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STATE OF ALASKA  
THE LEGISLATURE

POUCH Y. STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1984

SUBJECT: Sectional Analysis of HB 671 (Crimes  
committed against a dependent person)

TO: Representative Charlie Bussell  
Chairman, House Judiciary Committee

FROM:  Russ Josephson  
Legislative Counsel

You have asked for a sectional analysis of HB 671. The analysis and related comments follow.

AS 12.55.155(c) is a listing of 26 factors that may be considered in aggravating a presumptive sentence under AS 12.55.125. This bill consists of a single section that amends AS 12.55.155(c) by adding a new paragraph containing a new aggravating factor: the victim of the crime is a dependent person, as described in the bill.

It is my understanding that you may want to change the penalties for a number of theft offenses, including embezzlement, if the victim of the crime is a dependent person. If you wish to do this, another approach may be taken. Each provision in the statutes that describes a theft offense and sets out the penalties for its commission would be amended. In order to give you a "vehicle" for that approach just before the personal bill introduction deadline, and not knowing what penalties you would like for each of the several theft offenses, I drafted the general provision described above.

I would note, too, that at this time there are several aggravating factors in AS 12.55.155(c) that might accomplish the purposes behind your request. The possible penalties that had been proposed with your request, incidentally, were actually less harsh than those existing in this state now for the theft offenses involved. Accordingly, being unable to reach you to consult further about your wishes under those circumstances, I used my best judgment. If I know

Representative Charlie Bussell

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what penalties you would propose for the various theft offenses, I can draft a sponsor substitute. Or, you may decide that the present penalties and available aggravating factors are sufficient.

If I may be of further service please do not hesitate to call.

RJ:lmb  
L3/063

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST  
Bill/Resolution No.: HB 671  
Title: An Act relating to crimes against a denendant person  
Sponsor: Cowdery  
Requestor: \_\_\_\_\_  
Date of Request: 2/13/84

FISCAL DETAIL Department of Health  
Agency Affected: and Social Services  
Program Category Affected: Division of Mental Health and Developmental Disabilities  
~~BRU, Program or Subprogram(s) Affected:~~ \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANECUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: James L. Scoles Phone: 465-3370  
Division: Mental Health and Developmental Disabilities Date: 2/16/84  
Approved by Commissioner: [Signature] Date: 2/20/84  
Agency: [Signature]

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

POSITION PAPER

House Bill No. 671

"An Act relating to crimes against a dependant person."

This bill would include crimes committed against mentally disabled persons (disabled by reason of birth defect, physical disorder, or advanced age) as an aggravating factor for purposes of sentencing criminal defendants under A.S. 12.55.125 (c) (1), (c) (2), (c) (3), (d) (1), (d) (2), (e) (1), or (e) (2).

The purpose of this bill is to authorize the imposition of additional criminal sanctions for defendants who prey upon persons who are disabled as defined above. We believe this to be an appropriate additional safeguard for our disabled citizens, many of whom are unable to protect themselves and their property.

We do, however, recommend that all substantially developmentally disabled persons as well as chronically mentally ill persons be included under this proposed amendment. The following language is offered for possible inclusion in the bill in order to further protect these equally disabled or equally helpless individuals:

Beginning on line 13 add the following underlined language, "...a mental or physical disability attributable to a chronic emotional disorder, developmental disability, a birth defect, physical disorder, or advanced age,..."

In our opinion, the addition of this language will more adequately define those individuals that should be guarded against exploitation by criminals under this section of the Alaska Statutes.

The purpose of expanding the definition of "mentally disabled" under House Bill 671 is to offer additional protection for the substantially developmentally disabled and chronically mentally ill that are able and willing to reside in the community rather than in our institutions. As our policy has been to develop programs offering community alternatives to institutionalization for these handicapped citizens, this bill, with our proposed amendments, will further that endeavor by adding more criminal sanctions and increased protection for those who perpetrate crimes against these handicapped citizens.

The Division of Mental Health and Developmental Disabilities, in the Department of Health and Social Services, supports the passage of House Bill 671 with the addition of the language proposed above.

Recommended by: *Philip Shapiro*  
Philip Shapiro, M.D., Director  
Division of Mental Health and  
Developmental Disabilities

Date: \_\_\_\_\_

Approved by: *R. L. Smith*  
Robert London Smith, Ph.D.  
Commissioner

Date: *acty* *2/24/84*