

COMMITTEE REPORT
SENATE

FURTHER:

3/21/83

Date: 4/15/83

Mr. President:

The Committee on FINANCE 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 (Hess) same title
 new title
- and recommends DO PASS
- 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:

CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date 3/23, 1983

I. REQUEST

Bill/Resolution No.: CSSB 122
 Title: Protection of the Elderly
 Sponsor: Josephson
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: H&SS
 Program Category Affected: Social Services
 BRU, Program of Subprogram(s) Affected: Program Services BRU, Adult Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.4	8.9	9.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		10.0	10.6	11.2	11.9	12.6
TOTAL OPERATING		17.5	18.6	19.6	20.8	22.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		17.5	18.6	19.6	20.8	22.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: 3/23/83
 Approved by Commissioner: Robert Gordon Smith Date: 3/30/83
 Department: H & S.S.

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

POSITION PAPER

CS FOR SENATE BILL NO. 122 (HESS)
PAGE 1

"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

POSITION PAPER

CS FOR SENATE BILL NO. 122 (HESS)
PAGE 2

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.

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

DATE: March 25, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 3/30/83

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PAGE 2

IV. ANALYSIS

A. Assumptions

Passage of this Bill 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.

B. Program Summary

1. No new positions would be required.
2. Contractual Services includes costs for printing regulations and for news media public educational announcements. Benefits to individuals includes special needs items for adult clients such as fuel supply and transportation to and from necessary services.

C. Computations

Estimates for Contractual are based upon similar previous costs. The estimates for Benefits to Individuals does not reflect a formula as there is no previous history upon which to base costs.

D. Economic Impact

Enactment will help prevent or alleviate physical harm to the elderly, and will promote their ability to remain independent.

E. Impact on Local Governments

There will be no fiscal impact on local governments.

Offered: 3/21/83
Referred: Finance

Original sponsors: Josephson and V.Fischer

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

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

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 unable to protect or care 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 of a nursing home, residential care or
3 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 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 (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).

24 (d) This section does not prohibit a person listed in (a) of
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
28 reporting physical or other harm to an elderly person that the person
29 has reasonable cause to believe is a result of abuse, neglect, or

1 abandonment.

2 (e) If immediate action is necessary to protect the elderly
3 person from imminent physical harm, the person shall make the report
4 of harm to a police officer as defined in AS 18.65.290(2) or a village
5 public safety officer. The police officer or village public safety
6 officer shall take immediate action to protect the elderly person and
7 shall, at the earliest opportunity, notify the department.

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

13 Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report
14 of physical harm, the department shall promptly initiate an investiga-
15 tion to determine the physical condition of the elderly person named
16 in the report and whether action or services are needed for the pro-
17 tection of the elderly person. The department shall personally inter-
18 view the elderly person during the investigation, unless the person is
19 unconscious or otherwise physically or mentally impaired to such an
20 extent as to be unable to respond to questions.

21 (b) The department shall prepare a written report of the inves-
22 tigation, including findings, recommendations, and a determination of
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.

29 (c) The department shall immediately terminate an investigation

1 under this section upon the request of an elderly person who is the
2 subject of a report of harm. However, if the department has reason-
3 able cause to believe that the elderly person is incapacitated, the
4 department may petition the superior court under AS 13.26 for appoint-
5 ment of a guardian or temporary guardian for the elderly person for
6 the purpose of obtaining consent to continue the investigation.

7 Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall
8 provide available protective services to a harmed elderly person if
9 and to the extent to which the elderly person consents. If the de-
10 partment has reasonable cause to believe that the elderly person lacks
11 the capacity to consent to receiving protective services, it may
12 petition the superior court under AS 13.26 for appointment of a guard-
13 ian or temporary guardian for the elderly person for the purpose of
14 obtaining consent.

15 (b) If an elderly person who has consented to receiving protec-
16 tive services is prevented by a caretaker from receiving the services,
17 the department may assist the elderly person to petition the superior
18 court for an injunction restraining the caretaker from interfering
19 with the provision of protective services to the elderly person.

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

26 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation
27 reports and reports of harm filed under this chapter are confidential
28 and are not subject to public inspection and copying under AS 09.25.-
29 110 - 09.25.125. However, in accordance with this chapter and

1 department regulations issued under this chapter, investigation re-
2 ports may be used by appropriate governmental agencies inside and
3 outside the state, in connection with investigations or judicial
4 proceedings involving abuse, neglect, or abandonment of an elderly
5 person.

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

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

15 Sec. 47.24.070. REGULATIONS. Regulations to implement this
16 chapter shall be approved by the Older Alaskans Commission (AS 44 21.-
17 200) before adoption by the department.

18 Sec. 47.24.075. QUARTERLY REPORT. The department shall submit
19 to the Older Alaskans Commission each quarter a statistical report of
20 the department's activities related to the protection of elderly
21 persons in the state. The report may not disclose the identity of
22 victims or perpetrators of the abuse, neglect, or abandonment.

23 Sec. 47.24.100. DEFINITIONS. In this chapter

24 (1) "abandonment" means desertion of an elderly person by a
25 caretaker;

26 (2) "abuse" means the infliction of physical pain, injury,
27 or mental anguish, or the deprivation by a caretaker of services that
28 are necessary to maintain the physical and mental health of an elderly
29 person;

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

5 (4) "department" means the Department of Health and Social
6 Services;

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

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

14 (7) "neglect" means the failure by the caretaker of an
15 elderly person to provide services necessary to maintain the physical
16 and mental health of the elderly person;

17 (8) "protective services" means services intended to pre-
18 vent or alleviate harm resulting from abuse, neglect, exploitation, or
19 abandonment.

Introduced: 2/11/83
Referred: Health, Education and
Social Services and
Finance

1 IN THE SENATE

BY JOSEPHSON AND V. FISCHER

2

SENATE BILL NO. 122

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26 Department of Health and Social Services:

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- 1 (3) a pharmacist;
- 2 (4) an administrator or employee of a nursing home, res-
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- 4 (5) a guardian or conservator;
- 5 (6) a police officer as defined in AS 18.65.290(2);
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- 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.

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

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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).

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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.

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12 in the report and whether action or services are needed for the pro-
13 tection of the elderly person. The department shall make a reasonable
14 effort to personally interview the elderly person during the investi-
15 gation.

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.

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15 abandonment.

FACT SHEET ON ELDER ABUSE — Based on Aging Committee Report, April, 1981

Incidence of Elder Abuse

4% of older Americans are victims of some sort of abuse each year — this is equal to one million older persons per year

The "typical" abused older person is a 75 year old woman who relies on others for her care and is repeatedly abused by the caregiver

The "typical" abuser is a caregiver who is experiencing a great deal of stress, often from marital or financial problems, and may resort to alcohol or drugs to relieve his stress.

21% of the abusers are the sons of the older person

17% " " " " " daughters " " "

the 3rd most likely abuser is the spouse (husband more often than wife)

Older persons do not report abuse because they are ashamed, frightened of retaliation, or do not want to cause family troubles

More than 70% of reported cases are reported by third parties

Case histories were presented from all States in the following categories: physical & sexual abuse, negligence, financial exploitation, psychological abuse, violation of personal rights & self neglect

1/3 of the cases were incidences of physical abuse

1/4 " " " " " " " financial exploitation

STRESS is believed to be a major factor leading to the abuse of older persons by caregivers — one study found that the elderly person was a significant source of stress in 63% of the cases

Other factors leading to abuse may be: retaliation, violence as a way of life, lack of financial resources & community/sup-ports, resentment of dependency, increased life expectancy, and over-crowded living environment

State Responses to Questionnaire

63% of the States said the greatest hindrance to their ability to help the abused elderly was lack of appropriate statutory authority — the second most frequent hindrance was lack of skilled staff, community resources, and funding (MRO's DILL IS AIMED AT RESOLVING THESE PROBLEMS)

On a national average, only 6.6% of state funds for protective services are spent on services for abused elderly (Ohio spends less than 1%)

Only 16 states require mandatory reporting of elder abuse:
Ala., Ark., Conn., Fla., Kent., Minn., Missouri, Neb., New Hamp., N. Carol., Okla., S. Carol., Tenn., Utah, Vermont & Virginia

An additional 10 states have legislation pending (including Ohio)

- When asked if states would favor passage of H.R. 769, 74% answered YES, the remaining 26% answered UNDECIDED

Americans keeping on the move

Nearly half of citizens moved within five years

WASHINGTON (AP) — Living up to America's reputation as a mobile society, nearly half the U.S. population changed homes between 1975 and 1980, the Census Bureau reported Tuesday.

The moves accelerated the

population shift from the North to the Sunbelt, as more than 3 million people moved to the South and West in that period.

Of 210 million Americans aged 5 and older, 94 million or 44.5 percent moved to a new house or apartment during the

five years ended in 1980, the bureau said.

While many of those moved within the same state or county, there was a net shift of 3,164,620 Americans who left the Northeast or North Central states for new homes in the South and West.

"I would expect it (migration to the Sunbelt) to continue, I haven't seen any signs it would stop," said Kristin Hansen of

the bureau's migration statistics staff.

The movement between 1975 and 1980 follows North-to-Sunbelt migration of 2.6 million Americans between 1970 and 1975, and of 1.3 million in the five years before that.

Alaska had the largest share of residents — 64.5 percent — who had moved there between 1975 and 1980, the bureau said. Nevada and Wyoming also

reported large percentages of newcomers.

The state with the most arrivals was Florida, which gained 823,227 people during the five years. Texas added 574,007 and Washington gained 280,417.

New York was the largest loser of people among states, with a net migration decline of 1,097,197 for the five years. Illinois had the second highest

5B/22

Amurell 4-13-83

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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.

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 make a reasonable
14 effort to personally interview the elderly person during the investi-
15 gation.

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 (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.

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15 abandonment.

COMMITTEE REPORT
SENATE

2/11/83

FURTHER: Finance

Date: 3/17/83

Mr. President:

The Committee on HESS has had SB 122

An Act relating to 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 (HESS) same title new title

and recommends may do pass

AND attaches a "Letter of Intent" Preliminary ~~New Fiscal~~ Integrator

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Rick Hafstad
Joe P. Josephson
Poppy Mon

Joe P. Josephson
CHAIRMAN

POSITION PAPER

SENATE BILL NO. 122

PAGE 1

"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

POSITION PAPER

SENATE BILL NO. 122

PAGE 2

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:

Feb 28, 1983

APPROVED BY:

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

DATE:

3/1/83

POSITION PAPER

SENATE BILL NO. 122

PAGE 1

"An Act relating to protection of the elderly."

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POSITION PAPER

SENATE BILL NO. 122

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RECOMMENDED:

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

DATE:

Feb 28, 1983

APPROVED BY:

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

DATE:

3/4/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 122 Date on Bill: February 11, 1983
 Title: "An Act relating to protection of the elderly."
 Sponsor: Josephson and V. Fischer
 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				
---------	--	--	--	--

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 individual and the family.

4. Disclaimer:

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

Prepared By: Michael Z Brice Phone: 465-3170
 Division: Family and Youth Services Date: _____

Approved by Commissioner: Robert Gordon Smith 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 82 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.	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 Expen						
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 _____

1	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 82 ACTUAL	CURRENT YEAR FY 83 AUTHORIZED	BUDGET YEAR - FY 84			GOVERNOR'S BUDGET
					AGENCY			
					CONTINUATION	ADDITION	REQUEST	
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	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
PROGRAM Social and Economic Assistance for the General Population
BRU Program Services
COMPONENT Adult Services

FY 84

Page 1 of 1
Revised Date _____

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 122 Date on Bill: 2-11-83
 Title: An Act relating to protection for the elderly
 Sponsor: Josephson
 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:

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
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 122
 Title: "...Protection of the Elderly"
 Sponsor: Senators Josephson and V. Fischer
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Social/Economic
 BRU, Program of Subprogram(s) Affected: Older Alaskans Commission Assistance for the Aged

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jon B. Wolfe, Executive Director *Jon B. Wolfe* Phone: 465-3250
 Division: Older Alaskans Commission Date: 4/14/83
 Approved by Commissioner: Lisa Rudd *LR* Date: 4/20/83
 Department: Administration

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: CSSB 122
 Title: "... Protection of the Elderly"
 Sponsor: Senators Josephson and V. Fischer
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Social/Economic
 BRU, Program of Subprogram(s) Affected: Older Alaskans Commission

* Assistance for the Ag

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jon B. Wolfe, Executive Director *Jon B. Wolfe* Phone: 465-3250
 Division: Older Alaskans Commission Date: 5/16/83

Approved by Commissioner: Lisa Rudd *LSP* Date: 5/16/83
 Department: Administration

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 122 Date on Bill: 2/11/83
 Title: "An Act relating to protection of the elderly"
 Sponsor: Senator Josephson and Fischer
 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 *BW* Phone: 465-3250
 Division: Older Alaskans Commission Date: 2/24/83
 Approved by Commissioner: *Neil S. Rudol* Date: 3/1/83
 Department: *Admin.*

5. Distribution:

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

2/8/83

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.

Prepared by: Jon Wolfe Date: _____

Commissioner's Office Review by: Lisa Rudd Date: 3/10/83
Lisa Rudd, Commissioner

3/4/83

CSSB 122 (HESS) "An Act relating to the Protection of the elderly."

2-11-83 1st reading

3-21-83 HESS - Passes with CS
(Preliminary Fiscal Note attached)

The intent of this measure is to require persons in their professional duties, as well as any persons in a non-professional capacity, to report to the State Department of Health & Social Services any physical harm inflicted on an elderly person.

Testimony has been given in support of this bill in the HESS Committee by the following:

- 1) Older Alaskans Commission
- 2) Division of Family & Youth Services
- 3) Southeast Senior Services
- 4) Alaska State Hospital Association

3-30-83 Position Paper/Department of Health & Social Services is attached with a revised fiscal note dated 3-23-83.

STANDING COMMITTEE REPORTS

SB 85

The Health, Education and Social Services Committee considered SENATE BILL NO. 85 (repealing the certificate of need program' and a majority of the committee recommended it be replaced with CS FOR SENATE BILL NO. 85 (HESS), entitled:

"An Act suspending the certificate of need program; amending provisions related to assistance for health facility construction, Medicaid and general relief medical assistance; and providing for an effective date."

and do pass. The report was signed by Senator Josephson, Chairman and concurred in by Senators Halford, Paul Fischer and Moss.

SENATE BILL NO. 85 was referred to the Community and Regional Affairs Committee.

SB 122

The Health, Education and Social Services Committee considered SENATE BILL NO. 122 (protection of the elderly) and a majority of the committee recommended it be replaced with CS FOR SENATE BILL NO. 122 (HESS) and do pass. The report was signed by Senator Josephson, Chairman and concurred in by Senators Halford and Moss.

The committee further attached a preliminary statement of fiscal impact which appears in Senate Supplement No. 9 to today's journal.

SENATE BILL NO. 122 was referred to the Finance Committee.

SB 116

The Rules Committee considered SENATE BILL NO. 116 (placing emergency guards employed by the department of public safety in the exempt service) and a majority of the committee recommended it be placed on the March 21 calendar and adoption of the State Affairs Committee Substitute. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly and Ferguson. Senator Bennett signed "no recommendation".

SENATE BILL NO. 116 appears on today's calendar.

SENATE
JOURNAL SUPPLEMENT

No. 9

3/21/83

SB
122

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: Senate Bill No. 122 Date on Bill: February 11, 1983
Title: "An Act relating to protection of the elderly."

Sponsor: Josephson and V. Fischer

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						

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 family.

4. Disclaimer:

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Prepared By: Michael L. Brice Phone: 465-3170
Division: Family and Youth Services Date: _____

Approved by Commissioner: Robert Hamilton Smith Date: 3/11/83
Department: Health and Social Services

POSITION PAPER

CS FOR SENATE BILL NO. 122 (HESS)
PAGE 1

"An Act relating to protection of the elderly."

OVERVIEW

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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

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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.

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

DATE: March 25, 1983

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 3/30/83

I. REQUEST
 Bill/Resolution No.: CSSB 122
 Title: Protection of the Elderly
 Sponsor: Josephson
 Requestor: _____

II. FISCAL DETAIL
 Agency Affected: H&SS
 Program Category Affected: Social Service
 BRU, Program of Subprogram(s) Affected: Program Services BRU, Adult Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		7.5	8.0	8.4	8.9	9.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		10.0	10.6	11.2	11.9	12.6
TOTAL OPERATING		17.5	18.6	19.6	20.8	22.1

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		17.5	18.6	19.6	20.8	22.1
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds was not identified by the sponsors.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael L. Price, Director *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: 3/23/83

Approved by Commissioner: Robert Gordon Smith Date: 3/30/83
 Department: H&SS

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

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FISCAL NOTE

REVISED 3/23/83
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IV. ANALYSIS

A. Assumptions

Passage of this Bill 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.

B. Program Summary

1. No new positions would be required.
2. Contractual Services includes costs for printing regulations and for news media public educational announcements. Benefits to individuals includes special needs items for adult clients such as fuel supply and transportation to and from necessary services.

C. Computations

Estimates for Contractual are based upon similar previous costs. The estimates for Benefits to Individuals does not reflect a formula as there is no previous history upon which to base costs.

D. Economic Impact

Enactment will help prevent or alleviate physical harm to the elderly, and will promote their ability to remain independent.

E. Impact on Local Governments

There will be no fiscal impact on local governments.

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PAGE 1

"An Act relating to protection of the elderly."

OVERVIEW

This Bill includes provisions for mandatory reporting of cases of physical and economic harm to elderly persons age 65 and over, 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 economic and physical harm. In addition to charging the Department with the duty to investigate reports of harm, the Department will have the following additional responsibilities if this Bill is passed.

1. Section 47.24.020(b) mandates the Department to provide to the Department of Law a copy of each report of an investigation of harm to an elderly person if the report of harm is confirmed to be true;
2. Section 47.24.070 authorizes the implementation of regulations to be approved by the Older Alaskans Commission before adoption by the Department; and
3. Section 47.24.075 mandates that the Department submit to the Older Alaskans Commission a quarterly statistical report of the Department's activities related to protection of the elderly.

STATEMENT OF THE PROBLEM

In the past few years there has been increasing awareness across the nation, including Alaska, of the problems of abuse, neglect, and exploitation of 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 who are not able to function independently or who may be subject to abuse, neglect, or exploitation. Adult Protective Services are provided on a voluntary basis by a mandate under Title XX of the Social Security Act and the general powers and duties of the Department to promote the health and well-being of Alaskans. 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.

As of June 15, 1983, the Division of Family and Youth Services Adult

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HOUSE CS FOR SENTATE BILL 122 (HESS)

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Protective Service caseload was 1,056 clients, of whom 598 were age 65 and over. Of those clients age 65 and over, services to 372 clients or 62% were directed to the goal of preventing or remedying neglect, abuse or exploitation. The Division of Family and Youth Services Case Management Information System does not currently separate out these categories.

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 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. However, we anticipate that mandatory reporting of physical and economic harm will result in increased caseloads. Social worker caseloads are such that additional staff will be necessary to meet the intent of this Bill. Furthermore, should the number of cases reported under the mandatory requirement significantly impact caseloads more than is anticipated, the Division will include necessary documentation to support the need for additional and staff, and travel and service dollars in the FY 85 budget. If additional staff, travel 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.

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

DATE: 6/17/83

APPROVED BY: Robert London Smith
Robert London Smith, Ph.D.
Commissioner

DATE: 6/24/83

Offered: 6/10/83
Referred: Finance

Original sponsors: Josephson and
V. Fischer

*amendments
indicated in red*

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

HOUSE CS FOR CS FOR SENATE BILL NO. 122 (HESS)

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 eco-
9 nomic and physical harm and to assist elderly persons who are unable to
10 protect or care for themselves, the legislature requires the reporting to
11 the state by health professionals and others of cases involving elderly
12 persons who have been or are being harmed. It is the intent of the
13 legislature that required reports be made regardless of any evidentiary
14 privileges established by state law or by the Alaska Rules of Court. It is
15 the intent of the legislature that these reports of harm be investigated
16 and that appropriate protective services be offered in an effort to prevent
17 or alleviate harm to the elderly persons of the state. It is further the
18 intent of the legislature to provide immunity from civil or criminal
19 liability to persons making good faith reports of economic, physical or
20 other harm to an elderly person.

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

22

CHAPTER 24. PROTECTION OF THE ELDERLY.

23

Sec. 47.24.010. REPORTS OF HARM. (a) The following persons

24

who, in the performance of their professional duties, have reasonable
25 cause to believe that an elderly person has suffered harm shall, not
26 later than 24 hours after first having cause for the belief, report
27 the harm to the Department of Health and Social Services:

28

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

29

(2) a mental health professional as defined in

1 AS 47.30.915(11);

2 (3) a pharmacist;

3 (4) an administrator of a nursing home, residential care or
4 health care facility;

5 (5) a guardian or conservator;

6 (6) a police officer;

7 (7) a village public safety officer;

8 (8) a village health aide;

9 (9) a social worker;

10 (10) a member of the clergy;

11 (11) a staff employee of a project funded by the Older
12 Alaskans Commission;

13 (12) an employee of a homemaker program or home health aide
14 program;

15 (13) an emergency medical technician or a paramedic in the
16 mobile intensive care program.

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

19 (1) the name and address of the elderly person;

20 (2) information relating to the nature and extent of the
21 harm;

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

25 (c) A person who fails to comply with this section is guilty of
26 a violation as defined in AS 11.81.900(55).

27 (d) This section does not prohibit a person listed in (a) of
28 this section from reporting cases of economic or physical harm to an
29 elderly person that have come to the person's attention in a

1 nonprofessional capacity. This section does not prohibit any other
2 person from reporting economic harm to an elderly person that the
3 person has reasonable cause to believe is a result of theft, fraud, or
4 coercion by a caretaker of the elderly person, or physical harm to an
5 elderly person that the person has reasonable cause to believe is a
6 result of abuse, neglect, or abandonment.* (*by a caretaker of the elderly person*)

7 (e) If immediate action is necessary to protect the elderly
8 person from imminent harm, the person shall make the report of harm to
9 a police officer or a village public safety officer. The police
10 officer or village public safety officer shall take immediate action
11 to protect the elderly person and shall, at the earliest opportunity,
12 notify the department.

13 (f) A person who, in good faith, makes a report of economic or
14 physical harm to an elderly person under this chapter, or who partici-
15 pates in judicial proceedings related to the submission of reports
16 under this chapter, is immune from any civil or criminal liability
17 that might otherwise be incurred or imposed.

18 (g) Failure to make a report under subsections (a) and (d) of
19 this section is not the basis of civil liability unless otherwise
20 provided by law.

21 Sec. 47.24.020. ACTION ON REPORTS. (a) Upon receiving a report
22 of harm, the department shall promptly initiate an investigation to
23 determine the economic or physical condition of the elderly person
24 named in the report and whether action or services are needed for the
25 protection of the elderly person. The department shall personally
26 interview the elderly person during the investigation, unless the
27 elderly person is unconscious or otherwise physically or mentally
28 impaired to such an extent as to be unable to respond to questions.

(b) The department shall prepare a written report of the

*Not an amendment
just to be noted*

* deleted

1 investigation, including findings, recommendations, and a
2 determination of whether and what kind of protective services are to
3 be offered to the elderly person. Upon request, the person who
4 reported harm to the elderly person shall be notified of the status of
5 the investigation. The department shall provide to the Department of
6 Law a copy of each report of an investigation of harm to an elderly
7 person if the report of harm is confirmed to be true.

8 (c) The department shall immediately terminate an investigation
9 under this section upon the request of an elderly person who is the
10 subject of a report of harm. However, if the department has reason-
11 able cause to believe that the elderly person is incapacitated, the
12 department may petition the superior court under AS 13.26 for appoint-
13 ment of a guardian or temporary guardian for the elderly person for
14 the purpose of obtaining consent to continue the investigation.

15 Sec. 47.24.030. PROTECTIVE SERVICES. (a) The department shall
16 provide available protective services to a harmed elderly person if
17 and to the extent to which the elderly person consents. If the de-
18 partment has reasonable cause to believe that the elderly person lacks
19 the capacity to consent to receiving protective services, it may
20 petition the superior court under AS 13.26 for appointment of a guard-
21 ian or temporary guardian for the elderly person for the purpose of
22 obtaining consent.

23 (b) If an elderly person who has consented to receiving protec-
24 tive services is prevented by a caretaker from receiving the services,
25 the department may assist the elderly person to petition the superior
26 court for an injunction restraining the caretaker from interfering
27 with the provision of protective services to the elderly person.

28 Sec. 47.24.040. REVIEW AND REFERRAL. The department shall, not
29 later than 90 days after initiating the provision of protective

1 services to an elderly person, initiate a review of the case to deter-
2 mine whether continuation or modification of protective services that
3 are being provided is warranted. The department shall reevaluate the
4 case every 90 days thereafter until the case is closed.

5 Sec. 47.24.050. CONFIDENTIALITY OF REPORTS. (a) Investigation
6 reports and reports of harm filed under this chapter are confidential
7 and are not subject to public inspection and copying under
8 AS 09.25.-110 - 09.25.125. However, in accordance with this chapter
9 and regulations adopted under this chapter, investigation reports may
10 be used by appropriate governmental agencies inside and outside the
11 state, in connection with investigations or judicial proceedings
12 involving harm to an elderly person.

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

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

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

26 Sec. 47.24.075. QUARTERLY REPORT. The department shall submit
27 to the Older Alaskans Commission each quarter a statistical report of
28 the department's activities related to the protection of elderly
29 persons in the state. The report may not disclose the identity of

1 victims or perpetrators of the harm.

2 Sec. 47.24.100. DEFINITIONS. In this chapter

3 (1) "abandonment" means desertion of an elderly person by a
4 caretaker;

5 (2) "abuse" means the infliction of physical pain or in-
6 jury, the infliction of mental anguish that requires medical
7 attention, or the deprivation by a caretaker of services that are
8 necessary to maintain the physical and mental health of an elderly
9 person;

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

14 (4) "department" means the Department of Health and Social
15 Services;

16 (5) "economic harm" means intentional economic exploitation
17 of an elderly person resulting from theft, fraud, or coercion by a
18 caretaker of the elderly person;

19 (6) "elderly person" means a resident of Alaska who is 65
20 years of age or older;

21 (7) "harm" means physical harm or economic harm;

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

27 (9) "neglect" means the failure by the caretaker of an
28 elderly person to provide services necessary to maintain the physical
29 and mental health of the elderly person;

*new bill
average
65*

*del (by caretaker
of the elderly
person)*

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2
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6

(10) "physical harm" means injury to the person of an elderly person resulting from abuse, neglect or abandonment;

(11) "police officer" has the meaning given in AS 18.65.-290(2);

(12) "protective services" means services intended to prevent or alleviate harm resulting from abuse, neglect, exploitation, or abandonment.