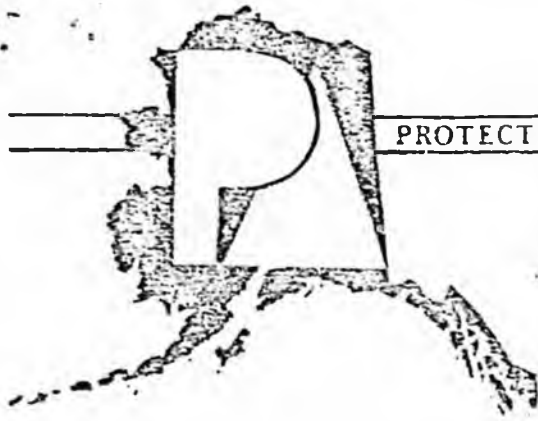


H B

1 7 2



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

MAIN OFFICE  
325 East 3rd, 2nd Floor  
Anchorage, AK 99501  
(907) 274-3658

SOUTHEAST  
REGIONAL OFFICE  
127 S. Franklin, Suite 2  
Juneau, AK 99801  
(907) 586-1627

NORTHERN  
REGIONAL OFFICE  
763 7th Ave.  
Fairbanks, AK 99701  
(907) 456-1079

March 28, 1985

Ms. Nancy Bennett  
Office of Rep. Max Gruenberg  
Pouch V  
Juneau, Alaska 99811

RE: HB 172

Dear Nancy:

As per our phone call of March 28, 1985, I am expressing in writing P.A.D.D.'s position on HB172.

First, I am disappointed that the committee chose to delete SB168's amendment to 18.06.015 requiring interpreters for the deaf seeking access to funds, services, goods, facilities, advantages or privileges from state or local governments. The deaf cannot meaningfully participate as citizens without the use of an interpreter. Interpreters are necessary in order for the deaf to have access to their government. I am aware that this provision would have some fiscal impact. However, in my opinion, this does not justify denying these basic opportunities to deaf people.

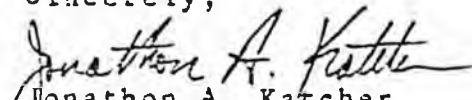
Second, HB172 changes SB 168's "Deafness, blindness, or disability" to "physical or mental disability." I agree that "physical or mental disability" has the same meaning as disability. However, in my opinion, "disability" is a cleaner, more generic word, that avoids the problem of every disabled group wanting their condition mentioned in the bill. I have no objections to "physical or mental disability", I just think "disability" is simpler. Please be forewarned that advocates for the deaf and blind community are likely to be disappointed that their particular conditions were deleted from the bill. In any event, the rights are much more important than the label. HB172 continues to vindicate those rights in much the same way as SB168.

There is however, one exception to how well the rights of the mentally disabled are protected. Subsection 18.80.255 (17)(b) of HB172 (Pg. 11 of the workraft) deletes "emotional or mental illness" from the definition of "physical or mental impairment". I strongly disagree with this deletion of the emotionally or mentally ill from the protection of the statute. Please consider that this deletion would justify discrimination against a person who has any kind of emotional or mental illness. Consequently, if a person is seeing a psychotherapist or counselor to deal with an emotional problem, under the bill an employer could fire them, a landlord could evict them, or a bank could deny them financial services without any recourse to the Human Rights Commission. There is more to mental illness than which is found at API. The bill's deletion of emotional and mental illness would affect middle American's as well. I feel that the biases against the mentally ill are based upon inappropriate stereotypes. The purpose of Civil Rights legislation is to force people to surrender their prejudices and to work together to come to know one another as people, rather than as labels. At the time of the Civil Rights legislation on behalf of blacks, numerous stereotypes circulated about the danger of the blacks as a race. After the passage of the legislation and the prohibition of discrimination, all races were compelled to come together. It was through this interaction that the stereotypes were proven falacious and the biases were destroyed. At present, numerous stereotypes exist about the danger of the mentally ill. These are as unjustified as those based on race. Only through prohibiting discrimination against all people can we as a society grow.

Thank you for this opportunity to give input to this very important piece of legislation. I would appreciate being informed in the future about any hearings or actions in relation to this bill.

Please feel free to contact me if you have any other questions or comments.

Sincerely,

  
Jonathon A. Katcher  
Supervising Attorney

JAK:bk

Offered: 4/17/85  
Referred: Rules

In. (5)

Hess

Original sponsors: Duncan, Collins  
and Gruenberg

Judiciary Referral  
Waived

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 172 (Judiciary) am  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the rights of physically and  
7 mentally disabled persons."

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

9 \* Section 1. AS 18.06.020 is amended to read:

10 Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDI-  
11 CAPPED, AND THE OTHERWISE] physically or mentally disabled have the  
12 same right as the able-bodied to the full and free pedestrian use of  
13 the streets, highways, sidewalks, walkways, public buildings, public  
14 facilities, and other public places.

15 (b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE]  
16 physically or mentally disabled are entitled to full and equal accom-  
17 modations, advantages, facilities, and privileges of all common  
18 carriers, airplanes, motor vehicles, railroad trains, motor buses,  
19 street cars, boats or any other public conveyances or modes of trans-  
20 portation, hotels, lodging places, places of public accommodation,  
21 amusement or resort, and other places to which the general public is  
22 invited, subject only to the conditions and limitations established by  
23 law and applicable alike to all persons.

24 (c) Persons who are physically or mentally disabled [TOTALLY OR  
25 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted  
26 by a service animal that is certified by a training facility for  
27 service animals as being able to function in a public setting [GUIDE  
28 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed  
29 in (b) of this section without being required to pay an extra charge

1 for the service animal [GUIDE DOG]; however, the person with the  
2 animal [GUIDE DOG] is liable for any damage done to the premises or  
3 facilities by the animal [DOG].

4 \* Sec. 2. AS 18.06.030 is amended to read:

5 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor  
6 vehicle approaching a physically or mentally disabled [TOTALLY OR  
7 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white  
8 or metallic in color, with or without a red tip, using special equip-  
9 ment for mobility, or using a service animal [GUIDE DOG] shall take  
10 all necessary precautions to avoid injury to the pedestrian, and a  
11 driver who fails to take all necessary precautions and causes injury  
12 to the pedestrian is liable in damages for the injury caused. A  
13 physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]  
14 pedestrian not carrying a cane as described in this section or using a  
15 service animal [GUIDE DOG] in any of the places, accommodations or  
16 conveyances set out under AS 18.06.020 has all of the rights and  
17 privileges conferred by law upon other persons, and the failure of a  
18 physically or mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestri-  
19 an to carry a cane as described in this section or to use a service  
20 animal [GUIDE DOG] is not by itself evidence of [CONTRIBUTORY] negli-  
21 gence.

22 \* Sec. 3. AS 18.06.040 is amended to read:

23 Sec. 18.06.040. PENALTY FOR DENYING RIGHTS. A person who denies  
24 or interferes with admittance to or enjoyment of the public facilities  
25 set out in AS 18.06.020 or otherwise interferes with the rights of a  
26 physically or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE]  
27 disabled person is guilty of a Class B misdemeanor [AND UPON  
28 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY  
29 IMPRISONMENT FOR NOT MORE THAN 60 DAYS, OR BY BOTH].

1 \* Sec. 4. AS 18.06.050 is amended to read:

2           Sec. 18.06.050. DEFINITIONS. In this chapter "physically or  
3 mentally disabled" has the meaning given in AS 18.80.300 [TOTALLY  
4 BLIND" OR "PARTIALLY BLIND" MEANS A PERSON WHOSE VISUAL ACUITY DOES  
5 NOT EXCEED 20/200 IN THE BETTER EYE WITH CORRECTING LENSES OR WHOSE  
6 WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20  
7 DEGREES].

8 \* Sec. 5. AS 18.80.060(a) is amended to read:

9           (a) In addition to the other powers and duties prescribed by  
10 this chapter the commission shall

11                   (1) appoint an executive director approved by the governor;

12                   (2) hire other administrative staff as may be necessary to  
13 the commission's function;

14                   (3) exercise general supervision and direct the activities  
15 of the executive director and other administrative staff;

16                   (4) accept complaints under AS 18.80.100;

17                   (5) study the problems of discrimination in all or specific  
18 fields of human relationships, and foster through community effort or  
19 goodwill, cooperation and conciliation among the groups and elements  
20 of the population of the state, and publish results of investigations  
21 and research as in its judgment will tend to eliminate discrimination  
22 because of race, religion, color, national ancestry, physical or  
23 mental disability [HANDICAP], age, sex, marital status, changes in  
24 marital status, pregnancy or parenthood;

25                   (6) make an overall assessment, at least once every three  
26 years, of the progress made toward equal employment opportunity by  
27 every department of state government; results of the assessment shall  
28 be included in the annual report made under AS 18.80.150;

29                   (7) enforce AS 18.06.

1 \* Sec. 6. AS 18.80.200 is amended to read:

2       Sec. 18.80.200. PURPOSE. (a) It is determined and declared as  
3 a matter of legislative finding that discrimination against an inhabi-  
4 tant of the state because of race, religion, color, national origin,  
5 age, sex, physical or mental disability, marital status, changes in  
6 marital status, pregnancy or parenthood is a matter of public concern  
7 and that such discrimination not only threatens the rights and privi-  
8 leges of the inhabitants of the state but also menaces the institu-  
9 tions of the state and threatens peace, order, health, safety and  
10 general welfare of the state and its inhabitants.

11       (b) Therefore, it is the policy of the state and the purpose of  
12 this chapter to eliminate and prevent discrimination in employment, in  
13 credit and financing practices, in places of public accommodation, in  
14 the sale, lease, or rental of real property because of race, religion,  
15 color, national origin, sex, age, physical or mental disability,  
16 marital status, changes in marital status, pregnancy or parenthood.  
17 It is not the purpose of this chapter to supersede laws pertaining to  
18 child labor, the age of majority or other age restrictions or require-  
19 ments.

20 \* Sec. 7. AS 18.80.210 is amended to read:

21       Sec. 18.80.210. CIVIL RIGHTS. The opportunity to obtain em-  
22 ployment, credit and financing, public accommodations, housing accom-  
23 modations and other property without discrimination because of sex,  
24 physical or mental disability, marital status, changes in marital  
25 status, pregnancy, parenthood, race, religion, color or national  
26 origin is a civil right.

27 \* Sec. 8. AS 18.80.220(a) is amended to read:

28       (a) It is unlawful for

29               (1) an employer to refuse employment to a person, or to bar

1        the person [HIM] from employment, or to discriminate against the  
2        person [HIM] in compensation or in a term, condition, or privilege of  
3        employment because of [HIS] race, religion, color or national origin,  
4        or because of [HIS] age, physical or mental disability [HANDICAP],  
5        sex, marital status, changes in marital status, pregnancy or parent-  
6        hood when the reasonable demands of the position do not require dis-  
7        tinction on the basis of age, physical or mental disability [HANDI-  
8        CAP], sex, marital status, changes in marital status, pregnancy or  
9        parenthood;

10                (2) a labor organization, because of a person's sex, mari-  
11                tal status, changes in marital status, pregnancy, parenthood, age,  
12                race, religion, physical or mental disability, color or national  
13                origin, to exclude or to expel the person [HIM] from its membership,  
14                or to discriminate in any way against one of its members or an  
15                employer or an employee;

16                (3) an employer or employment agency to print or circulate  
17                or cause to be printed or circulated a statement, advertisement, or  
18                publication, or to use a form of application for employment or to make  
19                an inquiry in connection with prospective employment, which expresses,  
20                directly or indirectly, a limitation, specification or discrimination  
21                as to sex, physical or mental disability, marital status, changes in  
22                marital status, pregnancy, parenthood, age, race, creed, color or  
23                national origin, or an intent to make the limitation, unless based  
24                upon a bona fide occupational qualification;

25                (4) an employer, labor organization or employment agency to  
26                discharge, expel or otherwise discriminate against a person because  
27                the person [HE] has opposed any practices forbidden under AS 18.80.-  
28                200 - 18.80.280 or because the person [HE] has filed a complaint,  
29                testified or assisted in a proceeding under this chapter;

1           (5) an employer to discriminate in the payment of wages as  
2 between the sexes, or to employ a female in an occupation in this  
3 state at a salary or wage rate less than that paid to a male employee  
4 for work of comparable character or work in the same operation, busi-  
5 ness or type of work in the same locality; or

6           (6) a person to print, publish, broadcast or otherwise  
7 circulate a statement, inquiry or advertisement in connection with  
8 prospective employment which expresses directly, a limitation, speci-  
9 fication or discrimination as to sex, physical or mental disability,  
10 marital status, changes in marital status, pregnancy, parenthood, age,  
11 race, religion, color or national origin, unless based upon a bona  
12 fide occupational qualification.

13 \* Sec. 9. AS 18.80.230 is amended to read:

14           Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-  
15 DATION. It is unlawful for the owner, lessee, manager, agent or  
16 employee of a public accommodation

17           (1) to refuse, withhold from or deny to a person any of its  
18 services, goods, facilities, advantages or privileges because of sex,  
19 physical or mental disability, marital status, changes in marital  
20 status, pregnancy, parenthood, race, religion, color or national  
21 origin;

22           (2) to publish, circulate, issue, display, post or mail a  
23 written or printed communication, notice or advertisement that [WHICH]  
24 states or implies

25           (A) that any of the services, goods, facilities,  
26 advantages or privileges of the public accommodation will be  
27 refused, withheld from or denied to a person of a certain race,  
28 religion, sex, physical or mental disability, marital status,  
29 color or national origin or because of pregnancy, parenthood, or

1 a change in marital status, or

2 (B) that the patronage of a person belonging to a  
3 particular race, creed, sex, marital status, color or national  
4 origin or who, because of pregnancy, parenthood, physical or  
5 mental disability, or a change in marital status, is unwelcome,  
6 not desired or solicited.

7 \* Sec. 10. AS 18.80.240 is amended to read:

8 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL  
9 PROPERTY. It is unlawful for the owner, lessee, manager or other  
10 person having the right to sell, lease or rent real property

11 (1) to refuse to sell, lease or rent the real property to a  
12 person because of sex, marital status, changes in marital status,  
13 pregnancy, race, religion, physical or mental disability, color or  
14 national origin; however, nothing in this paragraph prohibits the  
15 sale, lease or rental of classes of real property commonly known as  
16 housing for "singles" or "married couples" only;

17 (2) to discriminate against a person because of sex, mari-  
18 tal status, changes in marital status, pregnancy, race, religion,  
19 physical or mental disability, color or national origin in a term,  
20 condition or privilege relating to the use, sale, lease or rental of  
21 real property; however, nothing in this paragraph prohibits the sale,  
22 lease or rental of classes of real property commonly known as housing  
23 for "singles" or "married couples" only;

24 (3) to make a written or oral inquiry or record of the sex,  
25 marital status, changes in marital status, race, religion, physical or  
26 mental disability, color or national origin of a person seeking to  
27 buy, lease or rent real property;

28 (4) to offer, solicit, accept, use or retain a listing of  
29 real property with the understanding that a person may be

1 discriminated against in a real estate transaction or in the furnish-  
2 ing of facilities or sources in connection therewith because of a  
3 person's sex, marital status, changes in marital status, pregnancy,  
4 race, religion, physical or mental disability, color, national origin  
5 or age;

6 (5) to represent to a person that real property is not  
7 available for inspection, sale, rental, or lease when in fact it is so  
8 available, or to refuse a person to inspect real property because of  
9 the race, religion, physical or mental disability, color, national  
10 origin, age, sex, marital status, change in marital status or preg-  
11 nancy of that person or of any person associated with that person;

12 (6) to engage in blockbusting;

13 (7) to make, print or publish, or cause to be made, printed  
14 or published, any notice, statement or advertisement, with respect to  
15 the sale or rental of real property that indicates any preference,  
16 limitation, or discrimination based on race, color, religion, physical  
17 or mental disability, sex, or national origin, or an intention to make  
18 the preference, limitation or discrimination.

19 \* Sec. 11. AS 18.80.250(a) is amended to read:

20 (a) It is unlawful for a financial institution or other commer-  
21 cial institution extending secured or unsecured credit, upon receiving  
22 an application for financial assistance or credit for the acquisition,  
23 construction, rehabilitation, repair or maintenance of a housing  
24 accommodation or other property or services, or the acquisition or  
25 improvement of unimproved property, or upon receiving an application  
26 for any sort of loan of money, to permit one of its officials or  
27 employees during the execution of the official's or the employee's  
28 [HIS] duties

29 (1) to discriminate against the applicant because of sex,

1       physical or mental disability, marital status, changes in marital  
2 status, pregnancy, parenthood, race, religion, color or national  
3 origin in a term, condition or privilege relating to the obtainment or  
4 use of the institution's financial assistance or credit, except to the  
5 extent of a federal statute or regulation applicable to a transaction  
6 of the same character;

7               (2) to make or cause to be made a written or oral inquiry  
8 or record of the sex, physical or mental disability, marital status,  
9 changes in marital status, pregnancy, parenthood, race, religion,  
10 color or national origin of a person seeking the institution's finan-  
11 cial assistance or credit, unless the inquiry is for the purpose of  
12 ascertaining the creditor's rights and remedies applicable to the  
13 particular extension of credit and is not made or used in order to  
14 discriminate in a determination of creditworthiness;

15               (3) to refuse to extend credit, issue a credit card or make  
16 a loan to a married person, who is otherwise creditworthy, if so  
17 requested by the person;

18               (4) to refuse to issue a credit card to a married person in  
19 that person's name, if so requested by the person, provided, however,  
20 that the person so requesting a card may be required to open an ac-  
21 count in that name.

22 \* Sec. 12. AS 18.80.300 is amended by adding new paragraphs to read:

23               (15) "major life activities" means functions such as caring  
24 for one's self, performing manual tasks, walking, seeing, hearing,  
25 speaking, breathing, learning, and working;

26               (16) "physical or mental disability" means

27                       (A) a physical or mental impairment that substantially  
28 limits one or more major life activities,

29                       (B) a history of, or a misclassification as having, a

1           mental or physical impairment that substantially limits one or  
2           more major life activities; or

3                   (C) having

4                           (i) a physical or mental impairment that does not  
5                           substantially limit a person's major life activities but  
6                           that is treated by the person as constituting such a limita-  
7                           tion;

8                           (ii) a physical or mental impairment that sub-  
9                           stantially limits a person's major life activities only as a  
10                           result of the attitudes of others toward the impairment; or

11                           (iii) none of the impairments defined in this  
12                           paragraph but being treated by others as having such an  
13                           impairment;

14                   (D) a condition that may require the use of a prosthe-  
15                   sis, special equipment for mobility or service animal;

16                   (17) "physical or mental impairment" means

17                           (A) physiological disorder or condition, cosmetic  
18                           disfigurement, or anatomical loss affecting one or more of the  
19                           following body systems: neurological, musculoskeletal, special  
20                           sense organs, respiratory including speech organs, cardiovascu-  
21                           lar, reproductive, digestive, genito-urinary, hemic and lymph-  
22                           atic, skin, and endocrine; or

23                           (B) mental or psychological disorder, including mental  
24                           retardation, organic brain syndrome, emotional or mental illness,  
25                           and specific learning disabilities.

26           \* Sec. 13. AS 18.80.300(13) is repealed.

# MEMORANDUM

# State of Alaska

TO: Jim Duncan  
Representative

DATE: February 12, 1985

FILE NO:

TELEPHONE NO: (907) 465-2814

FROM: F. Pat Young *3/*  
Deputy Director  
Vocational Rehabilitation

SUBJECT: House Bill 172

In addition to the comments made previously concerning House Bill 172, we are sending a copy of the Congressional Record of January 31, 1985. The subject is the right of mentally retarded persons to live in the community. As in the Clayborne case in Texas, many Alaskan communities including Juneau have zoning ordinances which create problems of group homes for the developmentally disabled. I am mentioning this because your bill particularly addresses physically handicapped in terms of rental or purchase of property but it does not address the developmentally disabled or the mentally retarded. This is a whole other area of concern to us and I am sure that other individuals are concerned about it also.

Good Luck with House Bill 172.

RECEIVED  
FEB 14 1985

## Senate

### RESOLUTION BY THE PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

● Mr. WEICKER. Mr. President, I would like to call the attention of my colleagues to an important resolution recently adopted unanimously by the President's Committee on Mental Retardation [PCMR]. This resolution reaffirms the fundamental right of mentally retarded persons to live in the community.

The Supreme Court will shortly consider the Cleburne case where a local zoning ordinance has excluded mentally retarded persons from living in the community, unless a special zoning permit is issued. The Fifth Circuit Court of Appeals has correctly upheld the right of mentally retarded persons to reside in the community. It is incumbent upon the Supreme Court to do the same.

While I commend PCMR for demonstrating the courage of their convictions in working toward securing and maintaining the inalienable rights of mentally retarded persons, I am once again disheartened by the action taken by the U.S. Department of Justice. Rather than leading the march for the rights of America's handicapped citizens, it has positioned itself as an obstacle in that march. By filing an amicus brief supporting the reversal of the court of appeals decision, the Department of Justice has placed one more hurdle in the road to independence for America's retarded citizens.

I urge my colleagues to carefully review the President's Committee on Mental Retardation resolution, and I ask that this resolution be printed in today's RECORD at the conclusion of these remarks.

The resolution follows:

#### PCMR RESOLUTION CONCERNING THE CLEBURNE CASE

Whereas mentally retarded persons have historically been subjected to State imposed exclusion from education, employment and housing and denied the opportunity to participate fully in American community life; and

Whereas systematic State imposed exclusion and hostile differential treatment continues to prevent mentally retarded persons from full enjoyment of the rights and opportunities guaranteed to other citizens such as the right to associate actively within the social and economic fabric of families, neighborhoods, and communities, unrestrained by prejudice or stereotype; and

Whereas the zoning ordinance passed by the City of Cleburne, Texas, in 1947, excluding except by special use permit from apartment districts and other areas of the city where congregated living is permitted, "feeble minded" persons, is an integral part of this type of systematic State exclusion of and hostile treatment towards mentally retarded citizens; and

Whereas the President's Committee on Mental Retardation has consistently supported all efforts to combat and overcome the effects of State imposed exclusion and hostility toward mentally retarded Americans and to establish the right of mentally retarded persons to choose their living arrangements; and

Whereas Group Homes currently are the principal community living alternatives for persons who are mentally retarded and the availability of such a home in communities is an essential ingredient of normal living patterns for mentally retarded persons; and

Whereas the President's Committee on Mental Retardation has long recognized that mentally retarded citizens lack sufficient political power to effectively access or use the political and legislative process to assert and to protect their basic rights; and

Whereas the President's Committee on Mental Retardation has vigorously supported both legislative and judicial action to ensure Equal Protection under the laws of state and localities; and

Whereas the Fifth Circuit Court of Appeals has struck down the Cleburne Ordinance as contrary to the Equal Protection guarantees of the Fourteenth Amendment of the U.S. Constitution; and

Whereas the Supreme Court of the United States now has before it a challenge to the validity of this zoning ordinance under the Equal Protection Clause;

Now therefore be it resolved that: The President's Committee on Mental Retardation express its view that the application of the Cleburne Ordinance to Americans with Mental Retardation represents a type of unlawful invidious discrimination existing across the Nation which is barred by the U.S. Constitution.●



# THE ALASKA ALLIANCE FOR THE MENTALLY ILL

"An affiliate of the National Alliance for the Mentally Ill"

April 24, 1985

MEMBERS OF THE ALASKA HOUSE  
OF REPRESENTATIVES

Juneau, Alaska

Before you on Thursday is a bill to assure the civil rights of handicapped persons. The Alaska State Alliance for the Mentally Ill urges you to act favorably on CSSHB 172. This bill is modeled after federal law.

Persons who are or who have been mentally ill have frequently been discriminated against in employment and housing. It is our major concern that society begin to understand the nature of mental illness and remove the stigma associated with it.

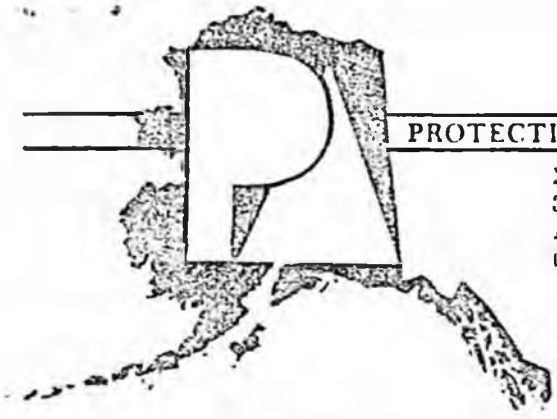
Some facts which will help to understand why persons who are mentally ill or who have been should not be discriminated against are:

- Schizophrenia accounts for over 60% of mental illness and 25% of persons who become ill with this condition recover after one episode.
- 90% of those with schizophrenia can be treated with medication which has a profound effect in controlling symptoms
- Manic Depression accounts for about 12% of mental illness and 95% of persons suffering from this condition can take lithium which eliminates all symptoms

Certainly there are laws in existence which allows action when behavior is disruptive and inappropriate, but the behavior must be seperated from the illness for those unfortunate persons in our society who must deal with this situation most of their life.

Sincerely,

Sharron Lohaugh



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

MAIN OFFICE  
325 East 3rd, 2nd Floor  
Anchorage, AK 99501  
(907) 274-3633

SOUTHEAST  
REGIONAL OFFICE  
127 S. Franklin, Suite 2  
Juneau, AK 99801  
(907) 586-1627

NORTHERN  
REGIONAL OFFICE  
763 7th Ave.  
Fairbanks, AK 99701  
(907) 456-1070

PROPOSED LEGISLATION WITH GUARANTEE RIGHTS OF THE DISABLED

Senator Patrick Rodey (D. Anch.) will be submitting to the 1985 Alaska Legislature a bill which will very favorably affect the rights of disabled persons in Alaska. The bill will address two important areas: 1) assuring the rights of disabled persons to sit on juries; 2) extending to disabled persons the general civil rights which are enforced by the Alaska Human Rights Commission.

JURIES

Under present Alaska law, a person may not serve as a juror if they are not in possession of their "natural faculties". This has been interpreted to disqualify deaf, blind, and mobility impaired persons from jury services. The injustice of this provision was recently brought to the public's attention when jury service was denied to Mr. Al Berke. Berke is deaf and is the Executive Director of the Alaska Association for the Deaf. Had the court provided Berke with an interpreter, he would have been perfectly capable of serving as a juror.

Senator Rodey's bill would prevent similar discrimination by changing the definition of what is a qualified juror. The bill states that deafness, blindness, or mobility impairment do not alone disqualify a person from jury service. The bill further requires the court system to pay for an interpreter to enable a deaf person to act as a juror.

Similar laws prohibiting discrimination against disabled jurors are in effect in a number of states including California, Colorado, Oklahoma, Washington, and Texas.

HUMAN RIGHTS COMMISSION

The Alaska Human Rights Commission was created by the legislature to eliminate and prevent discrimination against all Alaskans on the basis of their race, religion, color, national origin, age, sex, marital status, change in marital status, and pregnancy or parenthood. The Human Rights Commission is charged with eliminating and preventing discrimination in employment, credit and financing practices, places of public accommodations, and the sale, lease or rental of real property.

In recent years, disabled persons and their advocates have felt the need for similar protection. Senator Rodey's bill affirmatively states that discrimination based on disability is contrary to the general welfare of

the state and its inhabitants. Senator Rodey's bill adds "disability" to the list of other classes, such as race and religion, and prohibits discrimination against the disabled.

The bill's definition of a "person with a disability" closely tracks the Federal Department of Health & Human Service's Non-Discrimination on the Basis of Handicapped Regulations which were promulgated pursuant to Section 504 of the Rehabilitation Act of 1973. This is intended to tie into the large body of federal case law that has addressed the issue.

In addition, the bill makes it an affirmative obligation on the part of a state or local government to provide and pay the cost of an interpreter when a deaf person seeks access to local or state funds, services, goods, facilities, advantages or privileges.

The extension of basic civil rights to disabled persons will enhance their ability to more meaningfully participate in all aspects of our society and thereby enrich the lives of every citizen of our state. We at P.A.D.D. sincerely hope that the unified front on the part of all concerned will help bring about the passage of this very important piece of legislation. For more information on how you can assist in this process, contact Al Berke at the Alaska Association for the Deaf, 563-4713, or David Maltman or Jon Katcher at P.A.D.D.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CSHB 172  
 Title: An Act Relating to Rights of Deaf, Blind, and Disabled  
 Sponsor: Duncan/Collins/Gruenberg  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Alaska Court System  
 Program Category Affected: Due Process  
 RU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL		4.1	4.3	4.6	4.9	5.2
300 CONTRACTUAL		9.9	10.5	11.1	11.8	12.5
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		212.3				
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>226.3</b>	<b>14.8</b>	<b>15.7</b>	<b>16.7</b>	<b>17.7</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	226.3	14.8	15.7	16.7	17.7
FEDERAL FUNDS					
OTHER					
<b>TOTAL</b>	<b>226.3</b>	<b>14.8</b>	<b>15.7</b>	<b>16.7</b>	<b>17.7</b>

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert G. Fisher  
 Division: Alaska Court System

Phone: 264-0561  
 Date: 3/20/85

Approved by Commissioner: [Signature]  
 Agency: Alaska Court System

Date: 3/20/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

ALASKA COURT SYSTEM  
CSHB 172 - RIGHTS OF DEAF, BLIND, AND DISABLED PERSONS  
FISCAL IMPACT

This legislation allows deaf, blind, and disabled individuals to serve on juries. Additionally, interpreters are provided for deaf persons while on jury duty. This legislation will impact the Court's travel, contractual, and leasehold improvements budget categories.

Historically, seven percent of all eligible persons are selected for jury service, which typically averages one and one-half days in length. The Division of Vocational Rehabilitation has estimated that 250 deaf persons would be eligible for jury duty. Based on past experience, approximately 17 deaf individuals could be called for service in a year. Each deaf juror would require an interpreter for all activities in the court. Interpreter fees are calculated to cost \$9,900 per year. Depending upon availability, interpreters may have to travel to the court locations around the state. This travel is estimated to cost \$4,100.

Providing access to court facilities and restrooms for disabled individuals will require remodeling of certain courts. The remodeling will provide barrier-free access routes to court buildings, expansion of jury boxes, and enlarged toilet facilities for individuals in wheelchairs. For those locations where remodeling is feasible, the cost is estimated at \$212,300. In a few locations, such as Nome, modifications cannot be made, except at a substantial cost. Many urban courts are already equipped to handle disabled persons.

Cost estimates for subsequent fiscal years reflect inflation at the rate of six percent.

COMMITTEE REPORT

HOUSE

5/7

(11)

5/3/85

FURTHER:

Rules

Date:

5-7-85

The Committee on FINANCE has had HB 393  
"An Act relating to <sup>the</sup>rights of physically and mentally disabled persons."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 393 (Jud)  same title  
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached  
5-1-85
- referred to the \_\_\_\_\_ *Some previous*  
Committee

MEMBERS SIGNING  
DO PASS

Arthur P. Coker

[Signature]

Michael J. [Signature]

[Signature]

[Signature]

Donald J. [Signature]

Pat [Signature]

Jan [Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Arthur P. Coker  
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Page 1 of 2

Revision Date: 5/1/85

<p><u>REQUEST</u>                  Bill/Resolution No.: <u>HB 393</u>                  Title: <u>An Act Relating To Rights of Deaf, Blind, Disabled Persons</u>                  Sponsor: <u>House Judiciary</u>                  Requestor: _____                  Date of Request: <u>5/1/85</u></p>	<p><u>FISCAL DETAIL</u>                  Agency Affected: <u>ALASKA COURT SYSTEM</u>                  Program Category Affected: _____                  Due Process                  BRU, Program or Subprogram(s) Affected: <u>Trial Courts</u></p>
--	--

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL		4.1	4.3	4.6	4.9	5.2
300 CONTRACTUAL		9.9	10.5	11.1	11.8	12.5
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>14.0</b>	<b>14.8</b>	<b>15.7</b>	<b>16.7</b>	<b>17.7</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		14.0	14.8	15.7	16.7	17.7
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>14.0</b>	<b>14.8</b>	<b>15.7</b>	<b>16.7</b>	<b>17.7</b>

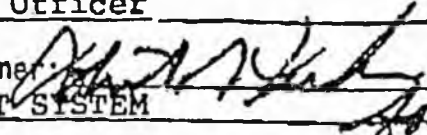
**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert G. Fisher  
 Division: Fiscal Officer

Phone: 264-0561  
 Date: 5/1/85

Approved by Commissioner:   
 Agency: ALASKA COURT SYSTEM

Date: 5/1/85

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

7/1/84

ALASKA COURT SYSTEM  
HB 393 - RIGHTS OF DEAF, BLIND, AND DISABLED PERSONS  
FISCAL IMPACT

Page 2 of 2

This legislation allows deaf, blind, and disabled individuals to serve on juries. Additionally, interpreters are provided for deaf persons while on jury duty. This legislation will impact the Court's travel, contractual, and leasehold improvements budget categories.

Historically, seven percent of all eligible persons are selected for jury service, which typically averages one and one-half days in length. The Division of Vocational Rehabilitation has estimated that 250 deaf persons would be eligible for jury duty. Based on past experience, approximately 17 deaf individuals could be called for service in a year. Each deaf juror would require an interpreter for all activities in the court. Interpreter fees are calculated to cost \$9,900 per year. Depending upon availability, interpreters may have to travel to the court locations around the state. This travel is estimated to cost \$4,100.

Cost estimates for subsequent fiscal years reflect inflation at the rate of six percent.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 393

Title: "An Act relating to the rights of physically and mentally disabled Person" (and Developmental Disabilities

Sponsor: Judiciary Committee

Requestor: \_\_\_\_\_

Date of Request: 4-30-85

FISCAL DETAIL

Department of Health

Agency Affected: and Social Services

Program Category Affected: Division of Mental Health

BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

Central Office Division of Mental Health and

Developmental Disabilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME none						
TEMPORARY required						

ANALYSIS: Attach a separate page if necessary

Prepared By: Mei Henry, Ph.D., M.P.A.  Phone: 465-3370

Division: Mental Health and Developmental Disabilities Date: 4-30-85

Approved by Commissioner:  Date: 5-1-85

Agency: \_\_\_\_\_ *JCC*

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE  
General Counsel

303 K Street  
Anchorage, AK 99501

April 10, 1985

Representative Max Gruenberg  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Representative Gruenberg:

You asked if the court system could provide a more complete breakdown of the estimated expense for interpreters for deaf jurors.

I have attached a cost projection sheet which is based upon the chances of a deaf juror being called for service at a given court location. Bob Fisher, Fiscal Officer, can answer any questions about these figures (264-0561).

I hope this information is helpful.

Sincerely,

Karla L. Forsythe  
General Counsel

KLF:smh

cc: Arthur H. Snowden, II  
Senator Pat Rodey  
Bob Fisher

TRIAL LENGTH DAYS 2.54 \*One day is added to trial length for travel time for interpreter\*

# OF DEAF 250 \*Estimated number of jury eligible deaf persons\*  
 JURORS SERVED 28,235 \*Number of jurors in 1983\*  
 TOTAL JURORS 406,000 \*Estimated juror population\*  
 % SERVED 0.069544 \*Percent of persons called for jury service\*

INTERPRETER FEE/DAY 225 \*Interpreter fees at \$30 per hour per 7.5 hour day per Administrative Rule 6\*

\*\*\*\*\* INTERPRETER \*\*\*\*\*

LOCATION	# OF JURORS	TOTAL PAY	AVERAGE PAY	AVERAGE SERVICE	JUROR DISTR.	PER DIEM	AIRFARE COST	FEEES	TRIAL COST	TRAVEL	PROBABLE COSTS FEES	TOTAL
ANCHORAGE **	14,636	477,940.00	32.66	1.31	51.84%	0	0	572	572	0	5,155	5,155
ANIAK	42	612.50	14.58	0.58	0.15%	85	346	572	1,136	15	15	30
BARROW	884	66,637.50	75.38	3.02	3.13%	106	576	572	1,417	460	311	771
BETHEL	562	40,000.00	71.17	2.85	1.99%	106	268	572	1,109	186	198	384
CORDOVA	205	7,150.00	34.88	1.40	0.73%	80	130	572	905	42	73	115
CRAIG	6	87.50	14.58	0.58	0.02%	80	424	572	1,199	2	2	4
DELTA JUNC.	134	7,300.00	54.48	2.18	0.47%	80	140	572	915	28	47	75
DILLINGHAM	283	9,987.50	35.29	1.41	1.00%	85	198	572	986	72	99	171
FAIRBANKS	5,327	209,750.00	39.37	1.57	18.87%	90	222	572	1,023	1,478	1,877	3,355
FT. YUKON	150	7,037.50	46.92	1.88	0.53%	90	372	572	1,173	55	53	108
GALENA	33	825.00	25.00	1.00	0.12%	90	307	572	1,108	11	12	23
GLENNALLEN	26	412.50	15.87	0.63	0.09%	80	100	572	875	5	9	14
HAINES	14	362.50	25.89	1.04	0.05%	80	366	572	1,141	5	5	10
HEALY	36	600.00	16.67	0.67	0.13%	90	125	572	926	8	13	21
HOMER	204	5,737.50	28.13	1.13	0.72%	80	115	572	890	40	72	112
HOONAH	15	262.50	17.50	0.70	0.05%	80	412	572	1,187	5	5	10
JUNEAU	527	30,775.00	58.40	2.34	1.87%	80	352	572	1,127	181	186	367
KAKE	15	250.00	16.67	0.67	0.05%	80	452	572	1,227	6	5	11
KENAI	830	42,512.50	51.22	2.05	2.94%	80	64	572	839	137	292	429
KETCHIKAN	558	28,150.00	50.45	2.02	1.98%	80	452	572	1,227	226	197	423
KOBUK	24	375.00	15.63	0.63	0.09%	90	604	572	1,405	13	9	22
KODIAK	697	33,162.50	47.58	1.90	2.47%	80	222	572	997	183	246	429
KOTZEBUE	478	21,287.50	44.53	1.78	1.69%	90	524	572	1,325	221	168	389
NAKNEK	30	437.50	14.58	0.58	0.11%	85	304	572	1,092	10	11	21
NENANA	167	5,462.50	32.71	1.31	0.59%	90	252	572	1,053	49	59	108
NOME	364	10,700.00	29.40	1.18	1.29%	90	426	572	1,227	147	128	275
NOORVIK	33	412.50	12.50	0.50	0.12%	90	604	572	1,405	17	12	29
PALMER	681	41,525.00	60.98	2.44	2.41%	80	25	572	800	96	240	336
PETERSBURG	144	4,912.50	34.11	1.36	0.51%	80	420	572	1,195	55	51	106
PT. HOPE	21	262.50	12.50	0.50	0.07%	90	604	572	1,405	10	7	17
SELAWIK	47	587.50	12.50	0.50	0.17%	90	604	572	1,405	25	17	42
SELDOVIA	30	600.00	20.00	0.80	0.11%	80	139	572	914	7	11	18
SEWARD	121	2,187.50	18.08	0.72	0.43%	80	69	572	844	20	43	63
SITKA	282	13,350.00	47.34	1.89	1.00%	80	352	572	1,127	97	99	196
SKAGWAY	18	675.00	37.50	1.50	0.06%	80	492	572	1,267	7	6	13
TOK	181	4,850.00	26.80	1.07	0.64%	80	175	572	950	42	64	106
UNALAKLEET	29	675.00	23.28	0.93	0.10%	85	294	572	1,082	9	10	19
UNALASKA	140	3,625.00	25.89	1.04	0.50%	85	594	572	1,382	70	50	120
VALDEZ	101	3,800.00	37.62	1.50	0.36%	80	148	572	923	22	36	58
WRANGELL	119	4,000.00	33.61	1.34	0.42%	80	420	572	1,195	46	42	88
YAKUTAT	41	987.50	24.09	0.96	0.15%	80	300	572	1,075	13	15	28
<b>TOTAL</b>	<b>28,235</b>	<b>1,090,265.00</b>	<b>38.61</b>	<b>1.54</b>	<b>100.02%</b>					<b>4,121</b>	<b>9,950</b>	<b>14,071</b>

POSITION PAPER

CS HB 172

"An Act relating to the rights of physically and mentally disabled persons."

EFFECT OF CS HB 172:

A.S. 18.06 entitles a physically or mentally disabled person full and equal accommodations, advantages, facilities and privileges on all common carriers, airplanes, motor vehicles, trains, buses, street cars, boats or other public conveyance, hotels lodging, places of public accommodations, amusement, or resort and other places to which the general public is invited.

A.S. 18.06 also establishes physically or mentally disabled persons have the right to be accompanied by service animals in the above locations and describes rights of physically and mentally disabled persons (and their service animals) as pedestrians.

- Under A.S. 18.80, all areas of the Human Right Law would be expanded to provide equal protection to "physically and mentally disabled persons" as defined.

RECOMMENDATION:

The Department of Health and Social Services supports passage of CS HB 172.

Recommended by: Thomas R. Braxton for  
Mel Henry, Ph.D., M.P.A.

Date: 4-23-85

Approved by: John Pugh  
John Pugh, Commissioner

Date: 4-25-85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

**REQUEST**

Bill/Resolution No.: CS HB 172  
 Title: "An Act relating to the rights of physically & mentally disabled persons"  
 Sponsor: Ducan  
 Requestor: \_\_\_\_\_  
 Date of Request: 4-18-85

**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: Community Developmental Disabilities

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

*Handwritten signature: Mel Henry*

Prepared By: Mel Henry, Ph.D., M.A. Phone: 465-3370  
 Division: Mental Health and Developmental Disabilities Date: 4-23-85

Approved by Commissioner: *John R. Poy* Date: 4-25-85 JCC  
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: March 20, 1985

REQUEST

Bill/Resolution No CSHB 172 (HESS)  
Title: Rights of physically and  
mentally disabled persons  
Sponsor: Duncan  
Requestor: House HESS  
Date of Request: March 20, 1985

FISCAL DETAIL

Agency Affected: Court System  
Program Category Affected: \_\_\_\_\_  
BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		2.700	2.835	2.970	3.100	
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		2.700	2.835	2.970	3.100	

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		2.700	2.835	2.970	3.100	
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The funds are to provide interpreters for the deaf to the court system so that these people can serve on juries. There are 450 deaf adults in Alaska who use sign language, the assumption being that 300 are physically capable of serving, and 5% of those might serve in any given year. The cost is \$20.00/hour for interpreter fees figured on a 9 hour per juror factor and a 5% increase per year in the number of deaf jurors.

Prepared By: Representative Max Gruenberg  
Division: House of Representatives

Phone: 465-4986  
Date: 3/20/85

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Distribution (by Agency preparing fiscal note):

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

7/1/84

DUNCAN /

CSHB 172 (JUD)

CSHB 172 (JUD) provides protection for the rights of the blind, deaf and otherwise physically and mentally disabled to the safe and equal use of public streets, sidewalks, transportation and public accommodations. In exercising these rights, the disabled person's use of a service animal would also be protected.

This bill also places enforcement of discrimination based on physical or mental disability within the authority of the Human Rights Commission.

It will protect the disabled from discrimination in purchase, rental or lease of housing; employment, and financing.

This bill is supported by organizations for the deaf, blind, physically and mentally disabled and the Governor's Council on the Handicapped and Gifted. I urge you to vote yes on this long overdue Legislation.

# State

Bill (1983) Mass. or Dakota's and Bill authorizes purchase and in for their aided feeding where a recording that the Bill sets strict provisions in a) Dogs and the for Businesses. (those who

192) which the state bers whose san 2007, of the the TDDs. equan of ot health and verion's of the possession

Using a State g Impaired

ould make the Deafness a Health Code ch is now before ating to those e Senate bill that would

the House and or, will



## State Interpreter Chart

The NCLD has developed a chart summarizing state interpreter laws. This chart is not intended to be comprehensive, and those in need of specific information should check their state citations.

In a criminal situation, where the state law authorizes the provision of an interpreter, the state will pay for it. The same can be said for administrative proceedings. Where an interpreter is provided, the appointing authority will be responsible for the payment.

STATE	SCOPE					CITATIONS
	CRIMINAL	CIVIL	ADMINISTRATIVE	COURT PAYS	TAPE AS COSTS	
ALABAMA	X	X	X			Ala. Code §12 21 131, Ala. Rules of Civil Proc. 43 (1978)
ALASKA					X	Alaska Administrative Rules 6 (revis) (1981)
ARIZONA	X	X	X	X		Ariz. Rev. Stat. Ann. §§11 601, 12 241, 12 242, 3b 194b Ariz. Rules for Criminal Proceedings, 12 5 (1982)
ARKANSAS	X	X	X	X		Ark. Stat. Ann. §§ 175, 5 175 1, 27 835, 43 2101 1, 22 148 to 154 (1981)
CALIFORNIA	X	X	X	X		Cal. Evid. Code §§750 54 (West) Cal. Gov't Code §§68500 68564 (West 1978)
COLORADO	X		X			Colo. Rev. Stat. §§13 90 113 13 90 114, 13 90 201 205 (1978)
CONNECTICUT	X	X	X			Conn. Gen. Stat. Ann. §§17 137(k) thru (p), 1-25 (West 1983)
DELAWARE	X	X			X	Del. Code Ann. tit. 10 §8907 (1976)
DISTRICT OF COLUMBIA			X			D.C. Code Ann. §1 1509, §1 1511 (1982)
FLORIDA	X	X	X		X	Fla. Stat. Ann. §§90 606, 905 15, 90 6063, 901 245 (West 1981)
GEORGIA	X	X	X	X		Ga. Code Ann. §§24 9 100 thru 108, 24 1 5 (1983)
HAWAII	X	X	X			Hawaii Rev. Stat. §60 9 (1979)
IDAHO	X	X		X		Idaho Code §§ 9 205, 19 1111, 9 1603 (1975)
ILLINOIS	X	X		X		Ill. Ann. Stat. ch. 28 §§165 11 thru 13, 51§47, 51§48 01 Ill. Code Civ. Proc. ch. 110 §8 1402 (1982)
INDIANA	X	X	X			Ind. Code Ann. §4 22 1 22 5, 34 1 14 3 (Burns 1972) Ind. R. Tr. P. 43(f)
IOWA	X	X	X			Iowa Code Ann. §§622A 1, §622B 1, §622B appendix (West 1980)
KANSAS	X	X	X		X	Kan. Stat. Ann. §§60 243, 60 243(c) 75 4351 4355, 60-417 (1972)
KENTUCKY	X	X	X			Ky. Rev. Stat. §§30A 400 to 435 (L. 77)
LOUISIANA	X	X	X		X	La. Rev. Stat. Ann. 15 §270, 49§181, 46 2361 to 46 2372, La. Code Crim. Proc. Ann. art. 433, 441, La. Code Civ. Proc. Ann. art. 192 1 (West 1982)
MAINE	X	X	X			Me. Rev. Stat. Ann. tit. 5§48, Rules of Civ. Proc. §43(L), Rules of Crim. Proc. §6(D), §28 (1979)
MARYLAND	X	X	X		X	Md. Cts. & Jud. Proc. §9 114; Md. Ann. Code art. 27§623A, art. 30 §1, art. 30 §2A (1979)
MASSACHUSETTS	X	X	X	X		Mass. Gen. Laws Ann. ch. 221 §92 to 92A, ch. 234A §69 (West 1983)
MICHIGAN	X					Mich. Comp. Laws Ann. §391 501 509 (West 1982)
MINNESOTA	X	X	X	X		Minn. Stat. Ann. §§546 42 544, 611 30 611 34, 15 44, 204C 15 (West 1981)
MISSISSIPPI	X	X	X		X	Miss. Code Ann. §§13 1-16, 99 17 7, 11 7 153 (1972)
MISSOURI	X	X				Mo. Ann. Stat. §§47b 060, 490 630, 491 300, 510 150, 546 025 (Vernon 1965)
MONTANA	X	X	X	X		Mont. Code Ann. §§49 4 501 to 49 4 511, 25 404, 25 413, 93 514, ch. 245 §§1 14 Mont. R. Civ. Pr. Rule 43 (f) (1979)
NEBRASKA	X	X	X	X		Neb. Rev. Stat. §§25 2401 to 2406 (1974)
NEVADA	X	X			X	Nev. Rev. Stat. §§50 045, 50 050, 171 15 15 to 171 15 38 (1975) Rules of Cr.

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

SUBJECT: SCS CSHB 172 (Jud) (5/9/85 draft)

TO: Sen. Pat Rodey  
Chairman, Senate Judiciary Committee

FROM: Ed Hein, LAA

Attached is a corrected version of the draft CS you requested merging HB 393 with CSHB 172 (Jud). The 5/8/85 draft inadvertently included two bill sections amending AS 18.06.040. I have deleted sec. 4 of the earlier draft and renumbered the bill sections accordingly. Sec. 4 of the new draft is the version that appears in HB 393. I apologize for any confusion or inconvenience this may have caused. Note also that Mike Ford of our office has written the sectional analysis because he worked on HB 172 until this CS. You may direct future questions and requests concerning the bill to me.

EJA

Hein  
5/9/85 ✓

Original sponsors: Duncan, Collins  
and Gruenberg

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 172 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the rights of physically and  
mentally disabled persons."

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

\* Section 1. AS 09.20.010 is amended by adding new subsections to read:

(b) A person is not disqualified to act as a juror solely because of the loss of hearing or sight in any degree or a disability that substantially impairs or interferes with the person's mobility.

(c) The court shall provide, and pay the cost of services of, an interpreter or reader when necessary to enable a person with impaired hearing or sight to act as a juror.

\* Sec. 2. AS 18.06.020 is amended to read:

Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE] physically or mentally disabled have the same right as the able-bodied to the full and free pedestrian use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE] physically or mentally disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by

1 law and applicable alike to all persons.

2 (c) Persons who are physically or mentally disabled [TOTALLY OR  
3 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted  
4 by a service animal that is certified by a training facility for  
5 service animals as being able to function in a public setting [GUIDE  
6 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed  
7 in (b) of this section without being required to pay an extra charge  
8 for the service animal [GUIDE DOG]; however, the person with the  
9 animal [GUIDE DOG] is liable for any damage done to the premises or  
10 facilities by the animal [DOG].

11 \* Sec. 3. AS 18.06.030 is amended to read:

12 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor  
13 vehicle approaching a physically or mentally disabled [TOTALLY OR  
14 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white  
15 or metallic in color, with or without a red tip, using special equip-  
16 ment for mobility, or using a service animal [GUIDE DOG] shall take  
17 all necessary precautions to avoid injury to the pedestrian, and a  
18 driver who fails to take all necessary precautions and causes injury  
19 to the pedestrian is liable in damages for the injury caused. A  
20 physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]  
21 pedestrian not carrying a cane as described in this section or using a  
22 service animal [GUIDE DOG] in any of the places, accommodations or  
23 conveyances set out under AS 18.06.020 has all of the rights and  
24 privileges conferred by law upon other persons, and the failure of a  
25 physically or mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestri-  
26 an to carry a cane as described in this section or to use a service  
27 animal [GUIDE DOG] is not by itself evidence of [CONTRIBUTORY] negli-  
28 gence.

29 \* Sec. 4. AS 18.06.040 is amended to read:

1           Sec. 18.06.040. ENFORCEMENT AND PENALTY [FOR DENYING RIGHTS].  
2 Enforcement of this chapter shall be by the state Human Rights Commis-  
3 sion under AS 18.80.010 - 18.80.145. A person who denies or inter-  
4 feres with admittance to or enjoyment of the public facilities set out  
5 in AS 18.06.020 or otherwise interferes with the rights of a physical-  
6 ly or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE] disabled  
7 person is guilty of a misdemeanor and upon conviction is punishable by  
8 a fine of not more than \$1,000, or by imprisonment for not more than  
9 60 days, or by both.

10 \* Sec. 5. AS 18.06.050 is amended to read:

11           Sec. 18.06.050. DEFINITIONS. In this chapter "physically or  
12 mentally disabled" has the meaning given in AS 18.80.300 [TOTALLY  
13 BLIND" OR "PARTIALLY BLIND" MEANS A PERSON WHOSE VISUAL ACUITY DOES  
14 NOT EXCEED 20/200 IN THE BETTER EYE WITH CORRECTING LENSES OR WHOSE  
15 WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20  
16 DEGREES].

17 \* Sec. 6. AS 18.80.060(a) is amended to read:

18           (a) In addition to the other powers and duties prescribed by  
19 this chapter the commission shall

20                   (1) appoint an executive director approved by the governor;

21                   (2) hire other administrative staff as may be necessary to

22 the commission's function;

23                   (3) exercise general supervision and direct the activities  
24 of the executive director and other administrative staff;

25                   (4) accept complaints under AS 18.80.100;

26                   (5) study the problems of discrimination in all or specific  
27 fields of human relationships, and foster through community effort or  
28 goodwill, cooperation and conciliation among the groups and elements  
29 of the population of the state, and publish results of investigations

1 and research as in its judgment will tend to eliminate discrimination  
2 because of race, religion, color, national ancestry, physical or  
3 mental disability [HANDICAP], age, sex, marital status, changes in  
4 marital status, pregnancy or parenthood;

5 (6) make an overall assessment, at least once every three  
6 years, of the progress made toward equal employment opportunity by  
7 every department of state government; results of the assessment shall  
8 be included in the annual report made under AS 18.80.150;

9 (7) enforce AS 18.06.

10 \* Sec. 7. AS 18.80.200 is amended to read:

11 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as  
12 a matter of legislative finding that discrimination against an inhabi-  
13 tant of the state because of race, religion, color, national origin,  
14 age, sex, physical or mental disability, marital status, changes in  
15 marital status, pregnancy or parenthood is a matter of public concern  
16 and that such discrimination not only threatens the rights and privi-  
17 leges of the inhabitants of the state but also menaces the institu-  
18 tions of the state and threatens peace, order, health, safety and  
19 general welfare of the state and its inhabitants.

20 (b) Therefore, it is the policy of the state and the purpose of  
21 this chapter to eliminate and prevent discrimination in employment, in  
22 credit and financing practices, in places of public accommodation, in  
23 the sale, lease, or rental of real property because of race, religion,  
24 color, national origin, sex, age, physical or mental disability,  
25 marital status, changes in marital status, pregnancy or parenthood.  
26 It is not the purpose of this chapter to supersede laws pertaining to  
27 child labor, the age of majority or other age restrictions or require-  
28 ments.

29 \* Sec. 8. AS 18.80.210 is amended to read:

1           Sec. 18.80.210.   CIVIL RIGHTS.   The opportunity to obtain em-  
2           ployment, credit and financing, public accommodations, housing accom-  
3           modations and other property without discrimination because of sex,  
4           physical or mental disability, marital status, changes in marital  
5           status, pregnancy, parenthood, race, religion, color or national  
6           origin is a civil right.

7           \* Sec. 9. AS 18.80.220(a) is amended to read:  
8

9           (a) It is unlawful for

10           (1) an employer to refuse employment to a person, or to bar  
11           the person [HIM] from employment, or to discriminate against the  
12           person [HIM] in compensation or in a term, condition, or privilege of  
13           employment because of [HIS] race, religion, color or national origin,  
14           or because of [HIS] age, physical or mental disability [HANDICAP],  
15           sex, marital status, changes in marital status, pregnancy or parent-  
16           hood when the reasonable demands of the position do not require dis-  
17           tinction on the basis of age, physical or mental disability [HANDI-  
18           CAP], sex, marital status, changes in marital status, pregnancy or  
19           parenthood;

20           (2) a labor organization, because of a person's sex, mari-  
21           tal status, changes in marital status, pregnancy, parenthood, age,  
22           race, religion, physical or mental disability, color or national  
23           origin, to exclude or to expel the person [HIM] from its membership,  
24           or to discriminate in any way against one of its members or an em-  
25           ployer or an employee;

26           (3) an employer or employment agency to print or circulate  
27           or cause to be printed or circulated a statement, advertisement, or  
28           publication, or to use a form of application for employment or to make  
29           an inquiry in connection with prospective employment, which expresses,  
            directly or indirectly, a limitation, specification or discrimination

1 as to sex, physical or mental disability, marital status, changes in  
2 marital status, pregnancy, parenthood, age, race, creed, color or  
3 national origin, or an intent to make the limitation, unless based  
4 upon a bona fide occupational qualification;

5 (4) an employer, labor organization or employment agency to  
6 discharge, expel or otherwise discriminate against a person because  
7 the person [HE] has opposed any practices forbidden under AS 18.80.-  
8 200 - 18.80.280 or because the person [HE] has filed a complaint,  
9 testified or assisted in a proceeding under this chapter;

10 (5) an employer to discriminate in the payment of wages as  
11 between the sexes, or to employ a female in an occupation in this  
12 state at a salary or wage rate less than that paid to a male employee  
13 for work of comparable character or work in the same operation, busi-  
14 ness or type of work in the same locality; or

15 (6) a person to print, publish, broadcast or otherwise  
16 circulate a statement, inquiry or advertisement in connection with  
17 prospective employment which expresses directly, a limitation, speci-  
18 fication or discrimination as to sex, physical or mental disability,  
19 marital status, changes in marital status, pregnancy, parenthood, age,  
20 race, religion, color or national origin, unless based upon a bona  
21 fide occupational qualification.

22 \* Sec. 10. AS 18.80.230 is amended to read:

23 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-  
24 DATION. It is unlawful for the owner, lessee, manager, agent or  
25 employee of a public accommodation

26 (1) to refuse, withhold from or deny to a person any of its  
27 services, goods, facilities, advantages or privileges because of sex,  
28 physical or mental disability, marital status, changes in marital  
29 status, pregnancy, parenthood, race, religion, color or national

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origin;

(2) to publish, circulate, issue, display, post or mail a written or printed communication, notice or advertisement that [WHICH] states or implies

(A) that any of the services, goods, facilities, advantages or privileges of the public accommodation will be refused, withheld from or denied to a person of a certain race, religion, sex, physical or mental disability, marital status, color or national origin or because of pregnancy, parenthood, or a change in marital status, or

(B) that the patronage of a person belonging to a particular race, creed, sex, marital status, color or national origin or who, because of pregnancy, parenthood, physical or mental disability, or a change in marital status, is unwelcome, not desired or solicited.

\* Sec. 11. AS 18.80.240 is amended to read:

Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL PROPERTY. It is unlawful for the owner, lessee, manager or other person having the right to sell, lease or rent real property

(1) to refuse to sell, lease or rent the real property to a person because of sex, marital status, changes in marital status, pregnancy, race, religion, physical or mental disability, color or national origin; however, nothing in this paragraph prohibits the sale, lease or rental of classes of real property commonly known as housing for "singles" or "married couples" only;

(2) to discriminate against a person because of sex, marital status, changes in marital status, pregnancy, race, religion, physical or mental disability, color or national origin in a term, condition or privilege relating to the use, sale, lease or rental of

1 real property; however, nothing in this paragraph prohibits the sale,  
2 lease or rental of classes of real property commonly known as housing  
3 for "singles" or "married couples" only;

4 (3) to make a written or oral inquiry or record of the sex,  
5 marital status, changes in marital status, race, religion, physical or  
6 mental disability, color or national origin of a person seeking to  
7 buy, lease or rent real property;

8 (4) to offer, solicit, accept, use or retain a listing of  
9 real property with the understanding that a person may be discrimin-  
10 ated against in a real estate transaction or in the furnishing of  
11 facilities or sources in connection therewith because of a person's  
12 sex, marital status, changes in marital status, pregnancy, race, religion,  
13 physical or mental disability, color, national origin or age;

14 (5) to represent to a person that real property is not  
15 available for inspection, sale, rental, or lease when in fact it is so  
16 available, or to refuse a person to inspect real property because of  
17 the race, religion, physical or mental disability, color, national  
18 origin, age, sex, marital status, change in marital status or preg-  
19 nancy of that person or of any person associated with that person;

20 (6) to engage in blockbusting;

21 (7) to make, print or publish, or cause to be made, printed  
22 or published, any notice, statement or advertisement, with respect to  
23 the sale or rental of real property that indicates any preference,  
24 limitation, or discrimination based on race, color, religion, physical  
25 or mental disability, sex, or national origin, or an intention to make  
26 the preference, limitation or discrimination.

27 \* Sec. 12. AS 18.80.250(a) is amended to read:

28 (a) It is unlawful for a financial institution or other commer-  
29 cial institution extending secured or unsecured credit, upon receiving

1 an application for financial assistance or credit for the acquisition,  
2 construction, rehabilitation, repair or maintenance of a housing  
3 accommodation or other property or services, or the acquisition or  
4 improvement of unimproved property, or upon receiving an application  
5 for any sort of loan of money, to permit one of its officials or  
6 employees during the execution of the official's or the employee's  
7 [HIS] duties

8 (1) to discriminate against the applicant because of sex,  
9 physical or mental disability, marital status, changes in marital  
10 status, pregnancy, parenthood, race, religion, color or national  
11 origin in a term, condition or privilege relating to the obtainment or  
12 use of the institution's financial assistance or credit, except to the  
13 extent of a federal statute or regulation applicable to a transaction  
14 of the same character;

15 (2) to make or cause to be made a written or oral inquiry  
16 or record of the sex, physical or mental disability, marital status,  
17 changes in marital status, pregnancy, parenthood, race, religion,  
18 color or national origin of a person seeking the institution's finan-  
19 cial assistance or credit, unless the inquiry is for the purpose of  
20 ascertaining the creditor's rights and remedies applicable to the  
21 particular extension of credit and is not made or used in order to  
22 discriminate in a determination of creditworthiness;

23 (3) to refuse to extend credit, issue a credit card or make  
24 a loan to a married person, who is otherwise creditworthy, if so  
25 requested by the person;

26 (4) to refuse to issue a credit card to a married person in  
27 that person's name, if so requested by the person, provided, however,  
28 that the person so requesting a card may be required to open an ac-  
29 count in that name.

1 \* Sec. 13. AS 18.80.255 is amended to read:

2       Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL  
3 SUBDIVISIONS. It is unlawful for the state or any of its political  
4 subdivisions

5           (1) to refuse, withhold from or deny to a person any local,  
6 state or federal funds, services, goods, facilities, advantages or  
7 privileges because of race, religion, sex, color or national origin;

8           (2) to publish, circulate, issue, display, post or mail a  
9 written or printed communication, notice or advertisement which states  
10 or implies that any local, state or federal funds, services, goods,  
11 facilities, advantages or privileges of the office or agency will be  
12 refused, withheld from or denied to a physically or mentally disabled  
13 person or a person of a certain race, religion, sex, color or national  
14 origin or that the patronage of a physically or mentally disabled  
15 person or a person belonging to a particular race, creed, sex, color  
16 or national origin is unwelcome, not desired or solicited; it is not  
17 unlawful to post notice that facilities to accommodate the physically  
18 or mentally disabled are not available;

19           (3) to refuse or deny to a person any local, state, or  
20 federal funds, services, goods, facilities, advantages or privileges  
21 because of physical or mental disability; however, this paragraph may  
22 not be construed to require alteration or remodeling of buildings or  
23 facilities owned or operated by the state or its political subdi-  
24 visions to any extent not required by other law.

25 \* Sec. 14. AS 18.80.300 is amended by adding new paragraphs to read:

26           (15) "major life activities" means functions such as caring  
27 for one's self, performing manual tasks, walking, seeing, hearing,  
28 speaking, breathing, learning, and working;

29           (16) "physical or mental disability" means

1 (A) a physical or mental impairment that substantially  
2 limits one or more major life activities,

3 (B) a history of, or a misclassification as having, a  
4 mental or physical impairment that substantially limits one or  
5 more major life activities; or

6 (C) having

7 (i) a physical or mental impairment that does not  
8 substantially limit a person's major life activities but  
9 that is treated by the person as constituting such a limita-  
10 tion;

11 (ii) a physical or mental impairment that sub-  
12 stantially limits a person's major life activities only as a  
13 result of the attitudes of others toward the impairment; or

14 (iii) none of the impairments defined in this  
15 paragraph but being treated by others as having such an  
16 impairment;

17 (D) a condition that may require the use of a prosthe-  
18 sis, special equipment for mobility or service animal;

19 (17) "physical or mental impairment" means

20 (A) physiological disorder or condition, cosmetic  
21 disfigurement, or anatomical loss affecting one or more of the  
22 following body systems: neurological, musculoskeletal, special  
23 sense organs, respiratory including speech organs, cardiovascu-  
24 lar, reproductive, digestive, genito-urinary, hemic and lymph-  
25 atic, skin, and endocrine; or

26 (B) mental or psychological disorder, including mental  
27 retardation, organic brain syndrome, emotional or mental illness,  
28 and specific learning disabilities.

29 \* Sec. 15. AS 18.80.300(13) is repealed.

#

STATE OF ALASKA  
THE LEGISLATURE

FOURTH STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 9, 1985

SUBJECT: SCS CSHB 172 (Jud) Sectional Analysis

TO: Senator Pat Rodey, Chair  
Senate Judiciary Committee

FROM: Michael F. Ford *M.F.*  
Legislative Counsel

The following is a section by section analysis of SCS CSHB 172 (Jud):

Section 1 - Provides that persons with sight, hearing, or mobility impairment cannot be disqualified as jurors. Also requires the court system to provide an interpreter or reader for persons with hearing or sight impairment.

Section 2 - Replaces the phrase "blind, visually handicapped and otherwise disabled", with a broader term "physically and mentally disabled", which is defined in section 14. Also substitutes the term "service animal" in place of "guide dog", and requires that the animal be certified as able to function in a public setting.

Section 3 - Substitutes the term "physically and mentally disabled" for "totally or partially blind", and "service animal" for "guide dog". Deletes the reference to "contributory" negligence in conformity with existing negligence law.

Section 4 - Establishes that enforcement of these rights is through the state Human Rights Commission. Replaces the term "totally or partially blind or otherwise disabled" with "physically or mentally disabled".

Section 5 - References the definition in AS 18.80.300 for "physically or mentally disabled". Deletes the existing definition of "totally blind" or "partially blind".

Section 6 - Provides that the state Human Rights Commission has the duty to eliminate discrimination because of "physical or mental disability" and has the duty to enforce AS 18.06.

Section 7 - Includes "physical or mental disability" among those types of discrimination that are a matter of public concern and should be eliminated from the areas of employment, financing, and public accommodations.

Section 8 - Includes "physical or mental disability" among those things for which a person has a civil right to certain opportunities without discrimination.

Section 9 - Prohibits discrimination in employment matters as to those individuals with a "physical or mental disability".

Section 10 - Prohibits discrimination in places of public accommodation as to those individuals with a "physical or mental disability".

Section 11 - Prohibits discrimination in the sale or rental of real property to those individuals with a "physical or mental disability".

Section 12 - Prohibits discrimination in credit and financing matters against those with a "physical or mental disability".

Section 13 - Prohibits discrimination by the state or its political subdivisions in various matters because of a "physical or mental disability".

Section 14 - Definitions section.

Section 15 - Repeals the existing definition of "physical handicap".

# Alaska State Legislature



REPRESENTATIVE JIM DUNCAN

POUCH V JUNEAU, ALASKA 99811

(907) 465-4766

MEMORANDUM

COMMITTEES:  
FINANCE  
BUDGET AND AUDIT  
LOANS  
POLICY

April 26, 1985

TO: Senator Pat Rodey, Chair  
Senate Judiciary Committee

FROM: Representative Jim Duncan

SUBJECT: CSHB 172 (JUD), Rights of Physically and  
Mentally Disabled

As you know, HB 172 has passed the House and been referred to the Senate Judiciary Committee.

I urge you to schedule this important bill for a hearing as soon as possible. There has been a great deal of interest and support for HB 172 from the Disabled Community, including deaf, retarded, blind, mobility impaired the Alliance for the Mentally Ill, the Governor's Council on the Handicapped and Gifted, and the Human Rights Commission.

Your bill, SB 168, contains provisions which have been removed from HB 172 and placed in a new bill, HB 393 sponsored by the House Judiciary Committee. The sections providing for interpreter services by state agencies, municipalities and courts were removed and placed in HB 393 due to their fiscal impact and the requirement for a finance committee referral.

I have attached copies of the backup material we have on this bill for your use. Again, I urge you to move this bill out of your committee as soon as possible. If I can be of assistance, please let me know. My staff contact on this bill is Roxanne Stewart at 465-4766.

February 26, 1985

The Honorable Jim Duncan  
State Representative  
Alaska State Legislature  
Juneau, AK 99811

Dear Representative Duncan:

I would like to take this opportunity to express my support for passage of House Bill 172.

My roommate is a blind individual who is now using a service animal. I have seen the way her guide dog works and how much mobility it has given her compared to when she was just using her cane. Her guide dog is trained to get her to her destination safely.

I have talked with a person here in Juneau who is deaf and who has experienced a great deal of discrimination because Alaska is one of only three states that does not provide legal protection to disabled individuals who need to use service animals.

I also feel there may be other persons who are in need of service animals, but who may not be able to speak for their needs. They include persons who are paralyzed, have muscular dystrophy, multiple sclerosis, or arthritis. They are being denied access to service animals because this law is not in place.

Thank you for your continuing support of this bill. I am glad we have persons in the Legislature such as yourself, Bill Ray and Mike Miller representing the Southeast District. I have been in Juneau for 23 years and since you three have been in the Legislature, I have heard nothing but good about you and this probably accounts for your continual reelection. I know you are my favorites.

Sincerely,

*Madelin Wolf*  
*Claudette Curtis*

Claudette Curtis  
600 St. Ann's #9  
Douglas, AK 99824

465-3376

RECEIVED  
FEB 23 1985

February 26, 1985

The Honorable Jim Duncan  
State Representative  
Alaska State Legislature  
Juneau, AK 99811

Dear Representative Duncan:

I would like to take this opportunity to express my support for passage of House Bill 172.

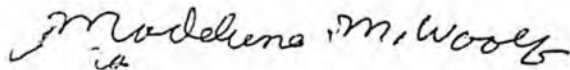
As a blind individual who is now using a service animal, I know the importance of having such assistance. My guide dog is trained to guide me to my destination safely. I feel I have more mobility since I received my guide dog in October of 1984.

I feel there may be other persons who are in need of service animals, but who may not be able to speak for their needs. They include persons who are paralyzed, have muscular dystrophy, multiple sclerosis, or arthritis. They are being denied access to service animals because this law is not in place.

I am, therefore, asking that this letter be considered a voice of support for many others besides myself who are truly dependent upon the use of service animals.

Thank you for your continuing support of this bill.

Sincerely,



Madeliene M. Woolf  
P.O. Box 1303  
Juneau, AK 99811

February 20, 1985

RECEIVED  
FEB 22 1985.

The Honorable Jim Duncan  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Duncan:

I would like to take this opportunity to express my support for passage of House Bill 172.

As a deaf individual who has used a service animal (in this case, a Hearing Dog), I know the importance of having such assistance. My Hearing Dog was trained to alert me to smoke and fire alarms, door bells, telephones, oncoming vehicles and adults and children crying or in distress. She was also trained to seek out and retrieve items silently dropped and lost.

Unfortunately I have also experienced first-hand a great deal of discrimination because Alaska is one of only three states that does not provide legal protection to disabled individuals who need to use service animals.

While using my Hearing Dog, I have been thrown out of hotels, charged more than twice the normal hotel rate, denied safe airline passage, denied access to public buildings and rental housing.

For three years now, I have asked for passed for this or a similar bill to protect myself and other persons using service animals.

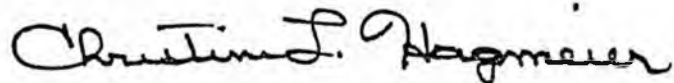
Last fall my Hearing Dog had to be put to sleep because of illness related to her age. I have applied for another Hearing Dog and the only point in question is the lack of a law protecting it in the State of Alaska.

I am fortunate in that I have the ability to communicate my needs more clearly than other users of service animals. The majority of persons who need this law are not so fortunate. Many cannot speak for their needs. Many others including persons who are paralyzed, persons with muscular dystrophy, multiple sclerosis, arthritis and other like conditions, are being denied access to service animals because this law is not in place.

I am therefore asking that this letter be considered a voice of support for many others besides myself who are truly dependant upon the use of service animals.

Thank you for your continuing support of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Christine L. Hagmeier". The signature is written in dark ink and is positioned above the printed name.

Christine L. Hagmeier

**A**laska  
**A**ssociation of the  
**D**eaf

4241 B Street, Suite 201  
Anchorage, Alaska 99503  
907-563-4713 (V/TTY)

April 5, 1985

Representative Max Gruenberg  
Pouch V  
Juneau, AK 99811

RE: HB172/SB168

Dear Max:

This letter is in response to your letter dated March 15, 1985.

Thank you for this opportunity to comment on these very important pieces of legislation. I am very pleased that the House ESS Committee chose to consolidate these bills in order to expedite their passage. Both bills would afford handicapped people legal protections that have been long awaited.

However, in the process of combining these two bills, certain elements of SB168 which are very important to the deaf community have been watered down or deleted. I am disappointed that this has occurred and I hope that through my input you will be able to rectify the situation.

SB168 provided that whenever a deaf person seeks access to funds, services, goods, facilities, advantages or privileges from the state or local government, including the University of Alaska, that governmental entity must pay for and provide the deaf person with an interpreter. HB172 has eliminated this very important provision. You must try to understand what a terrible disadvantage we deaf people are at whenever we try to deal with the government. Without an interpreter any attempts on our part to receive the benefits of basic citizenship are completely frustrated. I feel it is the responsibility of the government to provide us with interpreters in order for us to have the same rights as all speaking and hearing persons. I recognize that this will end up costing the state some money. However, this expense does not justify denying deaf people access to their government. I hope you and the other members of the House will reconsider this deletion. We, in the deaf community, consider this section to be essential and we will be very disappointed if it does not become part of the law.

Both SB168 and HB172 deal with the Alaska Human Rights Commission. Both bills add the disabled to race, religion, etc. in the Human Rights Commission Statute. SB168 protects the "deaf, blind, and disabled". HB172 protects the "physically and mentally disabled". I am unhappy with the deletion of deafness and blindness from the specific wording of HB172. I feel it is very important that the deaf and the blind be specifically mentioned in the Human Rights Commission Statute. I believe that the law should make it absolutely certain that these protections apply to the deaf and blind. I do not want to leave it up to some lawyer or judge down the road to determine that the statute does not apply to the deaf or the blind. Therefore, I disagree with HB172's elimination of the

words deafness and blindness.

Finally, I am dissatisfied with the exclusion of the emotionally and mentally ill from the protection of the Human Rights Commission Statute as found in HB172. SB168 includes the emotionally and mentally ill as persons who are protected under the Human Rights Commission. I believe that these laws should apply to all disabled people, including the emotionally and mentally ill.

I was very disappointed that I was not given the opportunity to give input to your committee at the time that it was deliberating over these bills. As you know I have been very actively involved in the drafting of SB168. As a primary advocate for the deaf community, I feel that I had the right to present my position to the committee at the time it was considering the action and not subsequent to that time. Therefore, I would greatly appreciate being notified of any subsequent hearings or actions by your committee or any other House Committee as it may relate to these bills.

Thank you again for this opportunity to comment. Please feel free to contact me if you have any questions.

Sincerely,



Albert Berke,  
Executive Secretary

AB:ss

## Who We Are . . .

Protection and Advocacy (P.A.D.D.) is a private not-for-profit corporation that exists to protect and advocate for persons with developmental disabilities. This agency was created by a federal law 98-527 and authorized under state law AS 47.80.020 which requires the state of Alaska to have an agency for protection and advocacy purposes.

Since it is a private agency, we are not administered by federal or state government, although funding for P.A.D.D. does come through the Federal Department of Health and Human Services and the Alaska Department of Health and Social Services.

Our purpose is to see to it that governmental units at all levels respect and comply with the legal and human rights of persons with a developmental disability. We monitor activities in the private sector as well as the public.

Above all, our goal is to help persons with a developmental disability to know their rights and to assist them in pursuing remedies on their own. Legal action may be a final recourse but we believe many other steps can and should be taken before legal remedies are sought.

## The People We Serve . . .

P.A.D.D. works on behalf of any person, regardless of age, who has a developmental disability. The disability must be attributable to a mental or physical impairment or combination of mental and physical impairments, and it must be manifested before the age of twenty-two and be likely to continue indefinitely.

The disability must result in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capability for independent living and economic self sufficiency.

Finally, we serve those with a disability which reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

We spend our greatest amount of energy on cases in which the problem is clearly attributable to a development disability. We do serve other handicapped persons as time and resources allow.

We provide information and **ADVOCACY** in the following areas:

**SPECIAL EDUCATION / EMPLOYMENT /  
VOCATIONAL REHABILITATION /  
FINANCIAL ASSISTANCE / HOUSING /  
GUARDIANSHIP / GENERAL LEGAL  
RIGHTS / ARCHITECTURAL BARRIERS /  
RIGHTS OF INSTITUTIONALIZED  
DEVELOPMENTALLY DISABLED**

## How We Can Help . . .

We can provide the tools needed to advocate for persons with a **DEVELOPMENTAL DISABILITY**. These tools include information, legal guidance or referral to a more appropriate agency. Armed with correct information and our back-up support, we feel people can better speak for themselves.

When direct action is called for, we may intervene on the behalf of a client to resolve a complaint. In many cases, we have acted as a liaison between service providers, governmental agencies, and a concerned parent.

We may provide legal support to lawyers working on behalf of a P.A.D.D. client, refer clients to attorneys familiar with Developmental Disabilities law and in cases affecting large numbers of our clients, provide direct representation.

P.A.D.D.'s staff can provide in-service training, workshops and presentations regarding our services, due process or legal rights of persons with a developmental disability.

P.A.D.D. adheres to the principles enacted by the Alaska legislature Alaska Law AS 47.80.110. The law requires that the system of services and facilities shall accord with the principle that treatment, services and habilitation shall be designed to maximize individual potential, minimize institutionalization, and shall be provided in the least restrictive setting, enabling a person to live as normally as possible within the limitations of their disability.

# Advocacy Demonstrated

K.D. is a 39 year old mildly mentally retarded woman from one of Alaska's small communities. She is ambulatory and possesses many self-help skills; she is a sociable, friendly woman who laughs easily and makes her needs known to others. K. had lived with her family as a child, but as the parents' circumstances changed, they were no longer able to care for her, and she entered a group home for disabled adults.

K. had progressed in her independent living and self-help skills to the point that she no longer fit into the group home, functioning at a much higher level than the other residents. This began to elicit inappropriate manipulative and dominant behaviors on K.'s part and the facility's administration made plans to discharge the client from the program. Three weeks' notice was given the client and her family, with no alternatives in view. Responsibility for placement and the kind of program that K. needs to live in the least restrictive manner possible for her, were areas of dispute between the facility and state authorities. If no other resources could be found, K. would be transferred to the state's institution for severely and profoundly retarded children and adults in Valdez. The family was at a loss for what to do and in desperation considered court action against the facility.

P.A.D.D. staff secured the services of the state's Adult Protection unit, expediting the application process for these services, as well as the application to an independent residential program in another city. K. was accepted into the independent living program and now resides in a boarding home, receiving habilitation services, the needed medical and dental attention, and is employed at a sheltered workshop. She receives mental health services to provide socialization training, and has become involved in a recreation program, where she interacts with her peers in the community. P.A.D.D. staff continue to monitor services and needs.

**PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED**

Main Office  
323 East 3rd, 2nd floor  
Anchorage, AK 99501  
274-4658 TDD

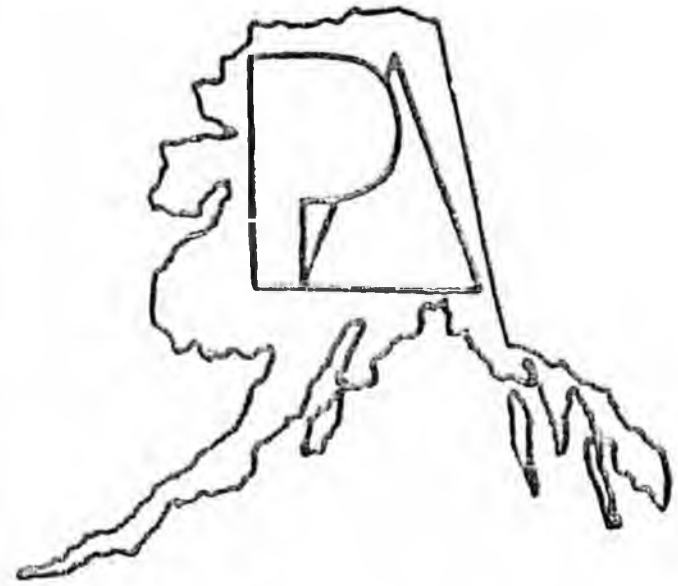
Southeast Region  
127 S. Franklin  
Juneau, AK 99801  
586-1027

Northern Region  
761 7th Ave.  
Fairbanks, AK 99701  
436-1070 TDD



*Printed by the Employment and Training Center of Alaska*

*Protecting the Legal and Human Rights of Persons With A Developmental Disability*



**PROTECTION AND ADVOCACY  
FOR THE  
DEVELOPMENTALLY DISABLED**

*Protecting the  
Legal and Human Rights  
of Persons with  
A Developmental Disability*

BILL SHEFFIELD, GOVERNOR

AGENCY HEADQUARTERS  
431 W. 7th AVENUE, SUITE 105  
ANCHORAGE, ALASKA 99501  
(907) 276-7474

## HUMAN RIGHTS COMMISSION

NORTHERN REGION  
675 SEVENTH AVENUE, STA H  
FAIRBANKS, ALASKA 99701  
(907) 452-1561

April 15, 1985

SOUTHCENTRAL REGION  
431 W. 7th AVENUE, SUITE 101  
ANCHORAGE, ALASKA 99501  
(907) 274-4692

The Honorable M. Mike Miller  
Chair  
House Judiciary Committee  
Juneau, AK 99811

SOUTHEASTERN REGION  
POUCH AH  
314 GOLDSTEIN BUILDING  
JUNEAU, ALASKA 99811  
(907) 465-3560

Dear Representative Miller:

At its annual meeting on February 28 - March 1 in Juneau the Human Rights Commissioners reviewed HB 172 and SB 168 and took the following positions:

HB 172 - The Commissioners supported this bill and agreed "the more comprehensive coverage of SB 168 is preferable in terms of our statute."

SB 168 - "To support that part of the legislation which applies to our agency and the state law and express a concern that the portion which deals with jury duty be permissive but not mandatory."

More recently, we have reviewed CSHB 172 which passed out of House Health Education, and Social Services Committee with significant changes which affect the Commission's position on this bill.

The Commission now offers the following comments on CSHB 172:

1. The Commission does not support the extension of its jurisdiction in Section 18.06.202(a)-(c) and Section 18.06.030 to include streets, highways, sidewalks, walkways and the rights of the disabled as pedestrians. These areas fall outside the parameters of the agency's expertise and are not compatible with our program.

2. The Commission continues to support the extension of its jurisdiction on the basis of disability to include sale or rental of real property, places of public accommodation, financial practices, and practices by the state or its political subdivisions. The Commission presently investigates complaints filed by other protected classes alleging violations of these sections. Based on our experience in investigations of physical handicap discrimination in employment, we are prepared to offer our services giving broader protections for the disabled under the proposed legislation.

Miller  
Page 2  
April 15, 1985

3. The Commission supports the definition of disability as proposed in SB 168, Section 11, AS 18.80.300. The Commission recommends the substitution of SB 168's definition of disability in CSHB 172.

4. The Commission requests that the fiscal note prepared by the Office of the Governor dated 3/20/85 be reattached to this legislation. The Commission supports added protections from discrimination for the disabled in Alaska; however, the Commission's FY 85 staff is already stretched to the limits as more persons continue to file complaints of discrimination under the present statute. To extend the Commission's jurisdiction without additional resources to enforce those jurisdictions would result in larger caseloads for investigators and delays in processing cases. In 1984, the agency increased case production by 17% despite a 29% increase in the number of new filings. This increase in case resolutions was especially significant in light of the reduction of 2.5 staff investigators since FY 83; the Commission has, in fact, met the challenge to do more with less. Unfortunately, the Commission's increased productivity has now reached its maximum. Adding new protections as the filing rate continues to climb will result in decreased case production. We, therefore urge you to adopt the Office of the Governor's fiscal note dated 3/20/85.

Please do not hesitate to contact me if you or members of your Committee have questions about our position on this bill.

Sincerely,

*J. A. Parker for:*

Janet L. Bradley  
Executive Director

JLB/b

Print  
from  
HB 393

Introduced: 4/22/85  
Referred: Judiciary and  
Finance

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 HOUSE BILL NO. 393  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the rights of physically and  
7 mentally disabled persons."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 09.20.010 is amended by adding new subsections to read:  
10 (b) A person is not disqualified to act as a juror solely be-  
11 cause of the loss of hearing or sight in any degree or a disability  
12 that substantially impairs or interferes with the person's mobility.  
13 (c) The court shall provide, and pay the cost of services of, an  
14 interpreter or reader when necessary to enable a person with impaired  
15 hearing or sight to act as a juror.  
16 \* Sec. 2. AS 18.06 is amended by adding a new section to read:  
17 Sec. 18.06.015. INTERPRETERS FOR DEAF PERSONS. A department,  
18 office, agency, or other organizational unit of the state government,  
19 or a political subdivision of the state, including the University of  
20 Alaska, from which a deaf person seeks access to funds, services,  
21 goods, facilities, advantages, or privileges shall pay the costs of  
22 and provide an interpreter for the person.  
23 \* Sec. 3. AS 18.80.255 is amended to read:  
24 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITI-  
25 CAL SUBDIVISIONS. It is unlawful for the state or any of its politi-  
26 cal subdivisions  
27 (1) to refuse, withhold from or deny to a person any local,  
28 state or federal funds, services, goods, facilities, advantages or  
29 privileges because of race, religion, sex, physical or mental

1 disability, color or national origin;

2 (2) to publish, circulate, issue, display, post or mail a  
3 written or printed communication, notice or advertisement which states  
4 or implies that any local, state or federal funds, services, goods,  
5 facilities, advantages or privileges of the office or agency will be  
6 refused, withheld from or denied to a physically or mentally disabled  
7 person or a person of a certain race, religion, sex, color or national  
8 origin or that the patronage of a physically or mentally disabled  
9 person or a person belonging to a particular race, creed, sex, color  
10 or national origin is unwelcome, not desired or solicited.

11 \* Sec. 4. AS 18.80.300 is amended by adding new paragraphs to read:

12 (15) "major life activities" means functions such as caring  
13 for one's self, performing manual tasks, walking, seeing, hearing,  
14 speaking, breathing, learning, and working;

15 (16) "physical or mental disability" means

16 (A) a physical or mental impairment that substantially  
17 limits one or more major life activities,

18 (B) a history of, or a misclassification as having, a  
19 mental or physical impairment that substantially limits one or  
20 more major life activities; or

21 (C) having

22 (i) a physical or mental impairment that does not  
23 substantially limit a person's major life activities but  
24 that is treated by the person as constituting such a limita-  
25 tion;

26 (ii) a physical or mental impairment that sub-  
27 stantially limits a person's major life activities only as a  
28 result of the attitudes of others toward the impairment; or

29 (iii) none of the impairments defined in this

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paragraph but being treated by others as having such an impairment;

(D) a condition that may require the use of a prosthesis, special equipment for mobility or service animal;

(17) "physical or mental impairment" means

(A) physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or

(B) mental or psychological disorder, including mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

YDlet  
from HB 172

Offered: 5/3/85  
Referred: Finance

Original sponsor: Judiciary Committee

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 393 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the rights of physically and  
7 mentally disabled persons."

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

9 \* Section 1. AS 09.20.010 is amended by adding new subsections to read:

10 (b) A person is not disqualified to act as a juror solely be-  
11 cause of the loss of hearing or sight in any degree or a disability  
12 that substantially impairs or interferes with the person's mobility.

13 (c) The court shall provide, and pay the cost of services of, an  
14 interpreter or reader when necessary to enable a person with impaired  
15 hearing or sight to act as a juror.

16 \* Sec. 2. AS 18.06.040 is amended to read:

17 Sec. 18.06.040. ENFORCEMENT AND PENALTY [FOR DENYING RIGHTS].  
18 Enforcement of this chapter shall be by the state Human Rights Commis-  
19 sion under AS 18.80.010 - 18.80.145. A person who denies or inter-  
20 feres with admittance to or enjoyment of the public facilities set out  
21 in AS 18.06.020 or otherwise interferes with the rights of a physical-  
22 ly or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE] disabled  
23 person is guilty of a misdemeanor and upon conviction is punishable by  
24 a fine of not more than \$1,000, or by imprisonment for not more than  
25 60 days, or by both.

26 \* Sec. 3. AS 18.80.255 is amended to read:

27 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITICAL  
28 SUBDIVISIONS. It is unlawful for the state or any of its political  
29 subdivisions

1           (1) to refuse, withhold from or deny to a person any local,  
2 state or federal funds, services, goods, facilities, advantages or  
3 privileges because of race, religion, sex, color or national origin;

4           (2) to publish, circulate, issue, display, post or mail a  
5 written or printed communication, notice or advertisement which states  
6 or implies that any local, state or federal funds, services, goods,  
7 facilities, advantages or privileges of the office or agency will be  
8 refused, withheld from or denied to a physically or mentally disabled  
9 person or a person of a certain race, religion, sex, color or national  
10 origin or that the patronage of a physically or mentally disabled  
11 person or a person belonging to a particular race, creed, sex, color  
12 or national origin is unwelcome, not desired or solicited; it is not  
13 unlawful to post notice that facilities to accommodate the physically  
14 or mentally disabled are not available;

15           (3) to refuse or deny to a person any local, state, or  
16 federal funds, services, goods, facilities, advantages or privileges  
17 because of physical or mental disability; however, this paragraph may  
18 not be construed to require alteration or remodeling of buildings or  
19 facilities owned or operated by the state or its political subdi-  
20 visions to any extent not required by other law.

M E M O R A N D U M

TO: Katie Drennan  
Senator Rodey's Office

FROM: Pat Corbett

DATE: January 29, 1985

SUBJ: Deaf Issues

Two other areas needing attention surfaced in the discussions with Al Berke on the bill of rights. They are: Confidentiality for Interpreters & TTY; and Regulation of Hearing Aid Dealers.

Confidentiality: Al wants interpreters for deaf people to have same recognized confidentiality as attorneys, psychologists and priests. He wants this confidentiality to extend to the TTY -machines used in tele. communications by deaf people. Attorneys seem to feel that interpreters are already covered - already have confidentiality.

I have not researched this.

Attached are Connecticut statutes re confidentiality.  
Check w Jim Cox then Al Berke.

Regulation of Hearing Aid Dealers:

Lou Delege has draft regulations on this

Pat is not very sympathetic

Evidently the industry is trying to set some standards for itself.

I have also enclosed some miscellaneous background: news articles, letter supporting Al, summary of a meeting attended by Roger Poppe, and the now dead request for \$46,000 for the survey.

The sheet on the survey gives every human being concerned w the disabled and deaf in Anchorage and probably the state.

Senate Bill No. 1110

PUBLIC ACT NO. 83-395

AN ACT CONCERNING CONFIDENTIAL COMMUNICATIONS MADE THROUGH AN INTERPRETER AND INTERPRETERS FOR DEAF AND HEARING IMPAIRED PERSONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) Any confidential communication which is deemed to be privileged under any provision of the general statutes or under the common law made by a person with the assistance of an interpreter shall not be disclosed by such interpreter in any civil or criminal case or proceeding or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege.

Sec. 2. Section 17-137k of the general statutes is repealed and the following is substituted in lieu thereof:

(a) (1) In any criminal or civil action involving a deaf or hearing impaired person, whether as a party or as a witness, such person shall have, throughout such proceeding, the assistance of a qualified interpreter provided by the commission on the deaf and hearing impaired. Such person or the court may request the commission to appoint a qualified interpreter to assist such person and the commission shall promptly provide such interpreter.

(2) IN ANY CRIMINAL INVESTIGATION CONDUCTED BY A DULY ORGANIZED LAW ENFORCEMENT AGENCY INVOLVING A DEAF OR HEARING IMPAIRED PERSON, WHETHER AS A VICTIM, WITNESS OR SUSPECT, SUCH PERSON SHALL HAVE THE ASSISTANCE OF A QUALIFIED INTERPRETER PROVIDED BY SUCH AGENCY THROUGHOUT SUCH INVESTIGATION. SUCH AGENCY MAY REQUEST (A) THE COMMISSION ON THE DEAF AND HEARING IMPAIRED TO APPOINT A QUALIFIED INTERPRETER, OR (B) ANY QUALIFIED INTERPRETER, EXCEPT ANY EMPLOYEE OF SUCH AGENCY, TO ASSIST SUCH PERSON. UPON SUCH REQUEST, THE COMMISSION SHALL PROMPTLY PROVIDE SUCH INTERPRETER.

(3) IN ANY CRIMINAL INVESTIGATION CONDUCTED BY A DULY ORGANIZED LAW ENFORCEMENT AGENCY INVOLVING A MINOR CHILD HAVING A PARENT WHO IS A DEAF OR HEARING IMPAIRED PERSON, WHETHER AS A VICTIM, WITNESS OR SUSPECT, SUCH PARENT SHALL HAVE THE ASSISTANCE OF A QUALIFIED INTERPRETER PROVIDED BY SUCH AGENCY THROUGHOUT SUCH INVESTIGATION. SUCH AGENCY MAY REQUEST (A) THE COMMISSION ON THE DEAF

Compliments Of  
Connecticut Commission on the Deaf and Hearing Impaired  
40 Woodland St., Hartford, CT 06105  
Telephone: (203) 566-7414  
An Equal Opportunity Employer

Substitute Senate Bill No. 1140

PUBLIC ACT NO. 83-314

AN ACT CONCERNING THE CONFIDENTIALITY OF RELAYED COMMUNICATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(NEW) Any communication made by or to a deaf or hearing impaired person with the assistance of a person operating special telecommunications equipment capable of serving the needs of deaf or hearing impaired persons shall be deemed to be confidential and privileged and shall not be disclosed by such operator in any civil or criminal case or proceeding or in any legislative or administrative proceeding, unless the person making the confidential communication waives such privilege.

*Certified as correct by*

\_\_\_\_\_  
*Legislative Commissioner.*

\_\_\_\_\_  
*Clerk of the Senate.*

\_\_\_\_\_  
*Clerk of the House.*

Approved \_\_\_\_\_, 1983

\_\_\_\_\_  
*Governor.*

Compliments Of  
Connecticut Commission on the Deaf and Hearing Impaired  
40 Woodland St., Hartford, CT 06105  
Telephone: (203) 566-7414  
An Equal Opportunity Employer

M E M O R A N D U M

TO: Lynn Barnes, Special Assistant  
Division of Legal Services  
Legislative Affairs Agency

FROM: Patricia Corbett *PC*  
Senator Rodey's Office

DATE: July 30, 1984

SUBJ: July 30, 1 it for Research & Drafting "Deaf Bill of Rights"

Senator Rodey would like to help the AK Association for the Deaf by introducing a deaf bill of rights. Senator Rodey was particularly interested in the right to an interpreter during judicial proceedings. The Association will be happy to give you list of other items to be included. \*

I have attached a short survey of legislation in other states. Evidently California and Colorado are considered to have the best statutes re the deaf.

Would you please look into this and draft what is necessary?

CONTACTS:

563-4713 Al Berke  
AK Association for the Deaf  
PO BOX 4-64  
Anchorage. AK 99509

264-0545 Richard Barrier  
Deputy Director of Operations  
AK Court System  
303 K St 99501

*\* deaf are presently excluded  
from injuries*

*(supportive)*



**A**laska  
**A**ssociation of the  
**D**eaf

563-4713

P.O. Box 4-64 • Anchorage, Alaska 99509

*Sumner  
Deaf*

July 9, 1984

Mr. Michael Morgan     465 - 2814  
Director  
Division of Vocational Rehabilitation  
Alaska Department of Education  
Pouch F  
Juneau, AK 99811

*not young*

Dear Mr. Morgan:

Over the past several months I have been consulting with numerous individuals who work with Alaska's severely hearing impaired population, including Mr. Stan Ridgeway of your office, about a possible project to establish a better communication network among the hearing impaired population and for assessing the needs of this special population and the services they receive. Enclosed for your consideration is an unsolicited proposal requesting funds to conduct a needs assessment of Alaska's severely hearing impaired population. Although the Alaska Association of the Deaf (AAD) is initiating this proposal and is prepared to carry out the project, AAD would also support DVR's issuance of a competitive request for proposals, should the Division be either unable or unwilling to issue a sole source contract to AAD. Our primary interest is that the work proposed be done and preferably prior to January 30, 1985.

*276-8586  
St. Coordinator for  
Deaf Services  
Div. of Voc Rehab*

I would welcome the opportunity to discuss this proposal with you further or to furnish any additional information you need to consider this request. I look forward to hearing from you in the near future.

Sincerely,

*[Signature]*  
Al Berke  
Executive Secretary

Enclosure

PROPOSAL.

to  
ALASKA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION

from  
ALASKA ASSOCIATION OF THE DEAF

Background and Purpose

Alaska's severely hearing impaired population represents a small fraction of Alaska's total population. Being few in number makes it virtually impossible to identify the severely hearing impaired population via surveys of the general population and no census conducted to date is sufficiently detailed to identify the population or to document its personal characteristics. What we know of the severely hearing impaired population is shaped by information gathered by agencies who provide them services and by hearing impaired people themselves through organizations like the Alaska Association for the Deaf (AAD).

Two agencies which have substantial knowledge of Alaska's severely hearing impaired population are the Division of Vocational Rehabilitation (DVR) and the Anchorage School District (ASD). While it is likely that Alaska's public school systems identifies most of Alaska's school aged hearing impaired population, no comparable public agency identifies preschool age children and infants who have hearing impairments. Similarly, while DVR provides an array of services to severely hearing impaired adults, the information it gathers is confidential and is limited to the particular information required by the agency. Thus, information about the unmet needs of

Alaska's severely hearing impaired population is not systematically collected and unless an effort is made to take a census of the population, such information cannot be reliably documented.

The overall goal of this project is to assess the progress and needs of Alaska's severely hearing impaired population to becoming self-sufficient. To achieve this overall goal, AAD proposes to accomplish the following objectives:

1. To establish an effective communications network among Alaska's severely hearing impaired population and the legal guardians of hearing impaired children. This network would consist of an updated roster of persons' names, addresses, and telephone numbers maintained on a word processor which could sort names on the roster by location, interest or circumstance.
2. To conduct a survey of Alaska's severely hearing impaired population to solicit their assessment of: their progress and prognosis toward becoming self-sufficient; the services they presently receive; the present approach toward the delivery of services; and the needs they have which are going unmet.
3. To develop a data bank on the characteristics of the severely hearing impaired population, the services they receive, and the needs they have.
4. To prepare and submit a final report to DVR summarizing the conduct and findings of the study.

Work Plan

To help refine the project scope and method of work, AAD proposes to form a steering committee consisting of representatives of organizations serving hearing impaired persons including ASD, DVR, and others. This committee will also assist AAD select a person or organization to provide professional services in the conduct of the study. The specific services to be furnished will be specified in the committee's approved work plan.

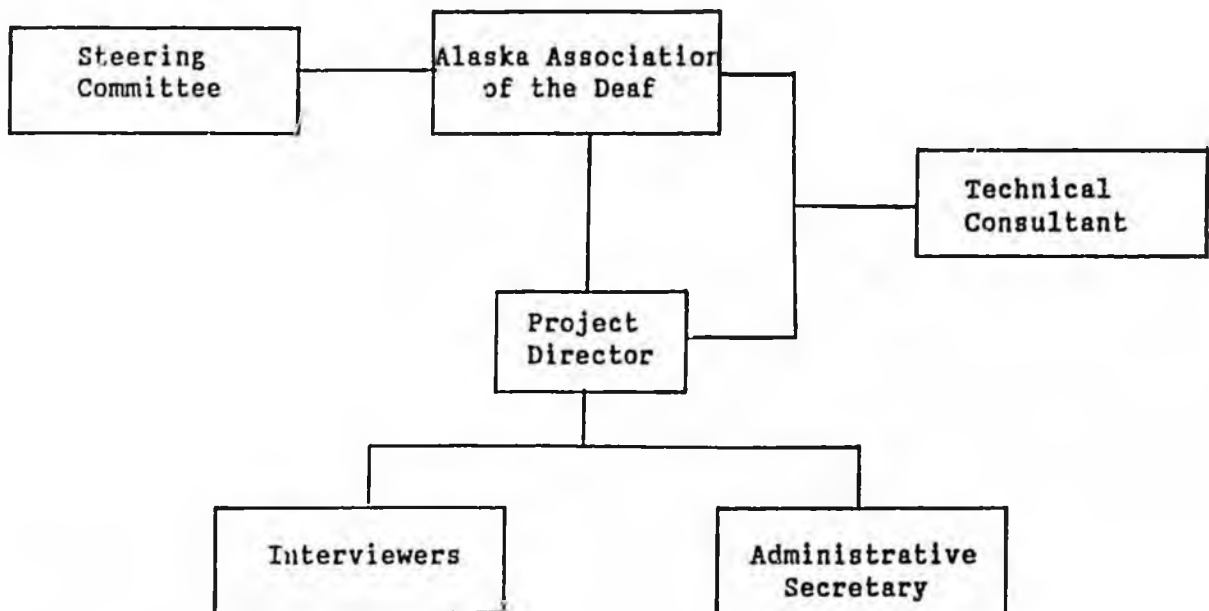
Several specific tasks to be performed during the project will need to be carefully designed. The roster to be developed for the communications network needs to be designed in a means usable by AAD and its equipment. The survey instrument needs to be designed to meet the informational needs of the project and pre-tested to insure that people can understand and respond to the questions asked. The identification of information needs, including personal characteristics of respondents, services currently being provided, measures of self-sufficiency, preferences for service delivery, and areas of potential need, all must be thoroughly discussed by the steering committee and clearly spelled out in the survey instrument.

Developing a roster of hearing impaired persons will require the full participation of all agencies who serve them. Completing the roster will involve confirming names, addresses, and phone numbers, and calling for referrals to other hearing impaired persons or organizations who serve them. As the roster is being compiled, it will be placed into a word processing system and updated, consistent with the plan for organizing the roster.

The survey once designed and pre-tested will be conducted by persons proficient in sign language. All interviewers will be trained in proper interviewing techniques and in the use of the survey instrument. A field supervisor will insure proper quality control on behalf of AAD. A full-time staff director, experienced in social services planning, will direct and carryout the main technical tasks of the project assisted by both interviewers and a part-time administrative assistant. Both the project steering committee and the technical consultant will assist AAD and its staff in the final design, conduct, and analysis of the project.

Figure 1

CHART OF ORGANIZATION



Work Schedule

The actual work schedule will consume approximately five months from start to finish. The following schedule projects when the various work tasks will be conducted.

<u>Activity</u>	<u>Completion Date</u>
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Roster	8/7 - 8/15
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Data Collection	
Roster	8/15 - 9/15
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Data Analysis	11/15 - 12/15
Recommendations	12/15 - 1/15

As the surveys are completed they will be coded and key punched to facilitate the tabulation and analysis of responses. Both the tabulations and the analysis will be organized by major information category: i.e., personal characteristics (age, sex, ethnicity, income, education, employment, occupation, family status, etc.); types of services received; opinions toward services and service delivery; progress toward self sufficiency, and type of unmet needs.

The final report will be a concise summary of both the conduct and the findings of the survey.

Project Organizer

This project will be organized as shown in Figure 1. AAD will be the prime contractor with a professional person, selected by AAD in consultation with DVR, serving as the overall project director.

Budget

The total cost of the project is \$46,000. The budget details are estimated as follows:

Personnel			
Principal	1 mo.	\$4000	\$ 4,000
Project Director	5 mos.	3500	17,500
Secretary	1 mo.	2000	2,000
Interviewers (200 interviews)			11,700
15 - Fairbanks			
10 - Juneau			
175 - Anchorage			
Consultant Services			8,500
(questionnaire design, coding/key punching and data processing)			
Communications			1,000
Supplies			<u>1,300</u>
		TOTAL	\$46,000

Pat....December 20, 1984

I found out about this meeting at the last minute, and with you being sick, I sat in on it for you, but only picked up about the last half hour. There was a scheduling conflict so everyone in the room was frustrated by having a lot of ground to cover and not much time to do it in.

Attached is a copy of the agenda. I came in during item VI. Municipal Block grants and Comments by some guy other than Nancy Cornwell, who was absent.

He said that in the upcoming federal budget, there is a freeze or reduction on just about everything except social security.

There is a freeze on COLA; there is reduced revenue sharing, CDBG & § CSBG have both been eliminated. Reagan administration is shafting older people, but it is still unclear what he is going to do with the handicapped. There is a ray of hope because Senator Dole, the new Senate Majority Leader may be supportive. There is probably going to be a federal reduction in dollars to handicapped programs, if not an elimination.

VII. Concerning the Deaf Persons Bill of Rights, Albert Berke spoke, as well as several other people. They mentioned that Senator Rodey was working on legislation on this, and indicated that in addition to working for jury duty for the deaf, they are looking also at other areas such as confidentiality of interpreters, use of translation machines, working on regs for hearing aids, qualifications of interpreters, and a communications policy.

VIII. Disabled persons bill of Rights by David Altman. He indicated that this was a separate and broader issue beyond just the deaf, and that Senator Rodey's staff was working on this as well. What is needed is clarification on statutes already existing on the disabled perhaps, rather than new legislation. Need to expand it to include more than the physically handicapped (I assume they meant emotionally and psychosocially handicapped like war veterans suffering from shock, etc. They also talked about legislation that would expand eligibility for jury duty to ~~other~~ other handicapped people besides the deaf and the blind, but apparently the way the law reads now, it is stated so that it is really only the blind and the deaf who are excluded, along with wheelchair handicapped, and they would be covered in this new legislation being considered.

---

They then got into a discussion about what kind of letter and direction they should send to the Mayor and Chip Dennerline regarding their needs. The governor has given them \$2.5 million in block grant funds for disabled programs in Anchorage, down from \$2.9 last year; when in fact they anticipate that ~~the~~ their real need is going to be something like \$4 million. ~~They~~ They wanted to get some kind of group consensus so they could speak with one voice in the matter, and did say they did not want private non-profits doing individual lobbying. One way of dealing with the funding is to develop perhaps a strategy for getting some of the funds in an operating state budget or city budget somewhere.

---

The meeting adjourned with no clear decisions made except to appoint a subcommittee of 5 people to work on drafting up a letter telling the MOA of the groups priorities and concerns, and a general expression of dissatisfaction that not enough time had been spent at this meeting and that they group needed to meet again in the near future.

They also had a copy of the Governor's budget on tap that had key items underlined that related to what looks like the MOA budget.

# Municipality of Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-6730

TONY KNOWLES,  
MAYOR

## DISABILITY ACCESS BOARD

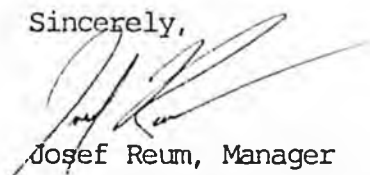
The December meeting of the Disability Access Board will be held Wednesday, December 19, 1984, from 10:30 a.m. to 11:30 a.m., in Room 800 of the Municipal Hill Building, 632 West 6th Avenue.

The focus of the meeting is to discuss legislative priorities for 1985. Topics will include the Governor's Council on the Handicapped and Gifted, the Governor's Committee on Employment of the Handicapped, the Deaf Persons' Bill of Rights, and the Municipal Block Grant Program. If you or a member of your staff could attend it would be greatly appreciated.

Last year issues surrounding people with disabilities took center stage in Juneau, and all indications suggest a repeat performance. The Disability Access Board is mandated by ordinance to advise the Mayor and Assembly on all matters effecting persons with disabilities. In order to carry this out in a balanced and responsible fashion, the Board has chosen to have December's meeting serve as an unbiased forum for discussion of issues and actions facing the Fourteenth Legislature.

We look forward to having you attend the meeting.

Sincerely,



Josef Reum, Manager  
Community Support Services Program

JR:ap

Jim Cox

Preliminary Proposal for the State of Alaska to Provide Interpreter Services for Essential Needs of Deaf Persons

I. Definitions

- A. "Deaf person" means a person whose hearing impairment is so significant that the individual is impaired in processing linguistic information through hearing, with or without amplification.
- B. "Qualified Interpreter" means a person who may through sign language, manual spelling or orally, through lip reading, as required, translate and communicate between a principal party in interest and other parties. All qualified interpreter's providing services must be certified by the national registry of interpreters for the deaf.
- C. "Essential Needs" are those required by deaf persons or the deaf community essential to normal functioning but separate from the rights guaranteed in the Alaskan Human Rights Statutes. Such needs include but are not limited to the following situations:
  - 1) doctor
  - 2) hospital
  - 3) lawyer
  - 4) counselor/psychologist
  - 5) consultation on matters of public interest
  - 6) political participation
  - 7) community service organizations
  - 8) public lectures
  - 9) speakers for deaf groups

II. Program Plan

- A. Develop a list of qualified interpreters for three regions:
  - 1) North -- Fairbanks central region
  - 2) Central -- Anchorage central region
  - 3) Southeast-- Juneau central region
- B. Contract with qualified interpreters
  - 1) \$22.50 per hour
  - 2) Maximum of 20 hours per week per region
  - 3) Total maximum payment to interpreters: \$64,800 annually
- C. Travel costs
  - 1) Interpreters will be flown into villages where services are required
  - 2) Maximum cost allowable for travel: \$25,000
- D. Administration
  - 1) All requests for interpreter services are to be coordinated through the Alaska Association of the Deaf.
  - 2) A half-time coordinator will be hired at \$12,500 per year.
- E. Total Program Costs: Maximum of \$102,300

PRELIMINARY PROPOSALS FOR AN ALASKA STATE  
BILL OF RIGHTS FOR HEARING IMPAIRED PERSONS

per  
Jim Cox  
initial requests  
10-25-84

Section A. Definitions  
Hearing Impaired  
Interpreters

Section B. Provisions against discrimination with respect to:

- 1) schools *is there any need? 504 requires less than 50% disabled*
- 2) employment
- 3) participation in labor organizations
- 4) public services and accommodations
- 5) housing (including rights to a hearing dog)
- 6) real estate
- 7) financial assistance (banks, loans etc.)
- 8) legal advice: *state agencies already required*
- 9) jury duty *proof who does costs*

*Human Rights*

Section C. Provisions for interpreting services at:

- 1) public schools - *requiring is it necessary? new funds 94-142*
- 2) state universities and colleges *who pays DJR client or not*
- 3) legal proceedings involving both an Alaskan state agency *info on refusal by Public Safety* and a hearing impaired person
- 4) public meetings run by a state agency *is it covered if not include*
- 5) at employee grievance proceedings *Maryland cost union + employer Human Rights 220*
- 6) court and judicial proceedings including jury duty
- 7) a criminal proceeding in which there is a deaf party or witness
- 8) municipal, state, or federal agencies *clarify requirements who pays*
- 9) ~~legal advice - private advice~~

*on this*

*sample*

*State Pay for Referral Service & Interpreters staff w/ per hour*

Section D. Specialized funds to be allocated for interpreting services as follows:

- 1) The state to purchase appropriate telecommunications equipment *may also* and rent, lease or sell to hearing impaired persons at no more than 1/2 wholesale cost; *DJR buy for clients -> Davis Club / buy individually*
- 2) Funds provided for interpreting services for essential needs of hearing impaired persons, e.g. doctors, lawyers, psychologists, counselors;
- 3) Funds to be designated for interpreting services at public meetings (including but not limited to political gatherings, public lectures, community training events, theatre and art events, religious services, public classes, organizations);
- 4) State to provide free hearing examinations. *(D-3)*

Section E. Regulations

- 1) Require a certificate of registration for the practice and fitting of hearing aids;
- 2) A hearing aid dealer must ascertain whether a person who is in the process of buying a hearing aid has been examined within the past six months by an otolaryngologist, otologist, or physician. If the person has not been examined, the hearing aid dealer must make a written recommendation for such an examination and the dealer may not fit or sell that person a hearing aid until the examination has been completed;
- 3) Visual smoke detectors to be required by any landlord renting a house or apartment to a deaf person;
- 4) All hotels and motels to have a number of visual smoke detectors;
- 5) Interpreters to be given the right of privilege against subpoenas.

*problematic*  
*fine codes*  
*do*

Proposed amendments to the work draft of an Act entitled: "An Act Relating to Rights of Persons With Disabilities."

Sec 10

AS 18.80.300 (15)

p.7 ln 27

- "A person with a disability" means any person who
- A) has a physical or mental impairment which substantially limits one or more major life activities;
  - B) has a record of such impairment, or
  - C) is regarded as having such an impairment.

AS 18.80.300 (18)

"Has a record of such an impairment" means has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities."

AS 18.80.800 (19)

- "Is regarded as having an impairment" means
- A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by others as constituting such a limitation;
  - B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment; or
  - C) has none of the impairments defined in this section but is treated by other persons as having such an impairment.

Sec 9

AS 18.80.255

Insert (a) before "It is unlawful. . . ."

p.7 ln 11-26

- (b) The state or political subdivision shall provide, and pay the costs of, an interpreter when a person with impaired hearing seeks access to local or state funds, services, goods, facilities, advantages or privileges.



# Neighbor to Neighbor

Community Council Newsletter

May 1984

## Spring Clean Up

### What's Inside:

	Page
Community Council Boundaries . . . . .	2
Council Contact People . . . . .	2
Community Council News . . . . .	3,4
FCC/Center News . . . . .	5
Neighborhood Improvement Program . . . . .	6
One Step Close - Ten Tips Dealing with your Legislator . . . . .	7
May Clean-up . . . . .	8
P&Z and Platting Update . . . . .	9
Assembly Update . . . . .	10
Announcements . . . . .	11
Calendar . . . . .	12



## VOLUNTEERS HONORED

### HELEN MASON

Helen Mason, an active member of the Fairview Community Council, was recently honored by the Municipality for her hard work towards making the Anchorage Neighborhood Dental Center a reality. Helen has always been interested in children and children's needs, and this dental center will help many children as well as the entire community. For three years, Helen was Secretary of the Fairview Council and has tirelessly volunteered her time and energy. In recognition of Helen Mason, and the Fairview Community Council, there is now a plaque at the Anchorage Neighborhood Health Center.

### BETTY ADKISON

Betty Adkison was chosen as Volunteer of the Year by the Board of Directors of the Federation of Community Councils. Betty was one of the original organizers of the University Area Community Council and has served as Vice-President and President of that council. She has been Vice Chairman, and most recently Chairman of the Federation Board. Currently she's on the Executive Committee of the Board. Betty has always been willing to attend meetings and represent the councils' interests. Always supportive of FCC activities, Betty is a strong advocate of public participation. Thank you, Betty, from all of us for your involvement in bettering our community!

*Re: Bill of Rights  
(Blind deaf & disabled)*

Sectional Analysis:

- Sec.1. Allows: blind deaf & disabled to serve on juries  
p1 ln11 "other disability" should read "a disability"  
p1 ln13 subsection (c) there is a question about whether  
we can require the court to pay for this
- Sec.2. Prohibits discrimination against physically handicapped
- Sec.3-8. Adds disability to existing Human Rights Commission  
statutes. Changes personal pronouns.
- Sec.9. PADD would like to add an amendment to this section  
requiring the state to pay for interpreters for a  
person dealing with the state
- Sec.10. Definition of Disabled  
work draft definition not workable  
see PADD amendments  
p8.ln24 delete references to "psychological disorder" and  
"emotional or mental illness". We want to deal with  
physical disability only.

Amendments: In addition to the ones mentioned above and attached as PADD  
amendments, we need to delete blind from text but be sure it is  
included in the definition of physically disabled. p.1 ln 20.

Material Enclosed:

Request for Draft  
Draft  
Amendments drafted by PADD

Related Background Material

People:

563-4713 Al Berke

Executive Secretary  
Alaska Association of the Deaf  
PO BOX 4-64  
Anchorage, AK 99509

initially asked Pat to find \$46,000 for a survey of 200 people  
request was way out of line

Pat recommended him and he was appointed to the Governor's  
committee on the Employment of the Handicapped  
throws temper tantrums

wants only the deaf included in the bill. does not want  
deaf included in "physically disabled" because the blind  
are not. The blind are mentioned separately so he wants  
to be mentioned separately. In the interests of clear  
statutes and legislation, Pat wants to include both  
deaf and blind in physically disabled.

274-3658 David Maltman

Executive Director  
PADD Protection & Advocacy for the Developmentally Disabled  
325 East 3rd 2nd Floor  
Anchorage, AK 99501

very reasonable, very knowledgeable  
good politically, wants corresponding bill in the house

staff attorney for PADD  
drew up amendments for us  
good, knowledgeable

243-2146 Jim Cox

interpreter for Al Berke and legislative liason for Asso of Deaf  
calm, reasonable, knowledgeable person  
talk to him before talking to Al

Louise Rude

Alaska Association of the Blind  
check with Louise about including blind in definition of  
physically disabled. They should have no objection because  
the result will stay the same for them.

**A**laska  
**A**ssociation of the  
**D**eaf

P.O. Box 4-64 • Anchorage, Alaska 99509

July 9, 1984

Mr. Michael Morgan  
Director  
Division of Vocational Rehabilitation  
Alaska Department of Education  
Pouch F  
Juneau, AK 99811

Dear Mr. Morgan:

Over the past several months I have been consulting with numerous individuals who work with Alaska's severely hearing impaired population, including Mr. Stan Ridgeway of your office, about a possible project to establish a better communication network among the hearing impaired population and for assessing the needs of this special population and the services they receive. Enclosed for your consideration is an unsolicited proposal requesting funds to conduct a needs assessment of Alaska's severely hearing impaired population. Although the Alaska Association of the Deaf (AAD) is initiating this proposal and is prepared to carry out the project, AAD would also support DVR's issuance of a competitive request for proposals, should the Division be either unable or unwilling to issue a sole source contract to AAD. Our primary interest is that the work proposed be done and preferably prior to January 30, 1985.

I would welcome the opportunity to discuss this proposal with you further or to furnish any additional information you need to consider this request. I look forward to hearing from you in the near future.

Sincerely,

Al Berke  
Executive Secretary

Enclosure

PROPOSAL

to  
ALASKA DEPARTMENT OF EDUCATION  
DIVISION OF VOCATIONAL REHABILITATION

from  
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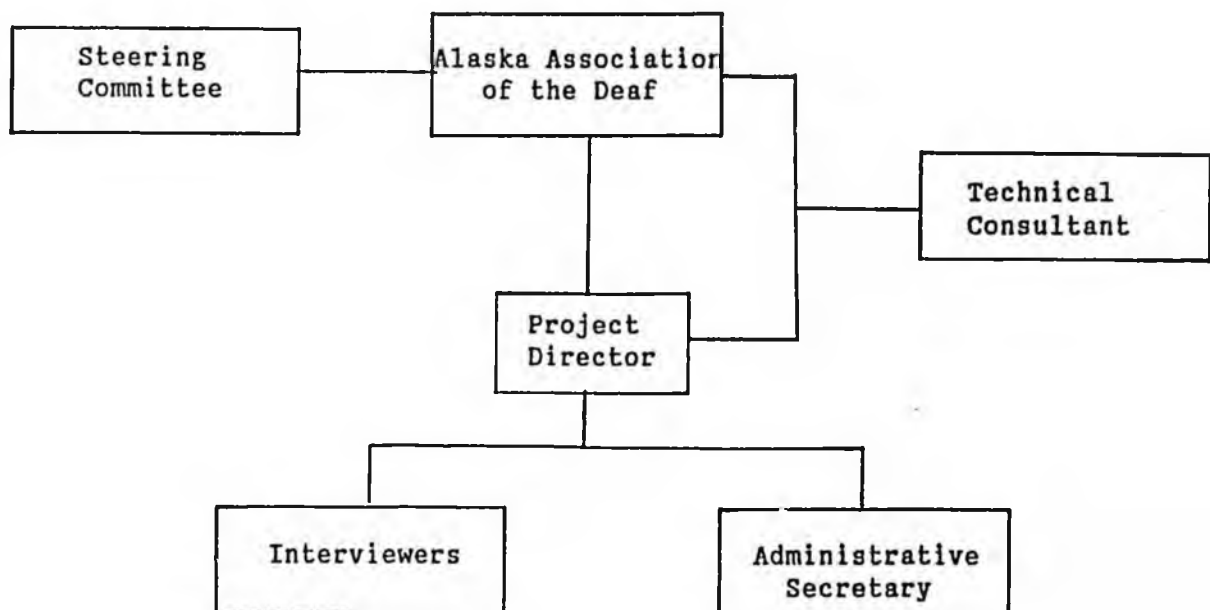
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Consultant Services			8,500
(questionnaire design, coding/key punching and data processing)			
Communications			1,000
Supplies			<u>1,300</u>
		TOTAL	\$46,000

BILL SHEFFIELD, GOVERNOR

**DEPARTMENT OF EDUCATION**

*DIVISION OF VOCATIONAL REHABILITATION*

CENTRAL OFFICE  
POUCH F. MS 0581  
STATE OFFICE BUILDING  
JUNEAU, ALASKA 99811  
PHONE (907) 465-2814

Michael C. Morgan

September 5, 1984

Mr. Al Berke  
Alaska Association of the Deaf  
P.O. Box 4-64  
Anchorage, AK 99509

Dear Mr. Berke,

I read your proposal to assess the progress and needs of Alaska's severely hearing impaired population with interest. The division has already committed all of our grant funds for this year. We have no further monies to commit, and in fact are having some difficulties in meeting our current obligations.

Thank you for your interest.

Sincerely,

*Michael C Morgan*  
Michael C. Morgan,  
Director

SEP 12 1984

Thank  
to Gen. Kelly

I just got a call from  
the Governor's office yesterday  
appointing me to serve on  
the Governor's Committee on Employment  
& Handicapped.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

August 22, 1984

The Honorable Patrick Rodey  
Alaska State Senate  
2335 Lord Baranof Drive  
Anchorage, AK 99503

Dear Senator Rodey:

Thank you for your recommendation of Al Berke for appointment to the Governor's Committee on Employment of Handicapped.

I appreciate your taking the time to personally inform me of your recommendations pertaining to appointments to boards and commissions. Please be assured that I will give full consideration to your comments when I review the candidates for the board.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 15, 1985

SUBJECT: Research request concerning confidentiality  
and privilege inherent to electronic  
translators for the deaf

TO: Senator Patrick Rodey  
Attention: Roger Lewis

FROM: George W. Edwards *GWC*  
Legislative Counsel

This is in response to your request for research on the status of the law concerning confidentiality and evidentiary privileges that protect electronic communications carried out by the deaf through human translators.

It is my understanding, based upon a conversation with Roger Lewis, that the principle concern here is assuring that deaf persons have the legal capacity to extend their evidentiary privileges to apply to third parties who electronically translate conversations for which the deaf person otherwise has a privilege. A secondary concern, I gather, is that there be some assurance that such a translator have a general obligation of confidentiality.

With regard to the matter of privilege, current rules of evidence appear to address the question posed here. Relevant sections are attached. Evidence Rule 503, concerning lawyer-client privilege provides in section (a)(5):

A communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

The rule states further in section (b):

A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client . . .

The Commentary to Rule 503 lends emphasis to the applicability of the privilege to persons involved in the communication itself by noting in section (a)(4):

The definition of "representative of the lawyer" recognizes that the lawyer may, in rendering legal services, utilize the services of assistants in addition to those employed in the process of communicating.

The controlling factor in a situation like that being considered here is the intent of the client, in this instance the deaf person. The Commentary to Rule 503 states in section (a)(5):

The requisite confidentiality of communications is defined in terms of intent. A communication made in public or meant to be relayed to outsiders or which is divulged by the client to third persons can scarcely be considered confidential . . . . The intent is inferable from the circumstances. Unless intent to disclose is apparent, the attorney-client communication is confidential . . .

The significance of the client's intent is recognized in Blackmon v. State, 653 P.2d 669 (Ak, 1982) in which the court determined a conversation between a defendant and his attorney to be privileged even when carried on or within earshot of a police officer.

Legal treatises uphold this interpretation. Weinstein's Evidence, section 503(a)(4) at page 503-30 states:

Disclosure to those reasonably necessary for transmitting the communication has readily been recognized as not destroying the privilege. Secretaries, clerks and interpreters fall within this category.

McCormick on Evidence, 3rd ed., states at page 188:

...if the help of an interpreter is necessary to enable the client to consult the lawyer his presence would not deprive the communication of its confidential and privileged character.

Evidence Rule 504, concerning the physician and psychotherapist-patient privilege, is similar in concept to Rule 503 and provides in section (a)(4):

A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication...

Evidence Rule 506, concerning communications of clergymen, states at section (a)(2):

A communication is confidential if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

The Commentary for Rule 506 notes that "confidential" communication is consistent in meaning within Rules 503, 504, and 506.

It is my opinion, based upon the information set forth above, that any privilege afforded a deaf person under the referenced rules can be extended by the deaf person to apply to a third party intermediate communicator, including a translator who communicates through electronics.

With regard to the matter of confidentiality, AS 42.20 appears to have in place law that requires confidentiality of a translator who communicates electronically by wire or radio.

Under AS 42.20.300 a person who receives or assists in receiving or who transmits or assists in transmitting a communication by wire or radio is prohibited from divulging the communication except to designated persons. A copy of the law is attached. As the translators of concern here transmit and receive by wire, they are clearly obligated to maintain the confidentiality of a deaf client under this statute.

Senator Patrick Rodey  
March 15, 1985  
Page 4

If you feel there remains a need for legislation in this area please let me know and I will be glad to prepare a draft bill.

GWE:csh  
c3/051

**Rule 503. Lawyer-Client Privilege.****(a) Definitions. As used in this rule:**

(1) A client is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services.

(2) A representative of the client is one having authority to obtain professional legal services and to act on advice rendered pursuant thereto, on behalf of the client.

(3) A lawyer is a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.

(4) A representative of the lawyer is one employed to assist the lawyer in the rendition of professional legal services.

(5) A communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

**(b) General Rule of Privilege.** A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client, (1) between himself or his representative and his lawyer or his lawyer's representative, or (2) between his lawyer and the lawyer's representative, or (3) by him or his lawyer to a lawyer representing another in a matter of common interest, or (4) between representatives of the client or between the client and a representative of the client, or (5) between lawyers representing the client.

**(c) Who May Claim the Privilege.** The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the lawyer at the time of the communication may

receive different treatment on evidence questions in courts of law merely because of differences in financial structure.

If, for example, A runs a taxi service as a sole proprietorship with several employees, and one employee driver is involved in an accident for which A is sued, the employee's statements to A's attorney are not within the attorney-client privilege, even though A may order his employee to talk with the lawyer. If A incorporates, the ruling should not change. It should be sufficient that A and other corporate officers having the capacity to seek legal advice and to act on it can claim the benefits of the privilege for private communications with counsel. A more permissive privilege would result in suppression of information conveyed to attorneys by employees who are more like witnesses than clients and who have no personal desire for confidentiality.

(3) A "lawyer" is a person licensed to practice law in any state or nation. There is no requirement that the licensing state or nation recognize the attorney-client privilege, thus avoiding excursions into conflict of laws questions. "Lawyer" also includes a person reasonably believed to be a lawyer. For similar provisions, *see*, Cal. Evid. Code § 950 (West 1966). Administrative practitioners are not lawyers under Rule 503 (a) (3), but may be included as "representatives of the lawyer" under Rule 503 (b) (4).

(4) The definition of "representative of the lawyer" recognizes that the lawyer may, in rendering legal services, utilize the services of assistants in addition to those employed in the process of communicating. Thus the definition includes an expert employed to assist in rendering legal advice. It also includes an expert employed to assist in the planning and conduct of litigation, though not one employed to testify as a witness. The definition does not, however, limit "representative of the lawyer" to experts. Whether his compensation is derived immediately from the lawyer or the client is not material.

Rule 503 does not expressly deal with communications from an insured to his insurance company. If the insurance agent to whom the information is forwarded were viewed as a "representative of the lawyer" under Rule 503 (a) (4), the privilege

would apply. This is the rule in most state courts. See McCormick (2d ed.) § 91 at 190. Some federal courts have been unsympathetic to this line of reasoning because of the peculiar nature of the insurance "situation." See, e.g., *Gottlieb v. Bresler*, 24 F.R.D. 371 (D.D.C. 1959). The demand for privilege is greater when there is a close connection between lawyer and agent and they rely upon confidentiality in their relationship. Thus, the result in any particular case may turn on the specific facts involved. However, it is clear that no privilege is available when a statement is being sought in a controversy between the insured, or one claiming under the insured, and the insurance company. McCormick (2d ed.) § 91, at 190-91; Annot., *Privilege of Communications or Reports Between Liability or Indemnity Insurer and Insured*, 22 A.L.R.2d 659 (1952).

(5) The requisite confidentiality of communication is defined in terms of intent. A communication made in public or meant to be relayed to outsiders or which is divulged by the client to third persons can scarcely be considered confidential. See *LaMoore v. United States*, 180 F.2d 49, 9th Cir. (1950); McCormick (2d ed.) § 95. The intent is inferable from the circumstances. Unless intent to disclose is apparent, the attorney-client communication is confidential. Taking or failing to take precautions may be considered as bearing on intent. "Communications which were intended to be confidential but were intercepted despite reasonable precautions remain privileged." See Subdivision (b) *infra*; see also J. Weinstein & M. Berger, *Weinstein's Evidence*, § 503(a) (4) [01] (1979).

Practicality requires that some disclosure be allowed beyond the immediate circle of lawyer-client and their representatives without impairing confidentiality. Hence the definition allows disclosure to persons to whom disclosure is in furtherance of the rendition of professional legal services to the client, contemplating those in such relation to the client as "spouse, parent, business associate, or joint client." Cal. Evid. Code § 952, Comment (West 1966).

(b) **General Rule of Privilege.** This subdivision sets forth the privilege, using the previously defined terms: client, representative of the client, lawyer, representative of the lawyer,

**Rule 504. Physician and Psychotherapist-Patient Privilege.**

(a) **Definitions.** As used in this rule:

(1) A patient is a person who consults or is examined or interviewed by a physician or psychotherapist.

(2) A physician is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be.

(3) A psychotherapist is (A) a person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or (B) a person licensed or certified as a psychologist or psychological examiner under the laws of any state or nation or reasonably believed by the patient to so be, while similarly engaged.

(4) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(b) **General Rule of Privilege.** A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental or emotional conditions, including alcohol or drug addiction, among himself, his physician or psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family.

(c) **Who May Claim the Privilege.** The privilege may be claimed by the patient, by his guardian, guardian ad litem or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychotherapist

**Rule 506. Communications of Clergymen.**

(a) **Definitions.** As used in this rule:

(1) A clergyman is a minister, priest, rabbi, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.

(2) A communication is confidential if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

(b) **General Rule of Privilege.** A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a clergyman in his professional character as spiritual adviser.

(c) **Who May Claim the Privilege.** The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The clergyman may claim the privilege on behalf of the person. His authority so to do is presumed in the absence of evidence to the contrary. (Added by Supreme Court Order 364 effective August 1, 1979)

**Rule 506. Communications to Clergymen.**

The considerations which dictate the recognition of privileges generally seem strongly to favor a privilege for confidential communications to clergymen. During the period when most of the common law privileges were taking shape, no clear-cut privilege for communications between priest and penitent emerged. 8 Wigmore § 2394. The English political climate of the time may well furnish the explanation. In this country, however, the privilege has been recognized by statute in about two-thirds of the states and occasionally by the common law process of decision.

(a) **Definitions.** Paragraph (1) defines a clergyman as a "minister, priest, rabbi, or other similar functionary of a religious organization." This concept is not so broad, however, to include all self-denominated "ministers." A fair construction of the language requires that the person to whom the status is sought to be attached be regularly engaged in activities conforming at least in a general way with those of a Catholic Priest, Jewish rabbi, or minister of an established Protestant denomination, though not necessarily on a full-time basis. No further specification seems possible in view of the lack of licensing and certification procedures for clergymen. However, this lack seems to have occasioned no particular difficulties in connection with the solemnization of marriages, which suggests that none may be anticipated here. For similar definitions of "Clergyman" see Cal. Evid. Code § 1030 (West); N.J. Rev. Stat. or Stat Ann. (West) § 29.

The "reasonable belief" provision finds support in similar provisions for lawyer-client in Rule 503 and for physician and psychotherapist-patient in Rule 504. A parallel is also found in the recognition of the validity of marriages performed by unauthorized persons if the parties reasonably believed them legally qualified.

(2) The definition of "confidential" communication is consistent with the use of the term in Rule 503(a)(5) for lawyer-client and in Rule 504(a)(4) for physician and psychotherapist-patient, suitably adapted to communications to clergymen.

(b) **General Rule of Privilege.** The choice between a privi-

42.20.150. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "warning." This section does not apply to directories distributed solely for business advertising purposes, commonly known as classified directories. (§ 4 ch 102 SLA 1957)

Sec. 42.20.150. Definitions. In AS 42.20.120 — 42.20.150

(1) "emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential;

(2) "party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected with it, each station with a distinctive ring or telephone number. (§ 1 ch 102 SLA 1957)

Article 4. Eavesdropping and Wiretapping.

Section	Section
300. Unauthorized publication or use of communications	320. Exemptions
310. Eavesdropping	330. Penalty
	340. Definitions

Collateral references. 74 Am. Jur. 2d. Telecommunications, §§ 209 — 218. 86 C.J.S., Tel. & Tel., Radio & Television, § 287.

What constitutes an "interception" of a telephone or similar communication

forbidden by the Federal Communications Act (47 USC § 605) or similar state statutes, 9 ALR3d 423.

Wiretapping, 29 Am. Jur. POF. pp 591 — 639.

Sec. 42.20.300. Unauthorized publication or use of communications. (a) A person who receives or assists in receiving, or who transmits or assists in transmitting a communication by wire or radio may not divulge or publish the existence, contents, substance, purport, effect, or meaning of the communication, except through authorized channels of transmission or reception to

- (1) the addressee or the agent or attorney of the addressee;
- (2) a person employed or authorized to forward a communication to its destination;
- (3) proper accounting or distributing officers of the various communicating centers over which the communication may be passed;
- (4) the master of a ship under whom the person is serving;
- (5) another on demand of lawful authority; or
- (6) in response to a subpoena issued by a court of competent jurisdiction.

(b) A person not authorized by a party to the communication may not intentionally intercept a communication or divulge or publish the existence, contents, substance, purport, effect, or meaning of the intercepted communication to any person.

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PUBLIC UTILITIES AND CARRIERS

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(c) A person who is not entitled to a communication but who has received the communication may not use it or any information contained in it for personal benefit or another's benefit.

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(d) A person who has received a communication and who knows or reasonably should know that the communication and the information contained in it was obtained in violation of this section may not divulge or publish the existence, contents, substance, purport, effect, or meaning of the communication or any part of the communication.

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(e) A person who has become acquainted with a communication or the information contained in it, and who is not entitled to the communication, may not use the same for personal benefit or another's benefit, or divulge or publish the existence, contents, substance, purport, effect, or meaning of the communication or any part of the communication. (§ 1 ch 133 SLA 1966; am § 22 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.60.280. Renumbered in 1980.  
Legislative history reports. — For

report on ch. 133, SLA 1966, see 1966 House Journal, p. 522.

NOTES TO DECISIONS

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This section makes no exception for law enforcement officers. — A law enforcement officer is subject to the same penalties as a private citizen who violated the provisions of the statute. *Roberts v. State*, Sup. Ct. Op. No. 550 (File No. 934), 453 P.2d 898 (1969), cert. denied, 396 U.S. 1022, 90 S. Ct. 594, 24 L. Ed. 2d 515, rehearing denied, 397 U.S. 1059, 90 S. Ct. 1368, 25 L. Ed. 2d 681 (1970).

No provision excluding testimony obtained by eavesdropping had been enacted in conjunction with this section. *J.M.A. v. State*, Sup. Ct. Op. No. 1201 (File No. 2391), 542 P.2d 170 (1975).

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Nor does it change law as to evidence obtained by eavesdropping devices. — In regard to evidence obtained by wiretap or other eavesdropping devices being used in court proceedings, this section does not in any way change the existing law of Alaska. The admittance or rejection of such evidence is left to case law and the rules governing the admissibility of evidence as interpreted by the court. *Roberts v. State*, Sup. Ct. Op. No. 550 (File No. 934), 453 P.2d 898 (1969), cert. denied, 396 U.S. 1022, 90 S. Ct. 594, 24 L. Ed. 2d 515, rehearing denied, 397 U.S. 1059, 90 S. Ct. 1368, 25 L. Ed. 2d 681 (1970).

Interception alone constitutes prohibited activity. — Subsection (b) of this section deals with the initial acquisition of a message by persons through the interception of the message at any time. The section contemplates an intentional interception. It should be noted that under this section, the interception alone constitutes a prohibited activity. There is no need to prove interception and divulgence, although the latter activity is also prohibited by this section. *Roberts v. State*, Sup. Ct. Op. No. 550 (File No. 934), 453 P.2d 898 (1969), cert. denied, 396 U.S. 1022, 90 S. Ct. 594, 24 L. Ed. 2d 515, rehearing denied, 397 U.S. 1059, 90 S. Ct. 1368, 25 L. Ed. 2d 681 (1970).

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Sec. 42.20.310. Eavesdropping. A person may not

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(1) use an eavesdropping device to hear or record all or any part of an oral conversation without the consent of a party to the conversation;

(2) use or divulge any information which the person knows or reasonably should know was obtained through the illegal use of an eavesdropping device for personal benefit or another's benefit;

# Hearing-impaired citizens would get services under bill

By LARRY MAKINSON

Daily News reporter

A proposed bill of rights for hearing-impaired Alaskans seeks to establish new, required services for the deaf at public schools and public meetings throughout the state.

It also would require state certification of hearing aid dealers and provide low-cost telecommunication equipment to people with hearing disabilities.

The bill, to be submitted to the legislature in January, will be the subject of a public meeting today by the Alaska Association of the Deaf.

According to Albert Berke, executive director of the organization, the purpose of the meeting is to hear comments on the proposals and suggestions for other provisions. The meeting begins at 10 a.m. at the association office, 4241 B St., Suite 201.

Contained in the proposal are four distinct categories of "rights": provisions against discrimination, provisions for interpreting services, state funds for interpreting services, and regulations concerning hearing aid vendors and visual smoke alarms.

Discrimination against the hearing impaired — as defined by the bill — would be banned in the areas of schooling, employment, housing, fi-

nancial assistance, public services, labor organizations, real estate, legal advice and jury duty, among others.

Interpreting services for the deaf would be mandated under the proposal in public schools, universities and colleges, in public meetings run by state agencies, in the offices of municipal, state and federal agencies, in legal proceedings and at employee grievance hearings.

In addition, persons selling and installing hearing aids would be subject to certification by the state, and they could not sell hearing aids to a person without a doctor or hearing specialist's examination.

Visual smoke detectors would be required by any landlord renting a house or apartment to a deaf person.

The bill of rights would also call on the state to provide free hearing examinations to Alaskans, and to provide funds for hearing interpreters for a wide variety of public meetings, including political gatherings, lectures, theater and art events and religious services.

In addition, the bill asks the state to purchase appropriate telecommunications equipment to be rented, leased or sold to hearing impaired persons at no more than half the wholesale cost.

# Deaf Alaskan wants a chance to sit in the jury box

Continued from Page D-1

heard the suggestion in mid-September. The justices may decide to recommend a change in legislation to allow interpreters for the deaf, but it's still up to the legislature to decide whether to change the current statute.

Says Snowden: "The biggest problem we see is in rural Alaska. Here in Anchorage, a qualified interpreter could handle the job with a certain hourly fee. But dealing with rural Alaska, we may not have the qualified interpreters to do the job."

He estimated the total cost of providing interpreters for deaf prospective jurors in Anchorage, Fairbanks and Juneau to run only \$5,000 annually. He could not estimate

Sept. 23-29 is Deaf Awareness Week. The Alaska Association of the Deaf can be reached at 563-4713.

the cost for Bush Alaska.

An objection that goes beyond cost and red tape is how lawyers might feel about having a deaf individual on a jury. The traditional argument lawyers pose is that an impaired juror may not see and hear everything in the courtroom, jeopardizing the defense of the accused.

To that, Berke responds, "No juror sees and hears everything anyway.

Dana Fabe, head of the state Public Defender's Agency, says that the idea is worth pursuing. One potential concern is the credibility of de-

fendants and witnesses, she says. "From the point of view of judging credentials — the way a defendant may repeat the same word several times, as if he's been coached, a shaky voice, a nervous giggle — all these may be things a jury may take into account when judging credentia

However, she points to several factors in favor of using deaf jurors. Certified interpreters — there are four in Anchorage, one in Juneau — are trained to pass on such subtle inflections as pauses and repeated words, she says. Also, jurors with hearing impairments may be able to

pick up body language more acutely.

Still, putting interpreters in the courtroom gives them a lot of interpretive power, Fabe says. "When the testimony is going pretty quickly, are you giving the interpreter the ability to screen the answers?"

Also, when it's time for a jury to deliberate, does the interpreter become a 13th juror? "Jury deliberations can become pretty emotional," Fabe says. "Are we going to have to screen potential interpreters?"

Says Berke: "We are not demanding that we be allowed to sit on a jury, only that we have the opportunity to sit through the jury selection process like everyone else."



Anchorage Daily News/Ron Lindsey

If Albert Berke has his way, he and other deaf Alaskans will join the ranks of those being considered to fill the jury box.

## Deaf Alaskan seeks chance for jury duty

By KATHLEEN McCOY  
Daily News reporter

Last spring, the Alaska Court System called on Albert Berke to serve as a juror. The jury clerk mailed Berke a juror's qualification form and, eager to comply, Berke quickly returned it.

But on line nine of the form, which asks prospective jurors to describe their hearing ability, Berke had to mark "poor." He is deaf.

After sending back the form, he got a computer notice with this message: "You have been excused from jury duty for hearing loss."

Many people might have taken this curt dismissal without protest, but Al Berke isn't one of them.

Now 55, the Brooklyn-born activist has devoted his life to opening doors for himself and others with hearing impairments. He has a bachelor's degree in educating the deaf and a master's in guidance counseling. He's also completed most of the work for a doctorate in administration for special education.

Berke has worked in Washington, D.C., in the Department of Health and Human Services for the office of Civil Rights. Among other tasks, he wrote brochures that explained Section 504 of the 1973 Rehabilitation Act, the federal legislation that prohibits discrimination against the disabled. To-

**'Deaf citizens are rejected . . . solely because they are deaf. No matter the IQ, or their interest in community service.'**

— Albert Berke

day, he's executive secretary for the Alaska Association of the Deaf.

Given his background, Berke's resentment over being turned down for jury duty is easy to understand. "Deaf citizens are rejected . . . solely because they are deaf," he says. "No matter the IQ, or their interest in community service."

To put the issue on the level he sees it, Berke likes to say, "My dog cannot serve on a jury, either."

So Berke protested. He went to the court building in person, only to be told he would be excused due to his hearing impairment. When he asked why, a worker wrote this message on a small slip of paper and handed it to him:

"Because it goes too quickly, and the court won't provide an interpreter for you."

Berke tried again, mailing a letter to the Alaska Court System:

"To Whom It May Concern:

"Since I am a deaf individual who is a citizen of the United States of America, I am requesting an interpreter for jury service."

The response came two days later from Judge Mark Rowland. In part, the letter read:

"Jury service is just that — a civic duty, not a right."

The judge cited the Alaska statute on jury qualification: "A person is qualified to act as a juror if the person is . . . in possession of the person's natural faculties . . ."

The judge quoted Webster's definition of faculty as: "a physical capability, power, or function; — esp. of the human body or its organs: as, the faculty of hearing."

Berke may have heaved a big sigh, but he didn't quit. Now he's aimed his guns at the state statute that keeps him and other hearing-impaired persons — numbers he puts

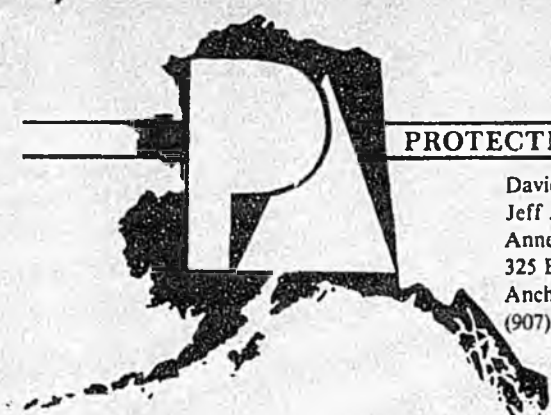
at 150 in Anchorage and 250 statewide — out of the jury-selection process. He hopes to convince a legislator to introduce a bill next session to change the statute. He says California, Connecticut, Colorado, New York, Maryland, New Mexico and Michigan have allowed deaf persons to go through jury selection.

Locally, he has support from State Sen. Pat Rodey. An aide confirmed that Rodey is drafting a "Deaf Bill of Rights" for the next legislative session.

Berke has also returned to the Alaska Court System, taking his request to its administrators, the people responsible for how the courts are run. When Rick Barrier, a deputy director in administration, heard Berke's request for interpreters for the deaf in jury selection, he was opposed. Questions of cost and disruption of an already slow process came to mind.

But Berke emphasized that interpreters certified to handle legal proceedings by the National Registry of Interpreters for the Deaf would not slow jury selection; it could proceed naturally. Cost should be minimal.

Barrier became an ally, writing a memo that went to his boss, Art Snowden. Snowden agreed to recommend Berke's proposal to the Alaska Supreme Court. The court



**PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED**

David Maltman-Director  
Jeff Jessee-Staff Attorney  
Annely Germaine-Coordinator  
325 East 3rd, 2nd Floor  
Anchorage, AK 99501  
(907) 274-3658

Jan Maas-Advocate  
419 6th St., Rm. 232  
Juneau, AK 99801  
(907) 586-1627

Patricia Pennella-Advocate  
763 7th Ave.  
Fairbanks, AK 99701  
(907) 456-1070

September 20, 1984

Senator Patrick Rodey  
2335 Lord Baranof  
Anchorage, Alaska 99503

Dear Senator Rodey:

This letter is in regards to your efforts to draft a bill which may allow people who are deaf to serve on juries.

We are very pleased you have taken an interest in this issue and we offer our support for your efforts. We believe, however, the same problem encountered by people who are deaf to serve as jurors are found by people with other disabilities as well.

We would like to discuss this with you once your bill is drafted to see if a more generic application of your bill is relevant and possible.

Please count on us to assist you in this manner. We look forward to working with you and your staff.

Sincerely,

David F. Maltman  
Executive Director

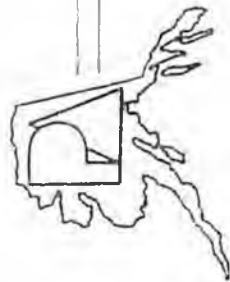
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# Advocacy Demonstrated

K.D. is a 39 year old mildly mentally retarded woman from one of Alaska's small communities. She is ambulatory and possesses many self-help skills; she is a sociable, friendly woman who laughs easily and makes her needs known to others. K. had lived with her family as a child, but as the parents' circumstances changed, they were no longer able to care for her, and she entered a group home for disabled adults.

K. had progressed in her independent living and self-help skills to the point that she no longer fit into the group home, functioning at a much higher level than the other residents. This began to elicit inappropriate manipulative and dominant behaviors on K.'s part and the facility's administration made plans to discharge the client from the program. Three weeks' notice was given the client and her family, with no alternatives in view. Responsibility for placement and the kind of program that K. needs to live in the least restrictive manner possible for her, were areas of dispute between the facility and state authorities. If no other resources could be found, K. would be transferred to the state's institution for severely and profoundly retarded children and adults in Valdez. The family was at a loss for what to do and in desperation considered court action against the facility.

P.A.D.D. staff secured the services of the state's Adult Protection unit, expediting the application process for these services, as well as the application to an independent residential program in another city. K. was accepted into the independent living program and now resides in a boarding home, receiving habilitation services, the needed medical and dental attention, and is employed at a sheltered workshop. She receives mental health services to provide socialization training, and has become involved in a recreation program, where she interacts with her peers in the community. P.A.D.D. staff continue to monitor services and needs.



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

125 East 2nd Street  
Anchorage, AK 99501  
274-1828

319 666 3600, Room 316  
Juneau, AK 99801  
586-9865

764 7th Ave.  
Fairbanks, AK 99701  
456-1070

Protecting the Legal and Human Rights of Persons With A Developmental Disability



PROTECTION AND ADVOCACY  
FOR THE  
DEVELOPMENTALLY DISABLED

Protecting the  
Legal and Human Rights  
of Persons with  
A Developmental Disability

## Who We Are . . .

Protection and Advocacy (P.A.D.D.) is a private not-for-profit corporation that exists to protect and advocate for persons with developmental disabilities. This agency was created by a federal law PL95-602 and authorized under state law AS47.80.02 which requires the state of Alaska to have an agency for protection and advocacy purposes.

Since it is a private agency, we are not administered by federal or state government, although funding for P.A.D.D. does come through the Federal Department of Health and Human Services and the Alaska Department of Health and Social Services.

Our purpose is to see to it that governmental units at all levels respect and comply with the legal and human rights of persons with a developmental disability. We monitor activities in the private sector as well as the public.

Above all, our goal is to help persons with a developmental disability to know their rights and to assist them in pursuing remedies on their own. Legal action may be a final recourse but we believe many other steps can and should be taken before legal remedies are sought.

## The People We Serve . . .

P.A.D.D. works on behalf of any person, regardless of age, who has a developmental disability. The disability must be attributable to a mental or physical impairment or combination of mental and physical impairments, and it must be manifested before the age of twenty-two and be likely to continue indefinitely.

The disability must result in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capability for independent living and economic self-sufficiency.

Finally, we serve those with a disability which reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

We spend our greatest amount of energy on cases in which the problem is clearly attributable to a developmental disability. We do serve other handicapped persons as time and resources allow.

We provide information and **ADVOCACY** in the following areas:

**SPECIAL EDUCATION / EMPLOYMENT /  
VOCATIONAL REHABILITATION /  
FINANCIAL ASSISTANCE / HOUSING /  
GUARDIANSHIP / GENERAL LEGAL  
RIGHTS / ARCHITECTURAL BARRIERS /  
RIGHTS OF INSTITUTIONALIZED  
DEVELOPMENTALLY DISABLED**

## How We Can Help . . .

We can provide the tools needed to advocate for persons with a **DEVELOPMENTAL DISABILITY**. These tools include information, legal guidance or referral to a more appropriate agency. Armed with correct information and our back-up support, we feel people can better speak for themselves.

When direct action is called for, we may intervene on the behalf of a client to resolve a complaint. In many cases, we have acted as a liaison between service providers, governmental agencies, and a concerned parent.

We may provide legal support to lawyers working on behalf of a P.A.D.D. client, refer clients to attorneys familiar with Developmental Disabilities Law and in cases affecting large numbers of our clients, provide direct representation.

P.A.D.D.'s staff can provide in-service training, workshops and presentations regarding our services, due process or legal rights of persons with a developmental disability.



# ALASKA STATE SENATE

PATRICK RODEY  
SENATOR

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3793  
(907) 465-3754



November 9, 1984

Ed Hein  
Division of Legal Services  
Legislative Affairs Agency  
POUCH Y  
Juneau, Alaska 99811

Dear Ed:

RE: Deaf Jurors & Disabled Bill of Rights

I will be out of town for a month from November 11 through December 7th.

*replaced.*  
Jeff Jesse staff attorney for PADD has detailed information on what is needed for the disabled bill of rights and other issues which have surfaced in our discussions with organizations for deaf and disabled. Please work with him in my absence so that we can have a draft when I get back.

Thank you,

Pat Corbett

Jeff Jesse  
Staff Attorney  
Protection and Advocacy for the Developmentally Disabled (PADD)  
325 East 3rd 2nd Floor  
Anchorage, AK 99501

274-3658

SCHOLARSHIPS FOR TEACHERS OF THE DEAF: § 18-701

This statute establishes 30 scholarships a year for teachers of the deaf.

RIGHT OF WAY OF DEAF PEDESTRIAN: § 21-511

A deaf person who has a guide-dog has the right of way at any highway crossing or intersection if there is no police office at the intersection.

TDDs FOR DEAF IN PUBLIC BUILDINGS: Art. 78A, §51A

The Secretary of State of the Department of General Services is responsible for providing TDDS in central locations within state and local government buildings, if these are provided for in the state budget. The TDD locations are to include services for emergency police, fire and rescue services.

DOG GUIDES EXEMPT FROM FEES: Art. 56, §192

There is to be no fee for a guide dog if the application shows the dog is a guide dog and the clerk is satisfied that the dog is a guide dog. The application is to be accompanied by an affidavit from the deaf owner. The dog is to be given an orange tag with the words: "hearing ear dog" written on it. These dogs will wear this tag in addition to the regular tag required of all licensed dogs.

MENTAL HYGIENE SERVICES FOR THE HEARING IMPAIRED: Art 59, §70 et seq.

The State shall establish a pilot program to provide a program of outpatient mental hygiene care and treatment for hearing impaired children, adults, and their families.

HEARING AIDS: Art. 43, §738 et seq.

The Maryland Code requires a certificate of registration for practice of fitting and dealing in hearing aids. Hearing aid dealers must ascertain whether a person who is in process of buying a hearing aid has been examined within the past six months by an otolaryngologist, otologist, or physician. If the person has not be examined, the hearing aid dealer has to make a written recommendation for each an examination of the person, and the dealer may not fit or sell that person a hearing aid until the person gives the dealer satisfactory evidence of a hearing examination by a physicial. However, a person who is 18 years or older may waive such an examination in writing.

WORKER'S COMPENSATION FOR OCCUPATIONAL DEAFNESS: Art. 101, §25A

This statute defines occupational deafness and appropriate compensation for such a loss.

# State Commissions on Deafness

by Jerome D. Schein

One of the better kept secrets in Deafness is the recent growth of State Commissions on Deafness. Since 1971, when the Texas legislature established the first Commission for the Deaf in the United States, 16 States have followed its lead.

Despite these agencies' importance, they have had comparatively little attention from the Deaf community. The National Association of the Deaf sponsored the First National Conference for State Commissions on Deafness in 1977, when only 10 States had them, but NAD has not sponsored a similar conference since that time. Subsequent meetings between Commission representatives have been informal and interestingly unpublicized. The average deaf citizen does not seem to have realized the great potential the Commissions have for improving conditions economic, social, and vocational in their States. Nor have most of the professionals who devote all or a major part of their practices to deaf people fully grasped the State Commissions' influence on the service delivery systems of those States that have them.

This paper will attempt to dispell the mystery that seems to enshroud this critical movement in deaf people's lives: Which States have Commissions? What do they do? How do they work? And it will explore some of the reasons for the seeming lack of interest in them.

## Method

The information on which this paper is based has been gathered by reading the individual State statutes and many publications by the State Commissions, and by direct correspondence with the Commissioners. I am deeply indebted to the State Commissioners for their cooperation, without which this research could not have been possible. Copies have been sent to each in advance of publication. However, any errors that remain in the publication are solely the responsibility of the author.

## Definition of State Commission

Deaf people do not relate to a number of different State agencies, so some care in defining what is meant by a State Commission on Deafness is necessary to avoid confusion. The criteria set forth here are intended to eliminate ambiguity in the use of the term.

1. A State Commission must have a legislative base; that is, it must have been established by an act of the State's legislature not by an executive fiat or by a contract between a State agency and some outside group. This stipulation will eliminate from consideration advisory groups selected from time to time by State agencies and purely nominal bodies that lack any real authority to influence the lives of deaf people. It also excludes from our immediate concern agencies

like South Dakota's Communication Service for the Deaf, that have a contract with the State to provide specific services.

2. A State Commission is permanent, not temporary. As we will see, permanency is relative, since the legislature can revoke as well as establish agencies, particularly under the "sunset" rules that many State legislatures have adopted.

3. A State Commission has funds or a funding mechanism appropriated for its major fiscal needs. Without funding, the agency is merely a paper entity that is unlikely to significantly influence the lives of deaf people. The funds, however, must be provided by the legislature.

4. A State Commission is exclusively concerned with hearing-impaired people. This latter provision distinguished between State Commissions on Deafness and the many agencies that deal with all or most disabled people, such as the State's Vocational Rehabilitation agency.

State Commission, then, is defined as a *permanent State agency established and funded by the State legislature solely to promote the welfare of deaf people.*

The definition does not deal with the Commission's name. In this paper, we will only use the term "Commission," though we recognize that many other terms have equal appropriateness; for example, "Council" or "Bureau." We also do not distinguish between Commissions for "Deaf," "Deaf and Hard of Hearing," "Deaf and Hearing-Impaired," or "Hearing Impaired." The particular name chosen for a Commission is largely a matter of taste and is not likely to determine its effectiveness.

In addition to the States that have Commissions, there are States that have active programs providing a broad range of services that do not meet the definition of a Commission. That fact should not reflect on the worth of such agencies. Rather, such States have made a choice, explicitly or implicitly, of how they wish to serve their deaf citizens. The important issue is not whether the State has a Commission but rather whether its deaf people are well or poorly served. A State Commission may or may not be desirable for a particular State. The decision is up to the State's deaf people and its government.

One other aspect of the definition should be discussed: it does not specify the programs that the State Commission might undertake. Aside from being too restrictive, such a criterion would not do justice to the broad range of services that existing Commissions already perform. That is why I have opted for the nondefinitive phrase "to promote the welfare" rather than trying to spell out any particular set of functions that a State Commission might have assigned to it by the legislature.

TELEPHONE HEARING AID COMPATIBILITY, PENALTY: Art. 23, §326B

The Maryland Code provides a certain penalty for selling telephones that prevent the use of hearing aids without notice of a certain incompatibility. If a person is guilty of a misdemeanor and is convicted for selling a telephone that is found to be incompatible with hearing aids and no warning was given at the time of the sale, then that person is subject to a fine of not more than \$500 or to imprisonment of not more than 6 months or both.

SMOKE DETECTION SYSTEM: Art. 38A, §12A

If a deaf person rents and lives in an apartment, the tenant may write a letter to the landlord requesting that a visual smoke alarm detector be installed in the dwelling. The landlord can require a refundable safety deposit for the smoke detector. The deposit cannot be more than the value of the smoke detector. The tenant is responsible for taking care of the device.

Hotels or motels should have one visual smoke detection for the deaf/hearing impaired for each 50 units or less.

The sale and installation of specialized smoke detection systems shall follow the regulations of the State of Maryland Fire Prevention Code. Sellers or repairers of smoke detector systems should obtain approval from the State Fire Marshall.

DEAF & BLIND CHILDREN: §8-301 and 302

This section defines deaf children as children who have a hearing impairment which prevents him/her from "progressing satisfactorily in an ordinary public or private school." These laws require that every deaf child shall attend a school or classes for the deaf unless the child is already receiving regular instruction in the public schools.

RESPONSIBILITY FOR MEETING THE EDUCATIONAL NEEDS FOR DEAF AND BLIND CHILDREN: §8-303

MARYLAND SCHOOL FOR THE DEAF AND BRANCH ESTABLISHED: §8-304

These laws state that the State Educational Department, each county, and the Maryland School for the Deaf shall work together on meeting the educational needs of deaf children.

MARYLAND SCHOOLS FOR THE DEAF AND BLIND TO KEEP THE STATE BOARD INFORMED: § 8-307

Salaries of Teachers: § 8-308

The Maryland School for the Deaf has the responsibility to inform the State Board of Education about their educational program and administrative policies. §8-308 states that teachers and other personnel at MSD are to be paid an annual salary that is equal to the salary of public school teachers and professional personnel that have similar training and experience in the county where the school is located.

### How Many State Commissions?

To date, 17 Commissions have been established, and all are still functioning. The entries in Table 1 are arranged by the year the State adopted a Commission. The 17 Commissions' dates are scattered over the last 13 years. 1977 and 1979 are the banner years; three Commissions emerged in each of the two years. Otherwise, none or only one or two per year have been established in the other years. With so few cases, no discernible trends have emerged.

Some of the individual stories behind particular State actions can not be guessed from the tabular presentation. Michigan's legislature voted to establish a State Commission in 1976, but it was vetoed by the governor. It finally came into being in 1979. However, the Commission's director notes that it functions very much as it was originally envisioned in legislation passed in 1937!

While Wisconsin is not shown in Table 1 as having become a State Commission until 1979, it may actually be the first State to have funds allocated specifically for services to deaf people. The original arrangement did not, however, establish a Commission. The Wisconsin State Service Bureau was managed under a contract to the Wisconsin Association of the Deaf. The present arrangement, passed by the Wisconsin State legislature in 1979, now meets the criteria for a State Commission. [The same situation that prevailed years ago for Wisconsin is presently the case in Rhode Island and South Dakota. These States only have contracted services, rather than status as State agencies] New York had a temporary commission on deafness from 1969 to 1975. It had no other function, however, except to gather information for the legislature on the problems of deaf people.

The Illinois and Rhode Island efforts to get Commissions both failed. The Illinois governor vetoed the bill; the Rhode Island bill died in the legislature. In 1979, Rhode Island tried again, and was successful in receiving a contract to set up a Commission, albeit one lacking statutory financing. Other

**Table 1**  
**State Commissions on Deafness, by Year of Establishment**

Name of Commission	Year Established
Texas Commission for the Deaf	1971
Oklahoma Commission on Deaf & Hearing Impaired	1972
Virginia Council for the Deaf	1972
Connecticut Commission on Deaf and Hard of Hearing	1974
Massachusetts Office of Deafness	1974
Deaf Services of Iowa	1975
Maryland Commission for the Hearing Impaired	1976
Arizona Council for the Deaf	1977
New Jersey Division of the Deaf	1977
North Carolina Council for Hearing Impaired	1977
Tennessee Council for the Hearing Impaired	1978
Michigan Division of Deaf and Deafened	1979
Nebraska Commission for the Hearing Impaired	1979
Wisconsin Bureau for the Hearing Impaired	1979
Louisiana Commission for the Hearing Impaired	1981
Kansas Commission for the Hearing Impaired	1982
Kentucky Commission on the Deaf and Hearing Impaired	1982



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State legislatures have pending legislation. At this writing, Ohio and Florida have some activity that may lead to State Commissions.

### Purpose and Purview

The scope of the Commissions differs greatly from State to State. Some Commissions have fairly narrow purviews, others very broad. A tentative attempt has been made to portray these differences in Table 2. The functions shown are those specifically mandated by the legislation establishing the commissions. Other persons reading the same State laws may interpret their provisions differently than has been done here. The summary in Table 2 only attempts a preliminary overview for purposes of making comparisons between the States and with the actual operations that are shown in Table 3.

As noted in Table 2, no single function has been assigned by all of the legislatures so far to all of the Commissions. Advocacy comes closest to being a 'universal' mandate. Only Arizona's legislation does not indicate that its Commission is to undertake that function. Most States want their Commissions on Deafness to coordinate services, to eliminate duplication and to assure that essential services are not being overlooked. Four States, however, do not have such a role to play in their States: Nebraska, North Carolina, Texas, and

**Table 2**  
**Functions of State Commissions on Deafness**  
**Mandated by Legislatures**

Function	States
Advocacy	All, except Arizona
Information Gathering/Dissemination	All, except Connecticut
Interagency Coordination	All, except Nebraska, North Carolina, Texas, and Virginia
Job Development/Placement	Connecticut, New Jersey, Texas
Monitoring Other Agencies	Massachusetts, Nebraska and North Carolina
Interpreting Services	Connecticut, Iowa, Kentucky, Louisiana, Massachusetts, Nebraska, Texas, Virginia, and Wisconsin
Statewide Planning	Louisiana, Nebraska, North Carolina, Oklahoma and Tennessee
Other Services and Functions (e.g., counseling, telecommunications, and transportation)	Arizona, Iowa, Louisiana, Massachusetts, Nebraska, New Jersey, Oklahoma, Texas, and Wisconsin

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Virginia. They may, nevertheless, be providing this important service, even though it is not specified in their legislation.

Table 3, by contrast, displays the services which Commissions actually perform. The legislation setting up the Commissions typically allows them considerable latitude in determining their operations. As a comparison between Tables 2 and 3 shows, State Commissions do go beyond the particulars of their charters. Iowa, for instance, does not have statewide planning specified in its charter, yet the Commission has recently developed a statewide plan for mental health services for deaf people. All Commissions have some involvement in the provision of interpreting services, though only a few have that function spelled out in their enabling acts. All of the Commissions provide some advocacy and engage in information gathering and dissemination as part of their actual functions. Only Texas has legislation for telecommunications, but seven other State Commissions are active in this area. Some services are as yet untouched by most of the Commissions. Only New Jersey and Texas have been involved with transportation problems. Only Texas has been specifically engaged in serving elderly deaf people, a growing segment of the deaf population and one badly in need of assistance. Oklahoma, however, will soon have programs tailored for deaf senior citizens. Texas recently received pioneering authority to serve deaf-blind adults, who are traditionally assigned to Commissions for the Blind in most States. The precedent will bear watching by other States.

This overview of State Commissions' aims and efforts is greatly simplified, sacrificing detail in an attempt to grasp a broader picture. The loss of detail may obscure incipient trends presaging developments that will be critical to the Deaf Community's welfare. These data warrant further intensive study beyond this paper's intent, particularly examining why some services are chosen and others ignored.

**Table 3**  
Activities Engaged in by State Commissions on Deafness<sup>a</sup>

Activities	States
Advocacy Information Gathering/Diss. mination	All
Interagency Coordination	All but Nebraska, Texas, Virginia, and Wisconsin
Job Development/Placement	Connecticut, New Jersey
Agency Monitoring	North Carolina, Oklahoma, Massachusetts, Connecticut
Interpreting Services	All
Statewide Planning	Arizona, Connecticut, North Carolina, Oklahoma, Tennessee, Massachusetts
Health Care	Arizona, Connecticut, Nebraska, and Texas
Telecommunications	Arizona, Connecticut, Kansas, Nebraska, New Jersey, North Carolina, Tennessee, Texas, and Wisconsin
Transportation	New Jersey and Texas
Other Activities and Services	All but Iowa, Massachusetts, New Jersey, Oklahoma, and Virginia

<sup>a</sup> Does not include Kentucky and Louisiana

### Governance

The State Commissions are under the direction of boards that range in size from seven to 19 members, with the median number of members between 11 and 12. The States' governors are generally responsible for selecting board members. The laws require particular groups in the States to be represented. Table 4 summarizes the mandated composition of boards in 15 of the States. All State Commissions, except Wisconsin, are required to have deaf people on their boards. The proportions of the memberships that must be deaf vary widely, from none (Wisconsin) to 75 percent (Massachusetts). Of course, the actual number of deaf people may greatly exceed the legally set minimum, and governors may follow unwritten laws (precedents) to appoint a specified number of deaf members. Here, however, we are only reflecting what has been enacted by the legislation.

While 10 States do require that State governments be represented on their boards, five do not. Six States specify professional members; seven require parent representatives, and five make interpreter representatives mandatory. Eight State Commissions must have board members who represent the general public. Kansas and Kentucky require that one at-large member be from an agency serving deaf people. Wisconsin's entire board is left to the governor's discretion. Connecticut's statute calls for 23 members; Table 4 shows 19, because four of the 23 (three superintendents of State schools for deaf students and a representative of the State Department of Education) are nonvoting members. The ar-

**Table 4**  
Composition of State Commissions on Deafness's Boards, by Number and Type of Members

State	Number of Type of Member <sup>a</sup>												
	All	A	B	C	D	E	F	G	H	I	J	K	L
Arizona	12	1	1	1	1	0	1	1	1	1	1	3	0
Connecticut	19 <sup>b</sup>	0	1	0	7	0	0	1	0	3	0	7 <sup>c</sup>	0
Iowa	7	0	0	0	0	0	0	0	0	0	0	4	3
Kansas	16	1	1	1	5	0	2	1	1	1	1	2	0
Kentucky	11	0	1	0	0	2	0	0	0	1	1	3	2
Louisiana	15	1	1	1	2	2	1	2	1	2	1	3	0
Massachusetts	12	0	0	0	0	0	0	1	0	2	0	9	0
Nebraska	9	0	0	0	0	0	0	0	0	0	0	6	3
New Jersey	14	1	2	1	3	0	0	0	0	0	0	5	2
North Carolina	18	1	1	1	5	2	0	0	0	1	1	6	0
Oklahoma	9	0	0	0	0	0	0	0	0	0	0	2	7
Tennessee	11	1	1	0	2	2	0	0	0	0	1	4	0
Texas	9	0	0	0	0	0	1	2	1	2	0	3	2
Virginia	14	1	1	2	3	0	1	1	0	0	0	5	0
Wisconsin	9	0	0	0	0	0	0	0	0	0	0	0	9

<sup>a</sup> Key to abbreviations: A = Rehabilitation, B = Education, C = School for Deaf, D = Other State Agency, E = Legislature, F = Audiology, G = Medicine, H = Hearing-Aid Dealer, I = Parent, J = Interpreter, K = Deaf People, L = General Public

<sup>b</sup> Law specified 4 ex-officio, nonvoting members in addition to the 19.

<sup>c</sup> One deaf member must also be a parent of a deaf child.

angement reflects the legislative desire to have wide community influence on the commission's policies, with built-in close cooperation from educators. Careful study of the composition of each of the boards provides one clue of the State legislators' ambitions for the Commissions.

### Funding

Calculating the sizes of budgets for the State Commissions presents some problems. The appropriated sums alone, while meaningful, do not tell the entire story about the Commissions' resources. For instance, some Commissions are given space, without direct charge, in government quarters; others must pay rent from their allocations. Similarly, some essential services may be provided to a Commission in addition to the appropriated sum. The analysis shown in Table 5 does not take into account all of these considerations, limiting the value of this direct comparison between the States.

Budgets were available for all State Commissions. These sums, in some instances, include funds from other than legislated portions. Where the source of such other funding is known, the entries in Table 5 so indicate. The longest-established State Commission, Texas, has the largest legislated budget \$841,130. The size of its appropriation is less related to its size than to the leadership it has recently acquired. The Texas Commission estimates that its budget will increase to \$1 million in the near future. Connecticut is a special case. It has statutory authority to charge other agencies for interpreter services; thus, it derives part of its revenues from reimbursements for these services. This arrangement gives Con-

Table 5  
Budgets of State Commissions on Deafness for  
Recent Years

State	Amount (in Dollars)	Fiscal Year
Arizona	92,200	1983
Connecticut	816,980 <sup>a</sup>	1982
Iowa	214,365	1983
Kansas	19,720	1973
Kentucky	155,000 <sup>b</sup>	1983
Louisiana	88,306	1983
Massachusetts	183,067	1983
Michigan	158,500	1983
Nebraska	277,604	1983
New Jersey	531,150 <sup>c</sup>	1982
North Carolina	299,993 <sup>d</sup>	1983
Oklahoma	135,000 <sup>e</sup>	1983
Tennessee	299,500 <sup>f</sup>	1983
Texas	841,130	1983
Virginia	246,400 <sup>g</sup>	1983
Wisconsin	333,640	1982

<sup>a</sup> 370,468 State appropriation, 242,968 reimbursements, 203,544 other.

<sup>b</sup> 310,000 appropriated for two years.

<sup>c</sup> 191,150 State appropriation, 340,000 CETA

<sup>d</sup> 258,813 State appropriation, 41,180 County match

<sup>e</sup> Estimated

<sup>f</sup> 54,500 State appropriation, 175,000 CETA

<sup>g</sup> 37,000 reimbursement from other agencies for interpreter services

necticut one of the largest sums to spend of the State Commissions, though less than half of it is provided directly by legislative appropriation. Virginia also is reimbursed by other State agencies for the interpreter services it provides to them, but its recoveries amount to only a small fraction of its gross revenues. Noteworthy in the budgets are the substantial amounts of money that New Jersey and Tennessee have from CETA funds. In both instances, the CETA monies are nearly double the legislated apportionment, placing these Commissions in precarious circumstances should CETA funds no longer be available. (We have subsequently learned that New Jersey lost its CETA allocation at the end of 1982, and the legislature has not made up the discrepancy.)

A thorough consideration of a Commission's budget should also take into account the size of the State's deaf population, its geographical dispersion, and the range of services provided. Such an analysis would be helpful to the States in evaluating the investments they are making in their Commissions and would enable the Commissions to better assess the relative support from their State legislatures.

#### How the Commissions Operate

The Commissions have adopted a number of different operating modes. Some, like Texas, work largely through contracts to existing agencies within their States. Others like Connecticut, provide much of the services by acquiring staff. Most commissions have some combination of these modes, con-

tracting certain services and attempting to provide others by in-house staff. The particular operational style depends upon a large number of factors: funding, geography, legislative and administrative standards. However, it should be clear that a well-functioning Commission can perform its duties effectively by a variety of means. The choice of tactics should be made on the basis of local conditions.

#### Further Issues

The smattering of data presented above should not obscure the trend in the changing fortunes of deaf people in our society that the State Commissions personify. Since the turn of the century, blind people in most States have had commissions to represent their interests before the State governments. The visibility that these commissions have given blind people has proved valuable in getting the legislation and services they desire, providing a focal point for all State efforts on their behalf, avoiding duplication, and giving some quality assurance. At the same time, these commissions have been a mixed blessing for blind people. They have often complained—with some justification—that their views have not been properly argued, because they have not had adequate representation on the Commissions. The Deaf Community should be alert to that criticism. Proper representation is essential to satisfactory progress. Simply having a guarantee that a large proportion of the policy-making body will be deaf does not assure that the representation will be satisfactory. For example, members might be selected who, though deaf, have no roots in the Deaf Community. Maintaining good input into the management of the Commission can be accomplished by having forceful, dedicated deaf representatives rather than a large proportion of the board's membership. As one of the State Commissioners noted in response to an earlier draft of this article, "It takes more than being deaf to be an effective member of any Council."

Deaf people should also beware of token Commissions. A Commission that has little authority to develop services, that lacks personnel to operate and lacks funds with which to conduct its business, and that has no visible role in the State's administrative hierarchy can, in the long run, do more harm than good. Legislators are apt to point to the paper entity as proof that they are adequately serving the Deaf Community. Thus relieved of their obligations, the legislators can deny reasonable requests from the Deaf Community with the argument that they have already done enough for it. An ineffectual Commission can become merely an excuse for not providing services.

In studying the various aspects of the existing Commissions, it becomes apparent that they can be very helpful to those States now contemplating the establishment of a State Commission. It would be useful to have a model law drafted for the Deaf Community in its efforts to forward this movement. Such a model would save time in working with legislators and would enable the remaining States to profit from the experiences of those who have pioneered in this movement.

Communication between the State Commissions would also be highly beneficial to them. Since Commissions for deaf people are relatively recent developments, there is not a backlog of experienced personnel from which to draw their leadership. Most Commissioners are new to their posts. By sharing their experiences, they can improve their own Commissions while contributing to the improvement of others. In

presenting reports to their State legislatures, the Commissions would be aided by knowing of the successes and failures of their neighbors. Citing examples from other States can be useful (though it requires tact in submitting such evidence to occasionally pious State officials). If for no better reason than that knowledge is always valuable, the State Commissions should join forces. Ample precedents exist for such an organization (e.g., Council of State Administrators of Vocational Rehabilitation (CSAVR) and in Special Education (NASDSE)). It would strengthen the Deaf Community greatly to have such a vehicle in its relations with governments at all levels.

### Deaf Community Involvement

Let us turn now to a question that occupied us at the outset. Why has this movement received so little attention from the Deaf Community? First, let us investigate the lack of attention. From my observations, I would conclude that the Deaf Community has little interest in State Commissions. Aside from the fact that most State associations of deaf people are not seeking Commissions for their States, the very idea of such a development has received little attention in the Deaf Community.

A startling instance of the lack of attention to a State Commission concerns Maryland. Its Commission had an inauspi-

cious beginning. For its first year, it operated without a budget. It lacks any full-time personnel. It does not seem to have been in close touch with the deaf citizens of that State (only two of its 15 members were deaf, though both were prominent members of the Maryland Association of the Deaf). By the end of three years, it produced a list of recommendations. What happened to that report? A letter I saw from the Director of the State Office for Coordination of Services to the Handicapped began, "At long last, I have acquired the 1979 report of the Commission on the Hearing Impaired." The letter was written in 1982! So far as I could determine, deaf people also had difficulty getting the report—if any were aware of it.

We now turn to speculation as to why there appears to be a lack of interest in the Deaf Community about State Commissions. The answer may be found in one of several directions. Perhaps the work of the State Commissions are inadequately publicized in the Deaf Community. I say this, despite the fact that most of the Commissions periodically mail out thousand of copies of their newsletters and pamphlets. Most of the Commissions also have an acute public-relations sensitivity. Thus, the State Commissions may have captured the attention of a large segment of their State's deaf population, without developing any consciousness of a movement—of a network of State Commissions that has national implications.

Another possibility is that Commissions are not providing benefits that the Deaf Community appreciates. Maybe the connections between improved services and Commission actions are too subtle for most deaf people to notice. Or maybe, like Maryland, some State Commissions have not performed well enough to merit deaf people's attention. Though remote, such arguments should be investigated.

What about the professional community? Its lack of interest is surprising. Individual deaf person's problems may involve them so thoroughly that they overlook mechanisms like State Commissions. Professionals, on the other hand, ought to be aware of this potentially valuable ally in the struggle to improve services. Is there a 'turf' problem? Do some professionals look upon the State Commission as a possible competitor? It would be sad were that the explanation for their apparent lack of involvement in this movement. The State Commission can be a strong lever to pry loose substantial resources from the legislature and can provide a firm platform from which deaf citizens can address their fellow citizens. To ignore its feasible achievements on such grounds as territorial rights would be unfortunate.

Perhaps the ignorance of the State Commission concept is more apparent than real. That would be a far more hopeful view of service delivery at this time. If it is real, if the inattention of the Deaf Community, including its professional members, is a fact—as it seems to be—then it deserves careful study. The matter is not only critical for those States that have Commissions, but also for those that might want to obtain them, if they saw in them the possibilities for achieving long-term benefits. Then again, perhaps it is only a matter of time before deaf people and their supporters awaken to the latent energy in the State Commission and demand increased authority and support for those that do exist and establishment for those not yet in existence. ■

*(Dr. Schein is the director of the Deafness Research and Training Center at New York University.)*

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SUMMARY OF MARYLAND STATE LAWS AFFECTING THE DEAF:

INTERPRETERS FOR DEAF PEOPLE IN PROCEEDINGS BEFORE AGENCIES: Art. 30, § 1

At any time there is a legal proceeding involving both a Maryland State agency and a deaf person, the state agency must provide a qualified interpreter for that deaf person. The deaf person must apply to the state agency for an interpreter. The agencies are to use the director of interpreters used by the Maryland courts. The agencies are to pay the interpreters a reasonable fee. If the agency has the legal power to tax either party with costs of the proceeding, the agency may use the cost of an interpreter as part of the cost of the case. Otherwise, the agency shall pay the interpreter.

INTERPRETERS FOR DEAF PERSONS AT PUBLIC HEARINGS: Art. 30, § 2

If there is a public meeting run by a state agency or the Maryland General Assembly, deaf people who are interested in attending should notify that state body that they plan to attend and will require the assistance of a qualified interpreter. The deaf person should write or call via TDD to make their request to the agency 5 days before the public hearing.

The agency has the right to decide whether they can provide the interpreter.

INTERPRETERS FOR DEAF PERSONS AT EMPLOYEE GRIEVANCE PROCEEDINGS: Art. 30 § 2A

If a deaf person is involved in a proceeding with an employer, employee organization, or union to hear employee grievances, the deaf person should be notified in writing at least 8 days before the hearing, that he/she has the right to have an interpreter present during the grievance proceeding. The deaf person should send his/her written request for an interpreter at least 5 days prior to the hearing or proceeding. The cost of the interpreter is to be divided equally between the employer and the union or employee organization.

RIGHTS OF BLIND OR VISUALLY HANDICAPPED PERSONS IN EMPLOYMENT; PUBLIC ACCOMMODATIONS AND HOUSING; GUIDE DOGS; WHITE CANE LAW: Art. 30, § 33

This law, as it relates to deaf persons, says it is the policy of the state to encourage and enable the deaf and hearing impaired to participate fully in the social and economic life of the State as well as to have paid employment. This is a very broad law that generally states that deaf and vision impaired people are to have the same rights as other people in public accommodations, public facilities, public buildings, etc. Deaf and hearing impaired people also have the right to equal use of common carriers, airplanes, motor vehicles, trains, motor buses, boats or other public means of transportation.

Deaf people who use hearing assistance dogs have the same rights as other people. If a deaf person either doesn't use a hearing assistance dog or if the dog doesn't have the required orange collar, this cannot be held to be contributory negligence per se. This means that a deaf or hearing impaired person doesn't have to have a hearing assistance dog. Contributory negligence per se is a legal term which means that a person has not performed ordinary care or has acted

below the standard to which he/she is legally obliged to do for his/her own protection.

Anyone who denies or prevents a deaf or hearing impaired person from entering or using any of the public facilities previously listed is guilty of a misdemeanor and can be subject after conviction (if found guilty) to a fine of not more than \$50 for the offense.

Deaf/hearing impaired people who have or wish to obtain a hearing assistance dog have the right to full and equal access to all housing accommodations listed in this section. They shall not be required to pay extra money for the dog. However, the deaf owner may be responsible for any damages done to the building by the dog.

#### COURTS AND JUDICIAL PROCEEDINGS: § 9-114

If a deaf person is involved in a court proceeding, any person may ask the Court to appoint a qualified interpreter to assist the deaf person. The court shall then appoint a qualified interpreter. The court is responsible for keeping a directory of manual/oral interpreters for deaf persons.

Any interpreter so appointed shall be paid by the court. The court may tax the interpreter cost as part of the costs of the case. Otherwise, the county where the legal proceeding began shall pay the interpreter costs.

#### INTERPRETERS IN CRIMINAL PROCEEDINGS INVOLVING DEAF DEFENDANTS: Art. 27, § 623A

When there is a criminal proceeding in any court in Maryland and there is a deaf party or witness, there is to be appointed a qualified interpreter to assist that person throughout the proceeding. This right is also for parties who are involved in possible commitment in insanity or mental health commitment proceedings.

Interpreters appointed are to be paid by the court in an amount equal to that provided for interpreters of languages other than English. The interpreter is also to be paid for necessary expenses that occurred during the performance of his/her services.

#### PENALTIES: §§8-310

Any person who has a deaf child under their control and does not comply with §8-302 (education of deaf children required) is guilty of a misdemeanor and can be fined \$5.00 for each offense if convicted. This law also says that any person who attempts to persuade a deaf child not to go to school while the school is open, then that person is guilty of a misdemeanor and can be fined up to \$50.

#### EDUCATION OF HANDICAPPED CHILDREN, REFER TO §§8-407 THROUGH 417.1.

These statutes outline the responsibility of the State Board of Education and the counties in providing education to meet the needs of handicapped children,



9/26

Ed Kern will start tomorrow  
referred him to David Madmont + J. H. Jones  
Ad scope to: Reached v Prof Bill of Rights  
viol. to jurors

(get letters from affected groups)  
Faculty of the University

ISSUE: DDAE