, investigation of reports of harm by the Department of Health and Social Services, and the offering of appropriate protective services to elderly persons in an effort to prevent or alleviate physical harm.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of elder abuse and neglect, as well as those elderly persons who are unable to protect or care for themselves. In 1981 an Elder Abuse Task Force was created in Anchorage and a pilot project grant was awarded to the Anchorage Community Mental Health Clinic Geriatric Unit to address the issue of elder abuse. In 1982, Elder Abuse Task Forces were created in Fairbanks and Juneau.

Elderly Alaskans in need of protective services are served by the Division of Family and Youth Services under its Adult Protective Service program which serves adults age 18 and over. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act. Division social workers respond to voluntary reports of harm, investigate the circumstances of abuse, neglect, and exploitation, and offer appropriate protective services. If an adult client does not consent to services and is not incapacitated as defined under AS 13.26.005, the guardianship statute, the Division has no legal authority to intervene. If, however, an investigation indicates that an adult is incapacitated, the Division may petition the court for a guardian.

Division of Family and Youth Services' staff have actively participated in the Elder Abuse Task Forces. As a part of the Division's Fiscal Year 1983 Adult Protective Services Training Program, the issues of elder abuse, guardianship and conservatorship have been addressed. Community agencies, including programs serving older Alaskans, were invited and participated in these sessions which were conducted in Anchorage, Bethel, Fairbanks, Juneau, Ketchikan, and Nome.

Since reporting of abuse or physical harm to elderly persons is not mandatory, not all known cases are reported to a single agency. As a result, the actual extent of the problem is not known. Should the number of cases reported under the mandatory requirement significantly impact caseloads, the Division will include necessary documentation to

support the need for additional staff and service dollars in the FY 85 budget. If additional staff and service dollars become necessary but not available, the Division may not be able to meet the intent of the legislation.

RECOMMENDATION

The Department strongly endorses efforts to promote the independence and well-being of those elderly persons in need of protection. The procedures outlined in the Bill for action on reports, provision of protective services, review and referral, and confidentiality are in accordance with procedures established by the Department of Health and Social Services.

The Department recommends an amendment to Section 47.24.100(2), the definition of abuse. The Department recommends that the definition be amended as follows:

"abuse" means the infliction of physical pain, injury, or mental anguish, or the willful deprivation by a caretaker of services that are necessary to maintain the physical and mental health of an elderly person.

RECOMMENDED:

Michael L. Price

Michael L. Price, Director
Division of Family and
Youth Services

DATE:

3/2/83

APPROVED BY:

Robert London Smith

Robert London Smith, Ph.D.
Commissioner

DATE:

3/4/83

CODE	CONTRACTUAL SERVICES CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84			GOVERNOR'S BUDGET
				CONTINUATION	AGENCY ADDITION	REQUEST	
1	2	3	4	5	6	7	8
1.	300	TOTAL CONTRACTUAL				7.5	7.5
2.	310	Communications					
3.	320	Printing and Advertising				7.5	7.5
4.	330	Space Expense and Fees					
5.	340	Repair and Maintenance					
6.	350	Utilities Other Than Space					
7.	360	Equipment Rental - Other Than HWCF and WP					
8.	364	Equipment Rental - Word Processing					
9.	368	Equipment Rental - Highway Working Capital Fund					
10.	370	Judicial Expense					
11.	380	Professional Fees & Services-Excluding Data Processing					
12.	382	Professional Fees & Services-Data Processing					
13.	382a	Data Processing Chargeback					
14.	390	Other Fees or Expenses					
15.	930	INTER-AGENCY TRANSFERS (NON-ADD)					

CODE	EXPLANATION		CONT. \$	ADDITION \$
320	Printing and Advertising Design and developing TV and radio public education announcements. Printing of handouts and regulations.	5,000 2,500 7,500	7.5	

15 CONTRACTUAL SERVICES

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population
BRU Program Services
COMPONENT Adult Services

FY 84

Page 1 of 1
Revised Date _____

	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 02 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84			GOVERNOR'S BUDGET
					AGENCY			
					CONTINUATION	ADDITION	REQUEST	
1	2	3	4	5	6	7	8	
1.	600	TOTAL LAND, BUILDING, NON-STRUCTURAL IMPROVEMENTS						
2.	600	Land, Building, Etc. (Excluding ASHA Pay)						
3.	628	ASHA Payment						
4.	960	INTER-AGENCY TRANSFERS (NON-ADD)						
5.	700	TOTAL ASSISTANCE GRANTS AND BENEFITS				10.0	10.0	
6.	720	Local Assistance, State Sources						
7.	730	Benefits To Individuals				10.0	10.0	
8.	740	Grants and Awards To Individuals						
9.	750	Grants, Other Agencies						
10.	760	Health Benefits						
11.	920	INTER-AGENCY TRANSFERS (NON-ADD)						
12.	800	TOTAL MISCELLANEOUS						
13.	810	Debt Service						

CODE	EXPLANATION		CONT. \$	ADDITION \$
730	Special Needs Special needs required for adult clients such as fuel supply and transportation to necessary services.	10,000	10.0	

18 LANDS, GRANTS,
AND MISCELLANEOUS

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population
BRU Program Services
COMPONENT Adult Services

FY 84

Page 1 of 1

Revised Date



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Administration	Sponsor (Principal) Rep. Clocksin	Bill Number HB 192
Department Position The Older Alaskans Commission supports the enactment of elderly protection legislation and the mandatory reporting of physical abuse of elderly persons.		
Division Director Jon B. Wolfe	Date 3/3/83	Commissioner Date

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 122 Sens. Josephson & Fischer	1. b) Other Agencies Affected by Bill Division of Family and Youth Services, DHSS
2. a) Organizational Support for Bill 1. Anchorage Elder Abuse Task Force 2. Office of Senior Citizen Ombudsman 3. Alaska White House Conference Delegates	2. b) Organizational Opposition to Bill Unknown

3. Program Effects of Bill

The responsibilities assigned to the Commission under this legislation are consistent with current responsibilities and functions and will not require additional staff or expenditures. Under AS 44.21.230 the Commission is authorized to make recommendations with respect to regulations for services that benefit older Alaskans and to receive reports from state agencies concerned with the conditions and needs of older Alaskans.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

Commission staff recommends that "willful" be inserted before "deprivation" under Definitions, Sec. 47.24.100, (2) line 23.

6. Comments:

This legislation is consistent with AS 44.21 and the legislative mandates of the Older Alaskans Commission which seek to ensure health and dignity for the State's elderly. Historically elder abuse is a hidden social problem but one that is encountered by Commission funded senior programs statewide. These programs and the Commission will welcome specific procedures and services for handling these critical problems.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 3/3/83
 Title: "An Act relating to protection of the elderly"
 Sponsor: Rep. Clocksin
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			-0-	-0-	-0-			

b. Revenues:

Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor.

Prepared By: Jon B. Wolfe, Executive Director *Jon B. Wolfe* Phone: 465-3250
 Division: Older Alaskans Commission Date: 3/3/83
 Approved by Commissioner: _____ Date: _____
 Department: _____

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/3/83

(F) LESS

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 192 Date on Bill: 2-11-83
Title: An Act relating to protection of the elderly
Sponsor: Clocksin
Requestor:

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue	FY 83	FY 84	FY 85	FY 86

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

No Fiscal Impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2-16-83

Approved by Commissioner: *[Signature]* Date: 2/28/83
Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

MSG 83-00012568 PRTY 1 03/07/83 11:47:42 ORIG: LAO IN= 0006 OUT= 0050
FROM: SHIRLEE, ANC LJO TO: POMS, JUNEA INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANC LJO, 12568

TO: REPRESENTATIVES TISCHER, FRITZ, CLOCKSIN, M. W. MILLER,
KOPONEN, GOLL, CATO AND DAVIS

FROM: IRENE HEDSTROM
1521 "N" STREET, ANCHORAGE, AK 99501
(H) 277-6001 (W) 276-3414

I STRONGLY SUPPORT DON CLOCKSIN'S BILL (HB 192) REQUIRING
REPORTING OF ALL ABUSE OF THE ELDERLY TO THE DEPARTMENT OF
HEALTH AND SOCIAL SERVICES.

*response sent
3/9*

MSG 83-00012555 PRTY 1 03/03/83 11:33:15 ORIG: LA01 IN= 0004 OUT= 0045
FROM: SHIRLEE, ANCH LID TO: POMS, JUNEAU INFO
TARGET: LJHL SUBJ: POM

3/3/83, SHIRLEE ANCH LID 12555

TO: REPRESENTATIVES FISCHER, FRITZ, CLOCKSIN, M. W. MILLER,
KOPONEN, GOLL, CATO AND DAVIS

FROM: EDWARD J. ANDERSON, PIONEERS' HOME, ANCHORAGE 99501
POUCH 7-027, 99510 (P) 276-3414

I STRONGLY SUPPORT DON CLOCKSIN'S BILL (HB192) REQUIRING
REPORTING OF ALL ABUSE OF THE ELDERLY TO THE DEPARTMENT OF
HEALTH AND SOCIAL SERVICES.

*response sent
3/9*

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 128 Date on Bill: 1/26/83
 Title: An Act raising the penalties for promoting child prostitution
 Sponsor: House HESS
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conger Phone: 465-4338
 Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [Signature] Date: 2/28/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

(E) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast;

(52) "sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body; each party to any of the acts defined as "sexual penetration" is considered to be engaged in sexual penetration;

(53) "solicits" includes "commands";

(54) "threat" means a menace, however communicated, to engage in conduct described in (1) (7) of AS 11.41.520(a) but under (1) of that subsection includes all threats to inflict physical injury on anyone;

(55) "violation" is a noncriminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; a person charged with a violation is not entitled

(A) to a trial by jury; or

(B) to have a public defender or other counsel appointed at public expense to represent him;

(56) "voluntary act" means a bodily movement performed consciously as a result of effort and determination, and includes the possession of property if the defendant was aware of his physical possession or control for a sufficient period to have been able to terminate it.

HISTORY (Sec. 10 ch 166 SLA 1978; am secs. 29 - 32 ch 102 SLA 1980; am secs. 12 - 14 ch 45 SLA 1982; am secs. 12 - 15 ch 143 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 18.65
SECTION = 18.65.290
TITLE = 18

ADINGS TITLE 18.
HEALTH AND SAFETY.
CHAPTER 65.
POLICE PROTECTION.
ARTICLE 2.
ALASKA POLICE STANDARDS COUNCIL.

CITATION SEC. 18.65.290.

CATCH LINE

DEFINITIONS.

TEXT IN AS 18.65.130 - 18.65.290

(1) "COUNCIL" MEANS THE ALASKA POLICE STANDARDS
COUNCIL;

(2) "POLICE OFFICER" MEANS A FULL-TIME EMPLOYEE OF THE
STATE OR A LOCAL POLICE DEPARTMENT WITH THE AUTHORITY TO
ARREST AND ISSUE CITATIONS; DETAIN A PERSON TAKEN INTO
CUSTODY UNTIL THAT PERSON CAN BE ARRAIGNED BEFORE A JUDGE OR
MAGISTRATE; CONDUCT INVESTIGATIONS OF VIOLATIONS OF AND
ENFORCE CRIMINAL LAWS, REGULATIONS AND TRAFFIC LAWS; SEARCH
WITH OR WITHOUT A WARRANT PERSONS, DWELLINGS, AND OTHER FORMS
OF PROPERTY FOR EVIDENCE OF A CRIME; CARRY A CONCEALED
WEAPON; AND TAKE OTHER ACTION CONSISTENT WITH EXERCISE OF
THESE ENUMERATED POWERS WHEN NECESSARY TO MAINTAIN THE PUBLIC
PEACE;

(3) "CHIEF ADMINISTRATIVE OFFICER" MEANS A CHIEF OF
POLICE OR OTHER OFFICIAL WHO IS HEAD OF A POLICE DEPARTMENT
IN A POLITICAL SUBDIVISION.

HISTORY (SEC. 1 CH 178 SLA 1972; AM SECS. 10, 11 CH 19 SLA 1981)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

CHAPTER = 01.10
SECTION = 01.10.060
TITLE = 01

HEADINGS TITLE 1.
GENERAL PROVISIONS.
CHAPTER 10.
LAWS AND STATUTES.
ARTICLE 2.
GENERAL RULES OF STATUTORY CONSTRUCTION.

CITATION SEC. 01.10.060.

CATCH LINE

DEFINITIONS.

TEXT IN THE LAWS OF THE STATE, UNLESS THE CONTEXT OTHERWISE REQUIRES,
(1) "ACTION" INCLUDES ANY MATTER OR PROCEEDING IN A COURT, CIVIL OR CRIMINAL;
(2) "DAYTIME" MEANS THE PERIOD BETWEEN SUNRISE AND SUNSET;
(3) "MONTH" MEANS A CALENDAR MONTH UNLESS OTHERWISE EXPRESSED;
(4) "NIGHTTIME" MEANS THE PERIOD BETWEEN SUNSET AND SUNRISE;
(5) "OATH" INCLUDES AFFIRMATION OR DECLARATION;
(6) "PEACE OFFICER" MEANS ANY OFFICER OF THE STATE TROOPERS, MEMBERS OF THE POLICE FORCE OF ANY INCORPORATED CITY OR BOROUGH, UNITED STATES MARSHALS AND THEIR DEPUTIES, AND OTHER OFFICERS WHOSE DUTY IT IS TO ENFORCE AND PRESERVE THE PUBLIC PEACE;
(7) "PERSON" INCLUDES A CORPORATION, COMPANY, PARTNERSHIP, FIRM, ASSOCIATION, ORGANIZATION, BUSINESS TRUST, OR SOCIETY, AS WELL AS A NATURAL PERSON;
(8) "PERSONAL PROPERTY" INCLUDES MONEY, GOODS, CHATTELS, THINGS IN ACTION, AND EVIDENCES OF DEBT;
(9) "PROPERTY" INCLUDES REAL AND PERSONAL PROPERTY;
(10) "REAL PROPERTY" IS COEXTENSIVE WITH LAND, TENEMENTS, AND HEREDITAMENTS;
(11) REPEALED BY SEC. 2 CH 66 SLA 1965.
(12) "SIGNATURE" OR "SUBSCRIPTION" INCLUDES THE MARK OF A PERSON WHO CANNOT WRITE, WITH THE NAME OF THAT PERSON WRITTEN NEAR THE MARK BY A WITNESS WHO WRITES THE WITNESS'S OWN NAME NEAR THE NAME OF THE PERSON WHO CANNOT WRITE; BUT A SIGNATURE OR SUBSCRIPTION BY MARK CAN BE ACKNOWLEDGED OR CAN SERVE AS A SIGNATURE OR SUBSCRIPTION TO A SWORN STATEMENT ONLY WHEN TWO WITNESSES SO SIGN THEIR OWN NAMES TO THE SWORN STATEMENT;
(13) "STATE" MEANS THE STATE OF ALASKA UNLESS APPLIED TO THE DIFFERENT PARTS OF THE UNITED STATES AND IN THE LATTER CASE IT INCLUDES THE DISTRICT OF COLUMBIA AND THE TERRITORIES;
(14) "WRITING" INCLUDES PRINTING.

HISTORY (SEC. 4 CH 62 SLA 1962; AM SEC. 2 CH 66 SLA 1965; AM SEC. 10 CH 117 SLA 1968)

HB 192

2/25

ALASKA NURSES

⇒ David Walker 586-3537

2

Medical Assn URION

2/2/87

APEA 586-2334 no answer - Shelby

CLERGY

Police 586-3300

PHARMACIES

Older AK Comm

sgt.





Official Business

Alaska State Legislature

House of Representatives

Committee on Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

FOR RELEASE: March 7, 1983

CONTACT: Dave Palmer, 465-3777

THE HOUSE HESS COMMITTEE WILL ACCEPT TESTIMONY FROM TELECONFERENCE SITES AT THE LEGISLATIVE INFORMATION OFFICE AND PIONEER HOME IN ANCHORAGE ON MARCH 14, 1983 AT 1:00 PM JUNEAU TIME, 11:00 AM ANCHORAGE TIME ON HOUSE BILL 107 WHICH DEALS WITH THE RIGHT TO A NATURAL DEATH AND HOUSE BILL 192 REGARDING PROTECTION OF THE ELDERLY THROUGH ESTABLISHING REPORTING REQUIREMENTS FOR CERTAIN HEALTH CARE PROFESSIONALS WHO WORK WITH THE ELDERLY.

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