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POSITION PAPER

SENATE BILL 80

"An Act relating to the number of psychiatrists or psychologists appointed to examine a criminal defendant; and providing for an effective date."

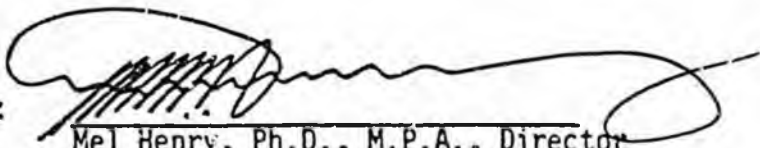
In October, 1982, Chapter 143, SLA 1982 became effective. That Act, among other things, revised Alaska's criminal laws relating to insanity and competency to stand trial. One revision that was contained in the Act requires that two psychiatrists or two forensic psychologists must be appointed to examine defendants under A.S. 12.47.070. Prior to the 1982 revision only one psychiatrist was required by statute to perform these examinations. The amendment proposed in Senate Bill 80 would give the court the option of appointing only one psychiatrist or forensic psychologist if the requirement under A.S. 12.47.070 that two psychiatrists or forensic psychologists examine the defendant is waived by both the defendant and the prosecuting attorney.

We believe that many, if not most, of these examinations can be adequately performed by utilizing only one psychiatrist or forensic psychologist. A large percentage of these exams are currently being done by the Forensic Services Team from Alaska Psychiatric Institute. The exams are performed in the Anchorage area correctional centers. If the court is required to routinely appoint two psychiatrists or forensic psychologists to examine these defendants, and Alaska Psychiatric Institute is ordered to perform the exam, a second psychiatrist that has in-hospital responsibilities must be detailed to the correctional center in order to perform the second psychiatric examination.

According to the staff at Alaska Psychiatric Institute, approximately 170 defendants per year are ordered by the courts to undergo psychiatric examinations by the Forensic Services Team. Of those that are referred to the Forensic Team, approximately 30 specifically require two psychiatrists to perform the same psychiatric examination. After completing the first psychiatric examination by the Forensic Team, if the second psychiatric examination is deemed to be unnecessary or would needlessly duplicate the findings of the first examination, the court is notified. In about half of these cases, the court agrees to limit the number of psychiatric examinations to one rather than two conducting the examinations as specified in A.S. 12.47.070. Basically, what is currently happening in practice is what is being proposed in Senate Bill 80. The amendment will simply codify the existing practice.

It is our position that this practice of routinely appointing two psychiatrists or forensic psychologists to examine criminal defendants oftentimes an unnecessary duplication of effort that can be avoided by passage of Senate Bill 80. Accordingly, the Department of Health and Social Services supports the passage of this bill.

Recommended by:

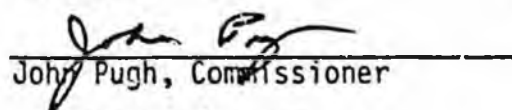


Mel Henry, Ph.D., M.P.A., Director

Date:

1-28-85

Approved by:



John Pugh, Commissioner

Date:

1/30/85

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 22, 1985

The Honorable Don Bennett
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Bennett:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that allows a criminal defendant and prosecuting attorney to waive the requirement that the court appoint two qualified psychiatrists or forensic psychologists to examine certain criminal defendants. If that requirement is waived, the court would only have to appoint one such psychiatrist or psychologist.

Under present law (AS 12.47.070(a)), if a defendant has filed notice of intent to rely on the defense of insanity or notice of intent to rely on evidence tending to negate a culpable mental state; if there is reason to doubt the defendant's fitness to proceed; or if there is reason to believe that a mental disease or defect of the defendant will otherwise become an issue in the case, the court is required to appoint at least two psychiatrists or psychologists to examine the defendant. The waiver authorized by this bill would avoid unnecessary duplication in cases in which the prosecution is satisfied with the appointment of a single psychiatrist, and the defendant does not wish to undergo more than one court-ordered examination. This waiver will be especially helpful in cases in which two state psychiatrists from the Alaska Psychiatric Institute would be appointed to perform the examinations.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: 24 ~~87~~ 80
 Title: "...the number of psychiatrists...to examine a crim. defendant."
 Sponsor: Senate Rules/Governor
 Requestor: Governor's Ofc./OMB
 Date of Request: 12/18/84

FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Prosecution

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						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

- CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

This bill would allow a criminal defendant and the prosecuting attorney to waive the requirement that the court appoint two qualified psychiatrists or forensic psychologists to examine certain defendants. If that requirement is waived, the court would only have to appoint one psychiatrist or psychologist, saving considerable expense on the part of the Division of Mental Health and Developmental Disabilities. This bill will not have a fiscal impact on the Department of Law's Operations.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Date: 12/19/84
 Approved by Commissioner: Richard I. Pegues / FOR Date: 12/19/84
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

Experience has shown that the requirement to appoint two psychiatrists is not always necessary, either to assist the court or to protect the public or the defendant. Experience has also shown that simply reducing this requirement to only one psychiatrist or psychologist would tend to weaken protection of the public since appointment of a prosecution expert would not be assured. This bill, based on that experience, seeks to achieve the most equitable result.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield
Governor

POSITION PAPER

CS for Senate Bill No. 80 (HESS)

"An Act relating to the number of psychiatrists or psychologists appointed to examine a criminal defendant; and providing for an effective date."

The Committee Substitute for Senate Bill 80 does not alter the language or intent of Section 1 in the original version of Senate Bill 80. Thus our earlier Position Paper, dated January 30, 1985 (copy attached), accurately reflects our analysis and position with regard to Section 1 of the Committee Substitute.

The CS for SB 80 adds a new Section 2. This section, which amends A.S. 12.47.100, would tend to make this statute consistent with A.S. 12.47.070 by requiring the court to appoint two psychiatrists to examine a criminal defendant for competency to stand trial unless the defendant and the prosecuting attorney waive this requirement. In our opinion, it is indeed appropriate that these two statutes be consistent with respect to the number and types of examiners that are required to perform examinations on defendants undergoing criminal proceedings when mental disease or defect may become an issue.

Accordingly, we recommend that the same language that is in Section 1, line 16 through line 24 regarding the number and types of examiners under A.S. 12.47.070 should be repeated in Section 2 which refers to examinations under A.S. 12.47.100 and replace the language currently on line 15 through line 19. The existing language in Section 2 only requires that two qualified psychiatrists be appointed. This change will permit the court the option of appointing two qualified psychiatrists or two forensic psychologists to perform these exams. It will also authorize the psychiatrists that are appointed the opportunity to select psychologists to provide assistance in completing the examinations under A.S. 12.47.100.

The Department of Health and Social Services supports passage of the Committee Substitute for Senate Bill 80 with the recommended change that is noted above.

Recommended by:

PPD for Mel Herry
Mel Herry, Ph.D., M.P.A.

Date:

4/18/85

Approved by:

John Pugh
John Pugh, Commissioner

Date:

4/23/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 80
 Title: An Act relating to the number of psychiatrists appointed
 Sponsor: Rules Committee
 Requestor: Governor
 Date of Request: January 28, 1985

FISCAL DETAIL

Department of Health
 Agency Affected: and Social Services
 Program Category Affected: Division of Mental Health and Developmental Disabilities & API
 BRU, Program or Subprogram(s) Affected: Mental Health Institutions and Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: James L. Scoles
 Division: Mental Health & Developmental Disabilities

Phone: 465-3370
 Date: 1-28-85

Approved by Commissioner: [Signature]
 Agency: Health & Social Services

Date: 1/30/85 JCC

Distribution (by Agency preparing fiscal note):

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

The Division of Mental Health and Developmental Disabilities does not foresee any decrease in our personnel services expenditures as a result of the passage of Senate Bill 80. In those cases in which the defendant and the prosecuting attorney waive the requirement that two psychiatrists perform the examination, the second Alaska Psychiatric Institute psychiatrist will simply continue with his in-house treatment responsibilities for mentally ill patients at the hospital. It should, however, result in the addition of more direct treatment services being available inside Alaska Psychiatric Institute as a result of the reduction in staff time by the second psychiatrist that is currently necessary to perform these court-ordered exams in the correctional centers.

COMMITTEE REPORTS (Senate)(cont'd)

Alcoholic Beverages
(sale & distribution)

SENATE BILL NO. 69, (see page 94). Reported back to the Senate on April 9 by Community & Regional Affairs with the committee recommending it be replaced with a C&RA substitute and that it do pass. Concurring: DeVries (Chmn.), Coghill, Vic Fischer and Sturgulewski. To Judiciary.

The C&RA CS deletes Sec. 11 from the bill. That section amended AS 04.16.030 (Sale or Disposition of Alcoholic Beverages to Drunken Persons) to prohibit a licensee, his agent, or employee from allowing a drunken person to enter or (currently and) remain within licensed premises or to consume an alcoholic beverage within licensed premises.

CS also makes a drafting change to Sec. 9--no change to amendment contained therein.

Psychiatric Exam. of Criminal Defendants

SENATE BILL NO. 80, (see page 101). Reported back to the Senate on April 11 by Health, Education & Social Services with the committee recommending it be replaced with a HESS substitute and that it do pass. Concurring: Fahrenkamp (Chmn.), DeVries, Sturgulewski, Josephson and Paul Fischer. To Judiciary.

The HESS CS adds new Sec. 2 amending AS 12.47.100(b) (Incompetency to proceed). Amended to provide that after a motion has been filed for judicial determination of the mental competency of the accused, or on the motion of the court, the court shall "appoint at least two qualified psychiatrists to examine and report upon the mental condition of the defendant. However, if both the defendant and the prosecuting attorney waive the requirement for the appointment of at least two psychiatrists, the court shall appoint one psychiatrist." Presently reads that upon such a motion the court shall "have the accused, whether or not previously admitted to bail, examined by at least one qualified psychiatrist, who shall report to the court concerning the mental condition of the accused."

Motor Vehicle Laws
(amending)

SENATE BILL NO. 84, (see pages 106;303). Reported back to the Senate on April 10 by Judiciary with the committee recommending it be replaced with a Judiciary substitute and that it do pass. Concurring: Kelly (Vice-Chairman), Halford, Faiks and Ziegler. To Finance.

The Judiciary CS makes the following changes to the State Affairs version:

--Deletes Sec. 3 (see p. 106, summary of original).

--Deletes Sec. 5 (see p. 107, paragraph 2).

--Adds new Sec. 6 directing the Dept. of Community & Regional Affairs to reimburse a municipality for revenues lost due to the senior citizen exemption from payment of municipal auto registration tax. If appropriations to fund the reimbursements are less than the amount required to fully reimburse each municipality, the amount appropriated shall be distributed pro rata.